

ORDINANCE NO. 14-1988

OFFERED BY Mr. Howard

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$250,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF CONSTRUCTING A LIBRARY BUILDING AND IMPROVING THE SITE THEREOF, AND DECLARING AN EMERGENCY.

WHEREAS, at the election held on November 6, 1979, on the question of issuing bonds of the Village of Richfield (the Village) in the amount of \$720,000 for the purpose stated in Section 1 and of levying taxes outside the 10-mill limitation to pay the principal of and interest on those bonds, the requisite majority of those voting on the question voted in favor of it; and

WHEREAS, this Council has determined to issue notes in anticipation of the issuance of those bonds; and

WHEREAS, pursuant to Ordinance No. 29-1980, passed March 18, 1980, a note in anticipation of bonds in the amount of \$720,000, dated April 18, 1980 and maturing on one year from date, was issued for the purpose hereinafter recited, which note was retired at maturity in part from the proceeds of a \$600,000 note issued pursuant to Ordinance No. 21-1981, passed March 17, 1981, which note was retired at maturity in part from the proceeds of a \$500,000 note issued pursuant to Ordinance No. 12-1982, passed March 17, 1982, which note was retired at maturity in part from the proceeds of \$485,000 of notes issued pursuant to Ordinance No. 22-1983, passed March 1, 1983, which notes were retired at maturity in part from the proceeds of \$435,000 of notes issued pursuant to Ordinance No. 19-1984, passed March 6, 1984, which notes were retired at maturity in part from the proceeds of \$395,000 of notes issued pursuant to Ordinance No. 15-1985, passed March 5, 1985, which notes were retired at maturity in part from the proceeds of \$345,000 of notes issued pursuant to Ordinance No. 12-1986, passed March 4, 1986, which notes were retired at maturity in part from the proceeds of \$300,000 of notes issued pursuant to Ordinance No. 17-1987, passed March 3, 1987, which notes are about to mature; and

WHEREAS, this Council finds and determines that the Village should retire the outstanding notes with the proceeds of the Notes described in Section 3 and other funds available to the Village; and

WHEREAS, the Director of Finance as fiscal officer of the Village has certified to this Council that the estimated life or usefulness of the improvement described in Section 1 is at least five years, the maximum maturity of the bonds referred to in Section 1 is twenty years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is April 18, 2000, or one year if sold at private sale;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, Ohio, that:

- Section 1. It is necessary to issue bonds of the Village in the aggregate principal amount of \$250,000 (the Bonds) for the purpose of constructing a library building and improving the site thereof.
- Section 2. The Bonds shall be dated approximately April 1, 1989, shall bear interest at the now estimated rate of 8% per year, payable semi-annually until the principal amount is paid, and shall mature in 16 substantially equal annual installments.
- Section 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$250,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the Village, the outstanding notes dated April 10, 1987. The Notes shall bear interest at a rate or rates not to exceed 7% 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 Village does not pay or make provision for payment at maturity of the principal of and interest on the Notes, the principal amount of the Notes shall bear interest at a different rate or rates not to exceed 13% per year from the maturity date until the Village 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 principal of and interest 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. The principal of and interest on the Notes shall be payable, without deduction for services of the Village's paying agent, at either or both of, as determined by the Director of Finance, the main office of First National Bank of Ohio, Akron, Ohio, 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 Village and that proper procedures and safeguards are available for that purpose. The Notes shall be dated April 8, 1988, and shall mature on April 7, 1989.

- Section 5. The Notes shall be signed by the Mayor and Director of Finance, in the name of the Village and in their official capacities, provided that one of those signatures may be a facsimile, and bear the corporate seal of the Village or a facsimile of that seal. 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 for which they are issued and that they are issued pursuant to this ordinance.
- Section 6. The Notes are offered at par and accrued interest, if any, to the Director of Finance, as officer in charge of the Bond Retirement Fund of the Village. Notes not purchased for the Bond Retirement Fund or for other funds of the Village shall be sold at private sale by the Director of Finance in accordance with law and the provisions of this ordinance. The Director of Finance shall sign the certificate of award referred to in Section 3 evidencing that sale, 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.
- 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 principal of and interest 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 Village, 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 unlimited as to amount or rate, 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 principal of and interest on the Notes or the Bonds when and as the same fall due.

Section 10. The Village 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 so that the Notes will not constitute arbitrage bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the Code). The Director of Finance, as the fiscal officer, or any other officer of the Village having responsibility for the issuance of the Notes shall give an appropriate certificate of the Village, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the Village 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 the Notes.

The Village covenants that it (a) 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, and (b) will not take or authorize to be taken any actions which would adversely affect that exclusion, and that 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 acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Director of Finance and other appropriate officers are authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, as may be appropriate to assure such exclusion of that interest.

The Notes are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the Village represents and covenants that it (it having no subordinate entities with authority to issue obligations within the meaning of that Section of the Code), (i) has not

issued and will not issue, in the calendar year in which the Notes are issued, tax-exempt obligations (other than those that are not to be taken into account for purposes of Section 265(b)(3)(C) of the Code) in an aggregate principal amount exceeding \$10,000,000 (including the Notes) and (ii) has not designated and will not designate as "qualified tax-exempt obligations", for purposes of that Section 265(b)(3), obligations issued in the calendar year in which the Notes are issued (other than those that are not to be taken into account for purposes of Section 265(b)(3)(D) of the Code) in an aggregate principal amount exceeding \$10,000,000. The Village further represents and covenants that during the calendar year in which the Notes are issued, the Village did not issue and will not issue obligations (of the type to which Section 265(b)(3) of the Code applies) on behalf of any other entity, and no other entity has issued or will be authorized to issue obligations (of such type) on behalf of the Village. Further, the Village represents that it has not formed, participated in the formation of, or benefitted from the formation of, any entity formed in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and covenants that it will not do so.

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 Village 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 Village 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, credit and revenues of the Village are pledged for the timely payment of the principal of and interest 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 Village, and for the further reason that this ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the Village to retire the outstanding notes, and thereby preserve its credit; wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Approved:

Robert W. ...
Mayor
David W. Howard
President of Council

Passed: *2/16/88*

I, the undersigned Clerk of Council of the Village of Richfield, Summit County, Ohio, do hereby certify that the foregoing Ordinance No. *14*-1988, was duly and regularly passed by the Council of the Village of Richfield, Summit County, Ohio, at a regular meeting of Council on the 16th day of February, 1988.

Mary L. Hegley
Clerk of Council
Village of Richfield, Ohio

Approved as to legal form:

Director of Law

Posted: _____

I, _____ Clerk of Council of the Village of Richfield, Ohio, do hereby certify that the foregoing is a true and correct copy of _____

ORDINANCE 14-1988

Mary L. Hegley