

ORDINANCE NO. 2020-52

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN A MAXIMUM PRINCIPAL AMOUNT OF \$200,000, TO PROVIDE FUNDS TO PAY COSTS OF REPLACING, UPGRADING AND EXTENDING SANITARY SEWER TRUNK LINES, AND TO RETIRE OUTSTANDING NOTES THAT WERE PREVIOUSLY ISSUED FOR THAT PURPOSE; AND DECLARING AN EMERGENCY.

**WHEREAS**, pursuant Ordinance No. 2019-74 passed on July 17, 2019, notes in anticipation of bonds in the aggregate principal amount of \$255,000 (the Outstanding Notes), were issued for the purpose stated in Section 1, as part of a consolidated issue of Various Purpose Notes, Series 2019, dated August 20, 2019, which Outstanding Notes are to mature on August 20, 2020; and

**WHEREAS**, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Bonds described in Section 2 and other funds available to the City; and

**WHEREAS**, the Director of Budget and Finance as fiscal officer of this City has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years and the estimated maximum maturity of the Bonds described in Section 1 is twenty-nine years.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1. Definitions and Interpretation.** In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

*"Authorized Denominations"* means the denomination of \$5,000 or any whole multiple of \$5,000 or such other minimum denomination or any whole multiple in excess thereof as is determined by the Director of Budget and Finance and set forth in the Certificate of Award.

*"Bond Proceedings"* means, collectively, this Ordinance, the Certificate of Award and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders of the Bonds.

*"Bond Register"* means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

*"Bond Registrar"* means the Director of Budget and Finance, the Original Purchaser or a bank or trust company authorized to do business in the State of Ohio, as designated by the Director of Budget and Finance in the Certificate of Award pursuant to Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Certificate of Award and until a successor Bond Registrar shall have become such pursuant to the provisions of the Certificate of Award and, thereafter, *"Bond Registrar"* shall mean the successor Bond Registrar.

*"Bonds"* means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

"*Certificate of Award*" means the certificate authorized by Section 6, to be executed by the Director of Budget and Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

"*City*" means the City of Kent, Ohio.

"*City Manager*" means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

"*Closing Date*" means the date of physical delivery of, and payment of the purchase price for, the Bonds.

"*Code*" means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"*Director of Budget and Finance*" means the Director of Budget and Finance of the City or any person serving in an interim or acting capacity with respect to that office.

"*Financing Costs*" shall have the meaning given in Section 133.01 of the Ohio Revised Code.

"*Interest Payment Dates*" means June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

"*Mandatory Redemption Date*" shall have the meaning set forth in Section 3(b).

"*Mandatory Sinking Fund Redemption Requirements*" shall have the meaning set forth in Section 3(e)(i).

"*Original Purchaser*" means the purchaser of the Bonds specified in the Certificate of Award.

"*Principal Payment Dates*" means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2021 to and including 2024.

"*Regulations*" means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

"*Serial Bonds*" means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

"*Term Bonds*" means those Bonds designated as such and stated to mature on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

**SECTION 2. Authorized Principal Amount and Purpose; Application of Proceeds.** It is necessary and determined to be in the City's best interest to issue bonds of this City in a maximum principal amount of \$200,000 (the "Bonds") for the purpose of providing funds to pay costs of replacing, upgrading and extending sanitary sewer trunk lines (the "Improvement") and to retire, together with other funds available to the City, the Outstanding Notes. The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be an amount determined by the Director of Budget and Finance in the Certificate of Award to be the principal amount of Bonds that is required to be issued at this time for the purpose stated in this Section 2.

The proceeds from the sale of the Bonds, except any premium and accrued interest, received by the City shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of the Municipal Advisor and all other Financing Costs and costs incurred incidental to those purposes. Any portion of those proceeds received by the City representing premium or accrued interest shall be paid into the Bond Retirement Fund.

**SECTION 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions.** The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount stated to mature on that date. The Bonds shall be dated as provided in the Certificate of Award, *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date. If requested by the Original Purchaser, the Director of Budget and Finance is hereby authorized to prepare one bond representing the aggregate principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on all of the Principal Payment Dates, all as set forth in the Certificate of Award.

