

**CITY OF XENIA, OHIO  
ORDINANCE NUMBER 17 – 44**

**AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,025,000 OF BONDS FOR THE PURPOSE OF PAYING A LUMP SUM LEASE PAYMENT FOR THE USE OF A PORTION OF A NEW MULTI-USE FACILITY**

**WHEREAS**, the Young Men's Christian Association of Greater Dayton (“the YMCA”), a non-profit entity, has proposed the construction of a new multi-use facility within the City of Xenia (the “Municipality”) known as the REACH Center, and to lease a portion thereof to the Municipality for a period of not less than twenty (20) years for the use of the Municipality and its citizens in exchange for a lump sum payment of \$1,000,000; and

**WHEREAS**, this City Council has heretofore, by proper legislation, declared the necessity of entering into such a lease with the YMCA (the “Project”) and desires to finance such lump sum payment by issuing bonds of the Municipality upon the terms set forth herein; and

**WHEREAS**, the Finance Director, as fiscal officer of this Municipality, has heretofore estimated that the life of the improvements constituting the Project is at least five (5) years, and certified that the maximum maturity of such bonds issued therefor is at least twenty (20) years; and

**WHEREAS**, this City Council expects the debt service charges on such bonds will be paid from the general revenues of the Municipality (the “Revenues”).

**NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS**, at least four (4) members of the City Council concurring, that:

**Section 1.** It is necessary to issue and sell bonds of the Municipality in the principal sum of not to exceed \$1,025,000 (the “Bonds”) for the purpose of paying the cost of the Project and costs related to the issuance of the Bonds, under authority of and pursuant to the general laws of the State of Ohio, particularly Chapter 133 of the Ohio Revised Code. It is hereby determined that notes shall not be issued in anticipation of the Bonds.

**Section 2.**

(A) The Bonds shall be issued as fully registered bonds without coupons in a principal amount and for the purpose aforesaid, and shall be numbered from R-1 upwards in order of issuance. The Bonds shall (i) be issued as a single series in such principal amount as determined by the Finance Director, but such principal amount shall not exceed the principal amount set forth above; (ii) be dated as determined by the Finance Director; (iii) be of such denominations as determined by the Finance Director (the “Authorized Denominations”); (iv) mature in installments or be subject to mandatory sinking fund redemption on such dates and in such amounts as determined by the Finance Director, provided that the principal on the Bonds in any fiscal year in which principal is payable (whether due to maturity or mandatory sinking fund redemption) shall meet the requirements of Ohio Revised Code Section 133.21, and provided further that the final maturity of the Bonds shall be not later than December 31, 2027; and (v) bear interest payable on such dates (each, a “Bond Payment Date”), and at such rate or rates per annum calculated on such basis as determined by the Finance Director, provided that the net

interest cost payable by the Municipality over the life of the Bonds shall not exceed five percent (5%) per annum. The determinations and designations to be made by the Finance Director pursuant to this ordinance shall be made without further action of this City Council in a certificate of award (the "Certificate of Award") executed by the Finance Director and shall be conclusive.

(B) The Bonds shall be subject to redemption prior to maturity at the option of the Municipality upon such terms, at such times and at such price or prices (but in any case, not greater than 102% of the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date), or not at all, as may be determined by the Finance Director and set forth in the Certificate of Award.

(C) The Bonds shall be designated "Multi-Use Facility (REACH Center) Bonds, Series 2017" or such other designation as may be made by the Finance Director in the Certificate of Award.

(D) It is hereby determined by this City Council that (i) pursuant to Ohio Revised Code Sections 133.01(A) and (CC) and 133.15(B), the Project constitutes a permanent improvement and the acquisition of an interest in real estate, the cost of which may be financed by the issuance of the Bonds; and (ii) the issuance of the Bonds as provided herein, including without limitation, the redemption provisions set forth above, are in the best interests of the Municipality.

### **Section 3.**

(A) The Bonds shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this Ordinance. The Bonds shall be in fully registered form without coupons, shall bear the signatures of the Mayor or City Manager and the Finance Director, provided that either or both of such signatures may be facsimiles. The Bonds shall bear the manual authenticating signature of the Finance Director serving as, or of an authorized representative of a bank or trust company determined by the Finance Director to serve as the paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Bonds. The principal of and interest on the Bonds (the "Bond Service Charges") shall be payable on each Bond Payment Date to the person whose name appears on the record date (being the 15th day preceding each Bond Payment Date) on the Bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at such holder's address as it appears on such registration records, or in such other manner as may be set forth in the Certificate of Award. Upon receipt of the final payment of Bond Service Charges, the then-registered holder shall promptly cancel the Bond and return it to the Paying Agent and Registrar.

