

ORDINANCE NO. 20-017

**AN ORDINANCE TO AUTHORIZE THE MAYOR AND FINANCE DIRECTOR TO ENTER INTO A DEPOSITORY AGREEMENT WITH PARK NATIONAL BANK FOR THE DEPOSIT OF PUBLIC FUNDS**

WHEREAS, the city is desirous of investing the interim funds of the city; and

WHEREAS, it is necessary to retain banking services for such investments;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1. That the Mayor and Finance Director be, and hereby are, authorized to enter into An Agreement for Deposit of Public Funds Ohio with Park National Bank, for the period of January 1, 2020 to December 31, 2024, as detailed in Exhibit "A" attached and incorporated herein by reference.

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED 5-4-2020

  
PRESIDENT OF COUNCIL

ATTEST Audra DiDio  
CLERK OF COUNCIL

  
MAYOR

APPROVED AS TO FORM:

DATE APPROVED 5-5-2020

  
LAW DIRECTOR

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Audra DiDio  
CLERK OF COUNCIL

## Agreement for Deposit of Public Funds

This **Agreement for Deposit of Public Funds** (this "Agreement") is made as of the date executed by and between **Park National Bank**, a national banking association (the "Financial Institution"), and **City of Canal Winchester** (the "Customer").

### WITNESSETH:

**WHEREAS**, capitalized terms used herein but not otherwise defined herein shall have the meanings set forth on the Addendum with respect to the State in which the Customer is located;

**WHEREAS**, the Financial Institution has proposed to the Customer that the Financial Institution will accept for deposit and safekeeping deposits for the Customer and provide certain other services;

**WHEREAS**, the Financial Institution has provided the Customer with access to the Financial Institution's balance sheet information as of the date of the latest report filed by the Financial Institution with the Office of the Comptroller of the Currency; and

**WHEREAS**, pursuant to the Applicable Statute and in accordance with the rules promulgated under the Applicable Statute, such proposal requires the Financial Institution to pledge and deposit with one or more qualifying trustees, trustee custodians, escrow agents, or custody agents, as security for the repayment of all public moneys to be deposited in the Financial Institution by the Customer security of the kinds specified in the Security Provisions or any other section of the Applicable Statute specifying eligible security, as such may be amended from time to time, in a sum equal to or greater than the minimum amount of security required by the State Official pursuant to the Applicable Statute and the rules promulgated under the Applicable Statute, as such may be amended from time to time;

**NOW, THEREFORE**, in consideration of the services to be provided by the Financial Institution, including the retention and safekeeping of deposits of the Customer, and the Customer's new or continued award of deposits with the Financial Institution, the Customer and the Financial Institution agree as follows:

**1. Eligibility to Receive Funds.** The Financial Institution represents that it is eligible to receive public funds pursuant to the Applicable Statute. This agreement is subject to the Applicable Statute, all amendments or supplements thereto, and all rules promulgated and policies adopted pursuant thereto, as well as all other applicable laws and regulations.

**2. Deposits Awarded and Accepted.** The Customer awards to the Financial Institution, and the Financial Institution accepts, all deposits of the Customer. The Customer and the Financial Institution agree that the services may be changed by agreement of the Customer and the Financial Institution from time to time. Such agreement will be evidenced by delivery of written notice of such proposed changes from the Financial Institution to the Customer and failure of the Customer to deliver to the Financial Institution within 30 calendar days after delivery of such notice written objection of the Customer to such changes. The Customer acknowledges having received a copy of the terms and conditions of the accounts into which the Customer's funds will be deposited (the "Accounts") and agrees that the Account terms and conditions are incorporated herein by reference. To the extent the Account terms and conditions are inconsistent with the express terms of this Agreement, this Agreement will control.

**3. Limit on Amount of Deposits.** The acceptance by the Financial Institution of the amount of active, interim and inactive deposits of the Customer for which the Financial Institution has applied will not cause the total of all public deposits held by the Financial Institution to exceed any limit provided in the Applicable Statute or rules promulgated thereunder.

**4. Collateral.** The Financial Institution and the Customer agree that the Financial Institution will pledge to the State Official and deposit with one or more trustees, trustee custodians, escrow agents, or custody agents qualified under the Applicable Statute and designated by the Financial Institution, for the benefit of the Customer and all other public depositors whose money has been deposited with the Financial Institution, eligible securities. Notwithstanding the foregoing, if the charter of the Customer requires a pledge of specific collateral for the benefit of the Customer or applicable federal law designates the pledging of specific collateral for the Customer, the Customer and the Financial Institution will make a good faith effort to submit necessary documents with the State Official to apply for and establish a specific pledge account within the Collateral Program as defined by each State. The Financial Institution and the Customer will comply in all material respects with their respective duties and obligations under the Applicable Statute, the rules promulgated by the State Official pursuant to the Applicable Statute, and the terms, conditions, policies and other requirements of the State Official pursuant to the Collateral Program, as such laws, rules, terms, conditions, policies and other requirements may be amended from time to time. The terms and conditions of this Agreement are subject to the terms and conditions of any agreement or agreements by and between the Financial Institution and the State Official relating to the Accounts, which agreement or agreements are incorporated herein by reference.