(a) **Interest Rates and Payment Dates.** The Bonds shall bear interest at the rate or rates per year and computed on the basis as shall be determined by the Director of Budget and Finance, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) **Principal Payment Schedule.** The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in the following years and principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2021	\$50,000
2022	50,000
2023	50,000
2024	50,000

; provided that, subject to the limitations set forth in Sections 1 and 2 and this Section 3, the principal amount of Bonds maturing or subject to Mandatory Sinking Fund Redemption Requirements on any one or more of the Principal Payment Dates may be increased or decreased as specified by the Director of Budget and Finance in the Certificate of Award, consistently with her determination of the best interest of and financial advantages to the City.

Consistently with the foregoing and in accordance with the Director of Budget and Finance's determination of the best interest of and financial advantage to the City, the Director of Budget and Finance shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued, (ii) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (iii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a "*Mandatory Redemption Date*") and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) **Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts.** The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year. The net interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or Mandatory Sinking Fund Redemption Requirements of those principal amounts of Bonds shall not exceed 5.00%.

(d) **Payment of Debt Charges.** The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the main office of the Bond Registrar; *provided, however,* to the extent that the Bonds are represented by a single Term Bond as permitted by this Section 3, principal of the Bonds which is redeemed pursuant to a Mandatory Sinking Fund Redemption Requirement shall be payable when due without prior presentation or surrender of the Bond but redemption of such principal shall be duly endorsed on the Bond Register, and in the case of the final principal payment due hereunder, surrender of the Bond at the main office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date.

(e) **Redemption Provisions**. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) **Mandatory Sinking Fund Redemption of Term Bonds**. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the "*Mandatory Sinking Fund Redemption Requirements*").

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Director of Budget and Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45<sup>th</sup> day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Director of Budget and Finance, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Director of Budget and Finance, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Director of Budget and Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) **Optional Redemption.** The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in Authorized Denominations, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Budget and Finance in the Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Director of Budget and Finance to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) **Partial Redemption.** If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in Authorized Denominations, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the Authorized Denominations are then outstanding, each Authorized Denomination unit of principal thereof shall be treated as if it were a separate Bond of the Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of an Authorized Denomination unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the Authorized Denomination unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) **Notice of Redemption.** The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing

a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) **Payment of Redeemed Bonds.** In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Section 3(d), upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

**SECTION 4. Execution and Authentication of Bonds; Appointment of Bond Registrar.**

The Bonds shall be signed by the City Manager and the Director of Budget and Finance, in the name of the City and in their official capacities; *provided* that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Budget and Finance, shall be numbered as determined by the Director of Budget and Finance in order to distinguish each Bond from any other Bond and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Budget and Finance is hereby authorized to designate in the Certificate of Award the Director of Budget and Finance, the Original Purchaser or a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. The Director of Budget and Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Certificate of Award from the proceeds of the Bonds to the

extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Budget and Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

**SECTION 5. Registration; Transfer and Exchange.**

(a) **Bond Register.** So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its main office. Subject to the provisions of Section 3(d), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) **Transfer and Exchange.** Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the main office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the main office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond 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 City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15<sup>th</sup> day preceding the mailing



of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

**SECTION 6. Sale of the Bonds to the Original Purchaser.** The Director of Budget and Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Budget and Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Budget and Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance. The Director of Budget and Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other unvoted general obligation bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code; provided that if the aggregate principal amount of the consolidated issue is \$1,000,000 or more, then no bond of that issue shall be issued in a denomination less than \$100,000 or be exchangeable for other bonds in denominations less than \$100,000. If the Bonds are combined with one or more other such bond issues of the City into a consolidated note issue, a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Director of Budget and Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The City Manager, the Director of Budget and Finance, the Director of Law, 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 consummate the transactions contemplated by this Ordinance. The actions of the City Manager, the Director of Budget and Finance, the Director of Law, the Clerk of Council or other City officials, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

The Director of Budget and Finance is hereby authorized to offer all or part of the Bonds at par and any accrued interest to the Treasury Investment Board of the City for investment under Section 731.56 of the Revised Code in accordance with law and the provisions of this Ordinance if, as a result of the conditions then existing in the financial markets, the Director of Budget and Finance determines it is in the best financial interest of the City in lieu of the private sale authorized in the initial paragraph of this Section.