(B) The Bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The Municipality and the Paying Agent and Registrar shall not be required to transfer any Bond during the 15-day period preceding any Bond Payment Date or preceding any selection of Bonds to be redeemed, or after such Bond has been selected for partial or complete redemption, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new Bond in the then-unpaid principal amount thereof shall be issued to the transferee in exchange therefor.

(C) The Municipality and the Paying Agent and Registrar may deem and treat the registered holder of the Bonds from time to time as the absolute owner thereof for all purposes, and neither the Municipality nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

**Section 4.**

(A) For the payment of the Bonds and the interest thereon, the full faith, credit and revenue of the Municipality are hereby irrevocably pledged, and for the purpose of providing the necessary funds to pay the Bond Service Charges promptly when and as the same falls due, there shall be and is hereby levied on all the taxable property in the Municipality, within the ten-mill limitation of Article XII, Section 2 of the Constitution of Ohio, in addition to all other taxes, a direct tax annually during the period the Bonds are to run in an amount sufficient to provide funds to pay the Bond Service Charges as and when the same fall due, which tax shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Constitution of Ohio; provided, that in each year to the extent that Revenues or moneys from other sources are available for the payment of the Bond Service Charges and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such Revenues or other moneys so available and appropriated.

(B) Said tax 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 said years are certified, extended or collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund, which, together with all interest collected on the same, shall be irrevocably pledged for the payment of the Bond Service Charges when and as the same shall fall due.

**Section 5.**

(A) The Bonds shall be sold as described herein to one or more entities (the "Purchaser") at not less than 97% of the principal amount thereof, plus accrued interest to the date of delivery, as determined by the Finance Director in the Certificate of Award, pursuant to the Purchaser's offer to purchase which the Finance Director is hereby authorized to accept. The Finance Director and the City Manager are hereby separately authorized, alone or with others, to execute and deliver a purchase agreement or term sheet for the Bonds in such form as may be approved by the officer executing the same, such officer's execution thereof on behalf of the Municipality to be conclusive evidence of such authorization and approval.

(B) The proceeds from the sale of the Bonds, except as any premium and accrued interest received, shall be deposited in an appropriate fund and used for the purpose aforesaid and for no other purpose and for which purpose such proceeds are hereby appropriated. Any premium and accrued interest received from such sale shall be transferred to the bond retirement fund to be applied to the payment of the Bond Service Charges in the manner provided by law.

(C) The Mayor, the City Manager, the Finance Director, the Law Director, the Clerk of Council and other appropriate officials of the Municipality, are each hereby separately authorized, without further action of this City Council, to take any and all actions and to execute such other instruments that may be necessary or appropriate in the opinion of Peck, Shaffer & Williams, A Divisions of Dinsmore & Shohl LLP, bond counsel for the Bonds, in order to effect the issuance of the Bonds and the intent of this ordinance. The Clerk of Council, or other appropriate officer of the Municipality, shall certify a true transcript of all proceedings had with respect to the issuance of the Bonds, along with such information from the records of the Municipality as is necessary to determine the regularity and validity of the issuance of the Bonds.

**Section 6.**

(A) This City Council hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized 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 obligations the interest on which is subject to federal income taxation or “arbitrage bonds” under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the “Code”) and the regulations prescribed thereunder, including any expenditure requirements, investment limitations or rebate requirements. The Finance Director or any other officer having responsibility with respect to the issuance of the Bonds is authorized and directed to give an appropriate certificate on behalf of the Municipality on the date of delivery of the Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

(B) The Bonds are hereby designated as “qualified tax-exempt obligations” to the extent permitted by Section 265(b)(3) of the Code. This City Council finds and determines that the reasonable anticipated amount of tax-exempt obligations (other than private activity bonds, excluding 501c3 bonds) which will be issued by the Municipality during this calendar year does not and the Board hereby covenants that, during such year, the amount of tax-exempt obligations issued by the Municipality and designated as “qualified tax-exempt obligations” for such purpose will not exceed \$10,000,000. The Finance Director and other appropriate officers, and any of them, are authorized to take such actions and give such certifications on behalf of the Municipality with respect to the reasonably anticipated amount of tax-exempt obligations to be issued by the Municipality during this calendar year and with respect to such other matters as appropriate under Section 265(b)(3).

**Section 7.** The Finance Director is hereby authorized to execute and deliver an agreement with the Paying Agent and Registrar for its services as paying agent, registrar and transfer agent for the Bonds in such form as such officer may approve; the execution thereof by such officer to be conclusive evidence of such authorization and approval.

