

VILLAGE OF OBETZ  
RECORD OF ORDINANCES

ORDINANCE: 35-15  
REVISED FROM FIRST READING

PASSED: \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000) OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF EXPANDING AND IMPROVING THE MUNICIPAL ELECTRIC SYSTEM IN THE VILLAGE OF OBETZ, INCLUDING INSTALLING UNDERGROUND WIRING AND TRANSFORMERS AND ALL APPURTENANCES AND IMPROVEMENTS RELATED THERETO, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSES.**

**WHEREAS**, the Village Council (the "Council") of the Village of Obetz, Ohio (the "Village") issued notes dated July 9, 2014 in the amount of \$2,500,000 (the "Outstanding Notes") in anticipation of the issuance of the bonds described herein, which Outstanding Notes will mature on July 9, 2015; and

**WHEREAS**, it is advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of said bonds and to retire the Outstanding Notes; and

**WHEREAS**, the Director of Finance (the "Director of Finance") of the Village of Obetz, Ohio (the "Village") has certified to this Council that the estimated life of the improvements stated in the title of this Ordinance that are to be financed with the proceeds of bonds and notes hereinafter referred to exceeds 5 years, the maximum maturity of bonds being twenty (20) years and notes being nineteen (19) years;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF OBETZ, STATE OF OHIO, THAT:**

Section 1. It is hereby declared necessary to issue bonds (the "Bonds") of the Village in the maximum principal sum of Two Million Dollars (\$2,000,000), for the purpose described in the title of this Ordinance.

Section 2. The Bonds shall be dated prior to the maturity date of the Notes (as defined in Section 4 hereof), shall bear interest at the maximum average annual interest rate presently estimated to be five per centum (5.00%) per annum, payable semiannually until the principal sum is paid or provision for payment has been duly made therefor. The Bonds shall mature in twenty (20) annual installments. Debt service payments on the Bonds in years in which principal of the Bonds is payable shall be substantially equal.

Section 3. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds pursuant to Chapter 133 of the Ohio Revised Code (the “Revised Code”), the Charter of the Village, this Ordinance and the certificate of fiscal officer relating to terms of notes (the “Certificate of Fiscal Officer”) and for the purpose of paying the costs of expanding and improving the electric system of the Village, as described in the title of this Ordinance.

Section 4. Such anticipatory notes (the “Notes”) shall be in the amount of Two Million (\$2,000,000), or such lesser amount as shall be determined by the Director of Finance and certified to this Council, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council, shall mature on such date (provided that such date shall not be later than one (1) year after the date of issuance of the Notes), and be subject to redemption as shall be determined by the Director of Finance and certified to this Council. The Notes shall be issued in fully registered form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United State Securities and Exchange Commission.

The Director of Finance is hereby authorized and directed to execute a Certificate of Fiscal Officer setting forth and determining such final terms and other matters pertaining to the Notes, as required by and is consistent with the terms of this Ordinance.

Section 5. 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 and are hereby pledged for such purpose.

Section 6. There shall be and is hereby levied annually on all the taxable property in the Village, in addition to all other taxes and inside the ten mill limitation, a direct tax (the “Debt Service Levy”) for each year during which any of the Notes are outstanding, in an amount not less than that which would have been levied if the Bonds had been issued without the prior issuance of the Notes, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Notes as and when the same falls due and to provide a fund for the repayment of the principal of the Notes at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 7. The Village hereby covenants, subject and pursuant to such authority, particularly Revised Code Section 133.05(B)(1)(c) to appropriate annually from lawfully available net revenues of the municipal electric system the amounts necessary to meet the annual debt charges on the Bonds, or Notes issued in anticipation thereof.

Section 8. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner,

and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Notes and Bonds when and as the same fall due. Notwithstanding the foregoing, if the Village determines that funds will be available from other sources for the payment of the Notes and Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the Village shall appropriate such funds to the payment of the Notes and Bonds in accordance with law.

Section 9. 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 Director of Finance and certified to this Council, provided that such rate shall not exceed three per centum (3.0%) per annum. The Notes shall be sold at private sale to such Purchaser (the "Original Purchaser") as the Director of Finance shall designate in the Certificate of Fiscal Officer at the purchase price set forth in the Certificate of Fiscal Officer, plus interest accrued to the date of delivery of the Bonds to the Original Purchaser.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and interest, if any, accrued to the date of delivery. The proceeds of such sale, except any accrued interest, 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.

The Director of Finance, Mayor or Village Administrator is hereby authorized to execute on behalf of the Village a note purchase agreement (the "Note Purchase Agreement"), if required, with the Original Purchaser, setting forth the conditions under which the Notes are to be sold and delivered. The terms of such Note Purchase Agreement, if any, shall be consistent with the terms of this Ordinance.

Section 10. The Notes shall be executed by the Director of Finance and the Mayor, provided that either or both of such signatures may be a facsimile, and shall be designated "Village of Obetz, Ohio Municipal Electric System Improvement Notes, Series 2015," or as otherwise determined by the Director of Finance. The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar (as defined in Section 11 hereof). The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office 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 Director of Finance 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.

Section 11. The Director of Finance is hereby authorized and directed to serve as authenticating agent, note registrar, transfer agent, and paying agent (collectively, the "Note Registrar") for the Notes. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance 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 Director of Finance 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 fifteen (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.

Section 12. 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.

Section 13. The Village hereby covenants that it will comply with the requirements of all existing and future laws that 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 Mayor, the Director of Finance, or any other officer of the Village are each 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 Mayor, the Director of Finance, or any other officer of the Village, which action shall be in writing and signed by the Mayor, the Director of Finance, 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 Director of Finance shall keep and maintain adequate records pertaining to 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 (or penalties in lieu thereof) to the United States Department of the Treasury. The Director of Finance of the Village is hereby authorized and directed to file such reports with, and rebate arbitrage profits (or penalties in lieu thereof) 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. Monies necessary to make such rebate payments (or to pay such penalties) are hereby appropriated for such purpose.

Section 14. The Outstanding Notes dated July 9, 2014 which mature on July 9, 2015 shall be retired at such time as determined necessary by the Director of Finance.

Section 15. The law firm of Frost Brown Todd LLC is hereby appointed to serve as bond counsel 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 Director of Finance and shall not exceed the fees customarily charged for such services.

Section 16. The Clerk of Council and any other officers of the Council are each 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 without limitation a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the Village as to the facts stated therein.

Section 17. 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 thereof and interest thereon at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 18. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Revised Code Section 121.22.

**ORDINANCE: 35-15** \_\_\_\_\_

**PASSED:** \_\_\_\_\_

Section 19. The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the County Auditor of Franklin County, Ohio.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**ATTESTS:**

\_\_\_\_\_  
Stacey Boumis, Clerk of Council

\_\_\_\_\_  
D. Greg Scott, Mayor

\_\_\_\_\_  
Angela Kirk, Council Pres. Pro-Tem

**APPROVED AS TO FORM**

\_\_\_\_\_  
Eve M. Ellinger, Law Director

**CERTIFICATION OF PUBLICATION**

Pursuant to the Village Charter, I, Stacey E. Boumis, Clerk of Council of the Village of Obetz, Ohio, do hereby certify that Ordinance \_\_\_\_\_ was duly posted at \_\_\_\_\_ (time) on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at the Obetz Government Center, as well as on the Obetz website.

\_\_\_\_\_  
Stacey Boumis, Clerk

\_\_\_\_\_  
Date