

1<sup>st</sup> reading 5-6-2020  
2<sup>nd</sup> reading 6-3-2020  
3<sup>rd</sup> reading 6-10-2020  
Voted On 6-10-2020  
Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_  
PASSED X DEFEATED \_\_\_\_\_

**ORDINANCE NO. 2020-8**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOTES IN THE AMOUNT OF NOT TO EXCEED \$5,500,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS AND IN ANTICIPATION OF THE LEVY AND COLLECTION OF SPECIAL ASSESSMENTS, TO ACQUIRE, CONSTRUCT, INSTALL, EQUIP, AND IMPROVE A RECREATIONAL TRAIL WITHIN ORANGE VILLAGE, TOGETHER WITH ALL NECESSARY AND PROPER APPURTENANCES; RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE; AUTHORIZING AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY**

WHEREAS, the Village Council (the "Council") of the Village of Orange, Ohio (the "Village") has issued notes dated August 28, 2019, in the aggregate principal amount of \$5,150,000, which will mature August 27, 2020 (the "Outstanding Notes"), in anticipation of the issuance of bonds described herein; and

WHEREAS, it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of bonds, and to retire all, or a portion of, the Outstanding Notes; and

WHEREAS, the Treasurer of the Village (the "Treasurer") has certified to this Council that the estimated life of the improvements to be constructed from the proceeds of the bonds and the notes hereinafter referred to exceeds five years, the maximum maturity of bonds being 20 years and the maximum maturity of the notes being 18 years; and

WHEREAS, it is deemed necessary to issue notes in anticipation of the issuance of bonds to provide for the payment of the Outstanding Notes as described below;

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF ORANGE VILLAGE, CUYAHOGA COUNTY, OHIO THAT:**

It is hereby declared necessary to issue bonds of Village in the principal sum of not to exceed \$5,500,000 (the "Bonds") in anticipation of the levy and collection of special assessments to acquire, construct, install, equip, and improve a recreational trail within Orange Village, together with all necessary and proper appurtenances (the "Project").

The Bonds shall be of the denomination of \$5,000 or any integral multiple thereof, shall be dated on or before the maturity date of the Notes hereinafter provided for and issued in anticipation of the issuance of such Bonds, shall bear interest at the maximum average annual interest rate presently estimated to be 5.0% per annum, payable semi-annually until the principal sum is paid and shall mature in 20 annual installments after their issuance.

It is necessary to issue and this Council hereby determines that notes (the "Notes") in the principal amount of not to exceed \$5,500,000 shall be issued in anticipation of the levy and collection of said special assessments and in anticipation of the issuance of the Bonds for the Project and to retire the Outstanding Notes previously issued for such purpose, which sum does not exceed the amount of the Bonds.

The Notes shall be dated the date established by the Treasurer and certified to this Council and shall mature on such date as shall be determined by the Treasurer and certified to this Council, provided that such

date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in such denominations as shall be determined by the Treasurer, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Treasurer. The Notes may be issued in one of more series. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Treasurer is authorized and directed to execute a Certificate of Award (the "Certificate of Award"), setting forth the final terms of the Notes, including the optional or mandatory redemption provisions for the Notes, if any, consistent with the requirements of this Ordinance, and to present the same to Council after closing.

In the event that the special assessments are not levied or the Bonds are not issued to provide a fund for the payment of the Notes at maturity, a general tax shall be levied against all of the property in the Village for the payment of the Notes and the interest thereon; provided, however, that during the years while the Notes are outstanding there shall be levied on all taxable property in the Village, in addition to all other taxes and inside of the limitations of Article XII, Section 2, of the Constitution of Ohio, a direct tax annually not less than that which would have been levied if the Bonds had been issued without the prior issuance of the Notes.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and shall be collected by the same officer, 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. Funds derived from said levies hereby required shall be placed in a separate and distinct fund, which, together with interest collected on the same shall be irrevocably pledged for the payment of the principal and interest on the Notes or the Bonds when and as the same fall due; provided, however, that in each year to the extent that funds from the collection of the special assessments referred to in Section 1 hereof or other sources are lawfully available for the payment of the Notes and Bonds, and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such funds so available and appropriated.

The Notes shall be the full general obligation of the Village, and the full faith, credit and revenue of the Village are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used only for the retirement of the Notes at maturity or upon redemption, together with interest thereon, and is hereby pledged for such purpose.

The Notes shall be designated "Orange Village, Ohio Recreational Trail Notes, Series 2020."

The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Treasurer and certified to this Council, provided that such rate shall not exceed 4.0% per annum.

The Notes shall be sold to the purchaser or purchasers designated in the Certificate of Award (collectively, the "Original Purchaser"), at the purchase price set forth in such Certificate of Award, and accrued interest, if any, to the date of delivery. The Treasurer is authorized to execute on behalf of the Council, a note purchase agreement or term sheet with the Original Purchaser, setting forth the conditions under which the Notes are to be sold and delivered, which agreement or term sheet shall be in such form, not inconsistent with the terms of this Ordinance, as the Treasurer shall determine.

The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the Village and used for the purpose aforesaid and for no other purpose. Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the Village, as permitted by law. Any premium received from the sale of the Notes may be used to pay the financing costs of the Notes within the meaning of Ohio Revised Code Section 133.01(K) or be deposited into the bond retirement fund in the manner provided by law.