**5. Amount of Collateral.** The Customer consents to the pledging of collateral by the Financial Institution, in the discretion of the Financial Institution and without further consent from the Customer, equal to any minimum amount required by the State Official, as such amount may be changed from time to time, pursuant to such laws and rules and policies of the State Official promulgated or adopted pursuant to such laws.

**6. Trustee.** The Customer agrees that the Financial Institution may, in its sole discretion, select one or more trustees, trustee custodians, escrow agents, or custodial agents qualified under the Applicable Statute to hold collateral for all deposits of public fund depositors held by the Financial Institution, including but not limited to those deposits made by the Customer.

**7. Expenses.** Each of the Customer and the Financial Institution will be responsible for and assume its respective expenses incurred as a result of compliance with and participation in the Collateral Program and any successor program pursuant to the provisions of the Applicable Statute.

**8. Termination of Participation in the Collateral Program.** Nothing set forth in this Agreement will require the Financial Institution to continue to participate in the Collateral Program. If for any reason the Financial Institution is no longer eligible to participate in the Collateral Program or chooses to opt out of such participation, the Financial Institution will promptly provide the Customer a notice of such event. Upon receipt of such notice, the Customer will provide notice to the Financial Institution within 30 calendar days whether the Customer will withdraw all of its deposits from the Financial Institution or maintain the Customer's deposits at the Financial Institution. If the Customer does not provide such notice to the Financial Institution within the time frame set forth above whether it intends to remove its deposits, the Customer will be deemed to have agreed to maintain its deposits at the Financial Institution, and the Financial Institution will pledge collateral for the deposits of the Customer held by the Financial Institution pursuant to the requirements applicable to pledging of collateral set forth in the Applicable Statute and in accordance with other applicable laws and regulations. The Financial Institution has no further obligation to the Customer with respect to the Financial Institution's termination of participation in the Collateral Program.

**9. Change in Laws.** The Financial Institution and the Customer agree that if any state or federal laws, rules, or regulations are changed or amended during the term of the Financial Institution's designation as a public depository, and the change of laws, rules, or regulations causes this Agreement to become unlawful, in whole or in part, then this Agreement will be limited so as not to extend beyond the date when such change becomes effective.

**10. Customer Privacy.** The Customer consents to the Financial Institution's provision to the State Official of information supplied by the Customer to the Financial Institution, as may be required by the State Official or applicable laws, rules, and policies in connection with the Accounts. The Financial Institution will not be liable to the Customer for, as a result of, or in connection with the provision of such information to the State Official nor any disclosure of such information by the State Official to any other person.

**11. Notices.** Any notice or demand required or permitted under this Agreement from the Customer to the Financial Institution must be in writing, shall be sent by United States certified or registered mail, return receipt requested, or by courier, hand delivery, or overnight delivery, with all postage and charges prepaid, shall be deemed effective on the date it is actually received by the Bank, and shall be addressed to the Bank, Attention Commercial Cash Management, located at 51 North Third Street, Suite 502, Newark, Ohio 43055. Unless otherwise required by Applicable Statute, the Customer agrees that communications from the Financial Institution may be sent electronically to the email address on file in the Financial Institution's records or in writing by regular U.S. mail, courier, hand delivery, or overnight delivery at the address on file in the Financial Institution's records.

**12. Governing Law and Venue.** The internal laws of the State of Ohio will govern the interpretation, construction, and enforcement of this Agreement and all transactions and agreements contemplated by the Agreement, notwithstanding any state's choice of law rules to the contrary, except to the extent federal law or the laws of the State in which the Customer is located governs. The parties agree that the sole and exclusive venue for any legal action arising out of, in connection with, or relating to this Agreement and/or the transactions and relationships between the parties contemplated by this Agreement, will be the federal district court for the Southern District of Ohio, Columbus Division, or any court of general jurisdiction of Licking County, Ohio. The parties consent to the jurisdiction of such courts and waive any claim of lack of personal jurisdiction, improper venue, and forum non conveniens.

**13. Assignment.** This Agreement may not be assigned by either party without prior written consent of the other party. Notwithstanding the foregoing, neither a merger of the Financial Institution into another financial institution, nor a sale of the Accounts to another financial institution eligible to receive public funds pursuant to the Applicable Statute, along with

an assignment of this Agreement, will be deemed to be an assignment.

**14. Waivers.** The waiver by either party of a breach of any provision of this Agreement by the other party or its assignee will not operate or be construed as a waiver of any subsequent breach by the breaching party. A waiver by either party will only be valid if it is in writing and signed by an authorized officer of the party making the waiver.