**Section 8.** The law firm of Dinsmore & Shohl LLP be and is hereby retained to provide bond counsel services to the Municipality in connection with the issuance of such Bonds, including preparation of the necessary authorization and related closing documents for the issuance, sale and delivery of the Bonds and, if appropriate, rendering its approving legal opinion in connection therewith to the Original Purchaser, and said firm shall be compensated by the Municipality for such services in accordance with a written agreement substantially the form presently on file with this City Council. The Mayor, the City Manager, the Finance Director and other appropriate officials of the Municipality, are each hereby separately authorized, without further action of this City Council, to execute and deliver such agreement on behalf of the Municipality in substantially the form presently on file with this City Council and to take any and all actions and to execute such other instruments that may be necessary or appropriate in order to effect the retention of such firm and the intent of this ordinance.

**Section 9.** The Finance Director is hereby directed to forward a certified copy of this Ordinance and the Certificate of Award to the County Auditor of each county in which any part of the Municipality is located.

**Section 10.** It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this City Council, and that all deliberations of this City Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law, including Section 121.22 of the Revised Code of Ohio.

**Section 11.** This ordinance shall take effect thirty (30) days after its passage pursuant to the Charter of the Municipality.

Passed: October 26, 2017  
Effective: November 25, 2017

Attest:

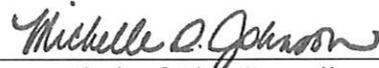
  
Michelle D. Johnson  
City Clerk

  
Michael D. Engle  
President, Xenia City Council

Prepared by: Dinsmore & Shohl LLP  
Suite 300  
191 West Nationwide Boulevard  
Columbus, Ohio 43215

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of Ordinance Number 17-44 passed by the City Council of the City of Xenia, Ohio, on October 26, 2017.



\_\_\_\_\_  
Clerk of City Council,  
City of Xenia, Ohio

Date: October 27, 2017

**CERTIFICATE**

The undersigned hereby certifies that a copy of the foregoing ordinance was certified this day to the County Auditor of Greene County, Ohio.



\_\_\_\_\_  
Finance Director  
City of Xenia, Ohio

Dated: October 27, 2017

**CERTIFICATE AND RECEIPT**

The undersigned, County Auditor of the County of Greene, Ohio, hereby certifies the filing and acknowledges receipt of a certified copy of the foregoing ordinance.



\_\_\_\_\_  
County Auditor  
County of Greene, Ohio

Dated: October 27, 2017

**CERTIFICATE AS TO MAXIMUM MATURITY OF BONDS**

The undersigned, being the fiscal officer of the City of Xenia, Ohio, within the meaning of Section 133.01 of the Ohio Revised Code, hereby certifies to the Council of such City in connection with the proposed issuance and sale of not to exceed \$1,025,000 of bonds (the “Bonds”) for the purpose of paying part of the cost of a new multi-use facility known as the REACH Center being constructed by the Young Men's Christian Association of Greater Dayton and to be leased to such City for a period of not less than twenty (20) years (the “Project”), that:

1. Pursuant to Ohio Revised Code Sections 133.01(A) and (CC) and 133.15(B), the Project constitutes a permanent improvement and the acquisition of an interest in real estate, the cost of which may be financed by the issuance of the Bonds; and
2. The estimated life or period of usefulness of each of the improvements comprising the Project is at least five (5) years; and
3. The maximum maturity of the Bonds calculated in accordance with Section 133.20 of the Ohio Revised Code, assuming that all the proceeds of the Bonds are expended for building improvements or constitute the acquisition of an interest in real estate, for which I hereby estimate a life or period of usefulness of at least twenty (20) years in either case, is at least twenty (20) years.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of October, 2017.

  
\_\_\_\_\_  
Finance Director

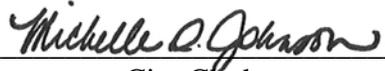
**CERTIFICATE OF MEMBERSHIP**

The undersigned, City Clerk of the City of Xenia, Ohio, hereby certifies that the following were the officers of the City and the members of Council during the period proceedings were taken authorizing the issuance of not to exceed \$1,025,000 Multi-Use Facility (REACH Center) Bonds, Series 2017:

Mayor	Marsha J. Bayless
President of Council	Michael D. Engle
Vice President of Council	Wesley Smith
Member of Council at Large	Dr. Edgar Wallace
Member of Council at Large	Dale Louderback
Member of Council at Large	Jeanne Mills
Member of Council at Large	Sarah Mays
Manager	Brent Merriman
Finance Director	Ryan Duke
Law Director	Donnette A. Fisher
City Clerk	Michelle D. Johnson

**TRANSCRIPT CERTIFICATE**

The undersigned, City Clerk of such city, hereby certifies that the attached is a true and complete transcript of all proceedings relating to the authorization and issuance of the above-identified bonds, and that all such proceedings were held in compliance with the law, including Section 121.22 of the Revised Code of Ohio.

  
\_\_\_\_\_  
City Clerk