The Notes shall be executed by the Treasurer and the Mayor of the Village (the "Mayor"), provided that either or both of their signatures may be a facsimile. The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance. The Notes shall be payable as to principal and interest at the office of the Note Registrar (as defined hereinbelow) in lawful money of the United States of America without deduction for the services of the Note Registrar. No Note 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 the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has 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 Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Treasurer on behalf of the Village. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

The Treasurer is authorized and directed to execute on behalf of the Village a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Treasurer and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the registered owner hereof, as shown on the registration books of the Village maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Treasurer 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 Treasurer 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 Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the Village shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the Village nor the Note 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 Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note 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 Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note 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 Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The Village and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the Village shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note 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 Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes 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 Notes surrendered upon that transfer or exchange.

In the event that the Notes are issued to a Depository for use in a book-entry system, the following terms shall have the following meanings for purposes of this Ordinance:

“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 Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“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 Notes, and to effect transfers of Notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes 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 Note of each maturity; (ii) those Notes 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 Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes 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 Notes 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 the Council. Debt service charges on Notes 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 Notes as provided in this Ordinance.

The Note Registrar for the Notes may, with the approval of this Council, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note 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 Note, upon any conditions which shall be satisfactory to the Note Registrar for the Notes and this Council. That payment in any event shall be made to the person who is the registered owner of that Note 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 Note Registrar for the Notes will furnish a copy of each of those agreements, certified to be correct by the Note Registrar for the Notes, to other paying agents for Notes 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.

If requested, the Treasurer, Clerk of Council or any other officer of the Village, including the Mayor, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the Village, an agreement among the Village, the Note Registrar and a Depository to be delivered in connection with the issuance of the Notes to such Depository for use in a book-entry system.

The Village may decide to discontinue use of the book-entry system through the Depository. In that event, physical note certificates will be printed and delivered to the Depository.

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

The Village 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 Notes 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 Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The Village further covenants that it will restrict the use of the proceeds of the Notes 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 arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Treasurer, or any other officer of the Village, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the Village with respect to the Notes 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 Notes 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 Treasurer, which action shall be in writing and signed by the Treasurer, or any other officer of the Village, on behalf of the Village; (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 Notes; and (c) to give an appropriate certificate on behalf of the Village, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Village pertaining to Section 148 and the Regulations, and the representations, warranties and

covenants of the Village regarding compliance by the Village with Sections 141 through 150 of the Code and the Regulations.

The Treasurer shall keep and maintain adequate records pertaining to the use and investment of all proceeds of the Notes 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 Notes which limits the amount of Note 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 Treasurer 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 Notes requires any such reports or rebates.

The Treasurer, on behalf of the Village, is hereby authorized to appoint the firm of MAS Financial Advisory Services, to serve as municipal advisor to the Village in connection with the issuance of the Notes. The fees to be paid to such firm shall be subject to review and approval of the Treasurer, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

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 Notes 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 Notes 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 Treasurer, and such certified copies and certificates shall be deemed representations of the Village as to the facts stated therein.

This Council further hereby authorizes and directs the Mayor, the Law Director, the Treasurer, the Clerk of Council, or other appropriate officers of the Village to prepare and sign all agreements and instruments and to take any other actions, including the appointment of Bricker & Eckler LLP as bond counsel, as may be appropriate to implement this Ordinance.

The Mayor and Treasurer are hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate. Except for the procedure for authenticating the Notes set forth herein, documents (including this Ordinance) executed, scanned and transmitted electronically and electronic and digital signatures shall be deemed original signatures for said transcript of the Notes, for the purposes of this Resolution, and for all matters related thereto, with any such scanned, electronic, and digital signatures having the same legal effect as original signatures.

The Mayor, Treasurer, and Clerk of Council, or any of them individually, are hereby authorized and directed to take such action and to execute and deliver, on behalf of the Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the

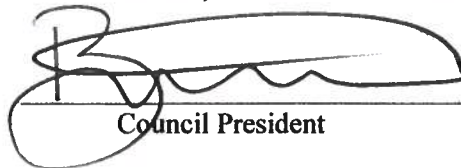
Village have happened, been done and been performed in regular and due form as required by law; that the full faith, credit and revenue of the Village are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the County Fiscal Officer of Cuyahoga County.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this Council, and that all such deliberations of this Council and of any of its committees that resulted in any such formal action were in meetings open to the public in compliance with all legal requirements, including Chapter 105 of the Codified Ordinances of Orange Village.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the Village; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Section 11 of the Charter.

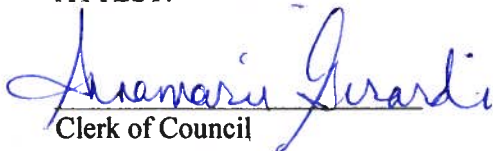
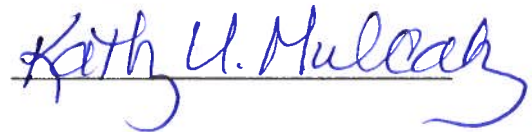
PASSED: June 10, 2020

  
Council President

Submitted to the Mayor for  
Approval on this 10th day of June, 2020

Approved by the Mayor this  
10th day of June, 2020

ATTEST:

  
Clerk of Council

**RECEIPT OF COUNTY FISCAL OFFICER FOR  
LEGISLATION PROVIDING  
FOR THE ISSUANCE OF  
GENERAL OBLIGATION NOTES**

I, Dennis G. Kennedy, the duly elected, qualified, and acting County Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of the ordinance duly adopted by the Village Council of the Village of Orange, Ohio on \_\_\_\_\_, 2020 providing for the issuance of general obligation notes designated Village of Orange, Ohio Recreational Trail Notes, Series 2020, or as otherwise determined by the Fiscal Officer, in the amount of not to exceed \$5,500,000 was filed in this office on \_\_\_\_\_, 2020.

WITNESS my hand and official seal at Cleveland, Ohio on \_\_\_\_\_, 2020.

[SEAL]

\_\_\_\_\_  
County Fiscal Officer  
Cuyahoga County, Ohio