**SECTION 7. Provision for Tax Levy.** There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due.

In each year to the extent income from the City's sanitary sewer system or other funds are available for the payment of debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such other funds so available and appropriated.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Bonds.

**SECTION 8. Federal Tax Considerations.** The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be 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 Bonds 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 Bonds 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 City hereby represents that the Outstanding Notes were designated or treated as "qualified tax exempt obligations" pursuant to Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the Outstanding Notes from proceeds of, and within 90 days after issuance of, the Bonds, and represents that all other conditions are met for treating an amount of the Bonds not in excess of the amount of the Outstanding Notes as "qualified tax exempt obligations" and as not to be taken into account under subparagraph (D) of Section 265(b)(3) of the Code, without necessity for further designation, by reason of subparagraph (D)(ii) of Section 265(b)(3) of the Code. Any amount of the Bonds in excess of the amount of the Outstanding Notes, determined in accordance with Section 265(b)(3) of the Code (the Designated Amount), is hereby designated as "qualified tax exempt obligations" for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents and covenants that it, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which it issues obligations, in or during the calendar year in which the Bonds are issued, (i) have not issued and will not issue tax exempt obligations designated as "qualified tax exempt obligations" for purposes of Section 265(b)(3) of the Code (including the Designated Amount of the Bonds) in an aggregate amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and will not issue, tax exempt obligations (including the Designated Amount of the Bonds, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code) in an aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of nationally recognized bond counsel that such designation or

issuance, as applicable, will not adversely affect the status of the Bonds as "qualified tax exempt obligations". Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Bonds as "qualified tax exempt obligations", it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Bonds are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax exempt obligations of different issuers.

The Director of Budget and Finance or any other officer of the City having responsibility for issuance of the Bonds 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 Bonds 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 available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds 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 with respect to the Bonds, 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 with respect to the Bonds, 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds. The Director of Budget and Finance or any other officer of the City having responsibility for issuance of the Bonds is specifically authorized to designate the Bonds as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Bonds is also made with respect to all issues any portion of the debt charges on which is paid from proceeds of the Bonds (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 Bonds 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 Bonds.

**SECTION 9. Bond Counsel.** The legal services of the law firm of Squire Patton Boggs (US) LLP as bond counsel to the City are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing

those legal services. The Director of Budget and Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

**SECTION 10. Municipal Advisor.** The services of Baker Tilly Municipal Advisors, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Budget and Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

**SECTION 11. Financing Costs.** The expenditure of the amounts necessary to pay the Financing Costs in connection with the Bonds is authorized and approved, and the Director of Budget and Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available, and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**SECTION 12. Certification and Delivery of Ordinance and Certificate of Award.** The Clerk of Council is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditor of Portage County, Ohio.

**SECTION 13. Satisfaction of Conditions for Bond Issuance.** This City 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 Bonds 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 Bonds 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 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

**SECTION 14. Compliance with Open Meeting Requirements.** This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

**SECTION 15. Effective Date.** That this ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City and for the further reason that this ordinance is required to be immediately

effective in order to issue and sell the Bonds, which is necessary to enable the City to retire the outstanding notes at their maturity and thereby to preserve the credit of the City, for which reasons and other reasons manifest to this Council this ordinance shall take effect and be in force immediately upon its passage.

PASSED: June 17, 2020  
Date

EFFECTIVE: June 17, 2020  
Date

ATTEST: Amy Wilkens  
Amy Wilkens  
Clerk of Council

Fiala

Jerry T. Fiala  
Mayor and President of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. 2020-57, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON June 17, 20 20.

(SEAL)

Amy Wilkens  
AMY WILKENS  
CLERK OF COUNCIL  
(SEAL)

**FISCAL OFFICER'S CERTIFICATE**  
**(Sanitary Sewer Trunk Lines)**

To the Council of the City of Kent, Ohio:

As fiscal officer of the City of Kent, I certify in connection with your proposed issue of bonds (the "Bonds") in a maximum principal amount of \$200,000 for the purpose of replacing, upgrading and extending sanitary sewer trunk lines (the "improvement").

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is forty years, less the eleven years in which notes in anticipation of the Bonds will have been outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes (2004).

Dated: June 16, 2020

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Director of Budget and Finance  
City of Kent, Ohio