**15. Execution and Delivery.** The execution of this Agreement or any amendment to this Agreement in one or more counterparts and the delivery of copies and of scanned or photocopied signature pages by facsimile, electronic mail, or other electronic delivery will constitute effective execution and delivery of this Agreement or any amendment.

**16. Agreements Superseded.** With respect to the subject matter of this Agreement, to the extent that there is any inconsistency between this Agreement and any other agreement between the Customer and the Financial Institution, the terms of this Agreement supersede all previous agreements. For purposes of clarification, with respect to any previous agreement between the Financial Institution and the Customer regarding the types and maximum amount of deposits to be received by the Financial Institution from the Customer, compliance with the Applicable Statute, and participation by the Financial Institution and the Customer in the Collateral Program, this Agreement supersedes all previous oral and written agreements.

**17. Contact Persons.** Information regarding the Customer's contact persons with respect to this Agreement is set forth below. The Customer may designate substitute contact persons as the Customer deems necessary or appropriate. The Customer will promptly notify the Financial Institution of such substitutions and changes in contact persons and information. **Amanda Jackson** [ajackson@canalwinchesterohio.gov](mailto:ajackson@canalwinchesterohio.gov)

**18. Term.** The term of this Agreement is **five years**, beginning on **January 1st 2020** and ending on **December 31st 2024**. Notwithstanding the foregoing, the parties to this Agreement may agree to renew the Agreement for a new term without execution of a new agreement by execution and delivery of a writing signed by both parties or by delivery of a written notice of changed terms by the Financial Institution to the Customer to which the Customer does not deliver written notice of objection to the Financial Institution within 30 calendar days after delivery of the notice from the Financial Institution to the Customer.

IN WITNESS WHEREOF, the undersigned have caused this Agreement for the Deposit of Public Funds to be executed by their authorized officers as of the date above.

**Park National Bank**

Christina L Kittle	Banking Officer	Jeffrey D Guminey	Vice President
_____ Printed Name	_____ Title	_____ Printed Name	_____ Title
_____ Signature	_____ Date	_____ Signature	_____ Date

**City of Canal Winchester**

Amanda Jackson	Finance Director	Stacey Williams	Finance Specialist
_____ Printed Name	_____ Title	_____ Printed Name	_____ Title
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Printed Name	_____ Title	_____ Printed Name	_____ Title
_____ Signature	_____ Date	_____ Signature	_____ Date

## Addendum

The following terms set forth in the **Agreement for Deposit of Public Funds** to which this Addendum is attached shall have the following meanings for each Customer located in the State listed.

### INDIANA

"Applicable Statute" shall mean Indiana Code (IC) Title 5, Article 13.

"Collateral Program" shall mean IC 5-13-13.

"Security Provisions" shall mean IC 5-13-9.5-1 and the rules promulgated thereunder.

"State Official" shall mean the State Treasurer of the State of Indiana, or such other state official designated under the Applicable Statute.

### KENTUCKY

"Applicable Statute" shall mean Kentucky Revised Statute (KRS) 41.240.

"Collateral Program" shall mean KRS 41.240.

"Security Provisions" shall mean KRS 41.240(4).

"State Official" shall mean the State Treasurer of the State of Kentucky, or such other state official designated under the Applicable Statute.

### NORTH CAROLINA

"Applicable Statute" shall mean North Carolina Administrative Code (NCAC) Title 20, Chapter 7.

"Collateral Program" shall mean the Pooling Method, as described in NCAC Section 20, 07.0104.

"Security Provisions" shall mean NCAC Section 20, 07.0200.

"State Official" shall mean the State Treasurer of the State of North Carolina, or such other state official designated under the Applicable Statute.

### OHIO

"Applicable Statute" shall mean Uniform Depository Act of Ohio set forth in Chapter 135 of the Ohio Revised Code.

"Collateral Program" shall mean the Ohio Pooled Collateral Program, as defined in Uniform Depository Act of Ohio set forth in Chapter 135 of the Ohio Revised Code.

"Security Provisions" shall mean Sections 135.18 and 135.182 of the Ohio Revised Code.

"State Official" shall mean the State Treasurer of the State of Ohio, or such other state official designated under the Applicable Statute.

### SOUTH CAROLINA

"Applicable Statute" shall mean South Carolina Code of Laws (SCCL) Title 6, Chapter 5.

"Collateral Program" shall mean the Pooling Method, as described in SCCL Section 6-5-15(E)(1)(b).

"Security Provisions" shall mean SCCL Section 6-5-15(C)(2).

"State Official" shall mean the State Treasurer of the State of South Carolina, or such other state official designated under the Applicable Statute.

### TENNESSEE

"Applicable Statute" shall mean Tennessee Code (TC) Title 9, Chapter 4, Part 5, known as the Collateral Pool for Public Deposits Act of 1990.

"Collateral Program" shall mean TC Title 9, Chapter 4, Part 5.

"Security Provisions" shall mean TC Section 9-4-504.

"State Official" shall mean the State Treasurer of the State of Tennessee, or such other state official designated under the Applicable Statute.