

ORDINANCE NO. 735 AC CMS

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$3,100,000 OF REVENUE BONDS OF THE CITY OF OBERLIN UNDER SECTION 3, ARTICLE XVIII, OF THE CONSTITUTION OF THE STATE OF OHIO FOR THE PURPOSE OF PROVIDING FUNDS FOR THE IMPROVEMENT OF THE CITY'S HOSPITAL FACILITIES: TO AUTHORIZE THE EXECUTION OF A TRUST INDENTURE PLEDGING THE REVENUES OF THE HOSPITAL FACILITIES TO SECURE SAID REVENUE BONDS AND TO SECURE ADDITIONAL BONDS HERE-AFTER ISSUED ON A PARITY THEREWITH: TO PROVIDE, IN EVENT OF DEFAULT, FOR THE APPOINTMENT OF A RECEIVER TO ADMINISTER SAID FACILITIES: AND TO DECLARE AN EMERGENCY.

WHEREAS, the City of Oberlin (herein called the "Municipality") has heretofore established and is the owner of a municipal general hospital affording hospital care and treatment for its residents; the general hospital building of the Municipality, equipment and furnishings therefor and appurtenances thereto together with all real estate and interests therein used in connection therewith, as now existing or as hereafter acquired, extended and improved, including the Project hereinafter defined, being herein collectively called the "Hospital Facilities"; and

WHEREAS, based upon the reports and recommendations of Hewitt and Royer, Hospital Construction Consultants, (herein called the "Hospital Consultant"), the Council of the Municipality has determined it to be immediately essential to undertake improvements to its existing general hospital facilities to provide improved hospital care and treatment for its residents, such improvements being hereinafter collectively called the "Project" and consisting of the construction of an addition to the existing hospital building, remodeling and otherwise improving existing building facilities, making necessary site improvements, and providing necessary equipment; and

WHEREAS, it is desired to finance costs of the Project and expenditures incident thereto and incident to such financing by the issuance and sale of revenue bonds in accordance with Article XVIII, Section 3, of the Ohio Constitution, which bonds (hereinafter called "Improvement Bonds") together with any additional bonds subsequently issued on a parity therewith (hereinafter called "Additional Bonds", the Improvement Bonds and the Additional Bonds being herein collectively referred to as the "Bonds") are to be secured by the Trust Indenture hereinafter provided for (hereinafter referred to as the "Indenture") and by a pledge of revenues of the Hospital Facilities;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OBERLIN, OHIO:

Section 1. Findings - Authorization of \$3,100,000 of Improvement Bonds, Use of Proceeds -- The Council of the Municipality hereby finds and determines that it is immediately necessary, in order to promote the public health and welfare by providing improved hospital care and treatment for its residents, to provide improvements to its existing general hospital facilities by the construction of the Project, that, prior to the issuance of the Improvement Bonds, the rates and charges for the services of the Hospital Facilities will have been determined and fixed in amounts sufficient to pay costs of administration, operation and maintenance of the Hospital Facilities and to leave an amount of revenues adequate to comply with the covenants herein provided for and that it is necessary to issue and sell the Improvement Bonds in the principal amount of \$3,100,000 and having the terms provided for herein, the proceeds thereof to be used for the Project and purposes incidental thereto and incidental to the issuance and sale of the Improvement Bonds, and, to the extent of any balance remaining in the Construction Fund herein established after paying or providing for the foregoing, for other improvements to the Hospital Facilities as recommended by the Hospital Consultant and approved by the Municipality at the time of completion of the Project, and, as to any further balance for payment to the Contingency Reserve Fund created hereby.

Section 2. Terms of Improvement Bonds. The Improvement Bonds shall be initially issued in coupon or fully registered form as may be requested by the Original Purchaser thereof and shall be exchangeable for fully registered or coupon bonds in the manner and on the terms provided in the Indenture. The Improvement Bonds in coupon form shall be dated December 1, 1970, shall be in the denomination of \$5,000 each and shall be registrable as to principal. The Improvement Bonds in fully registered form shall be in the denomination of \$5,000 or any multiple thereof; provided, that the Fiscal Officer with approval of the Trustee may authorize issuance of one or more fully registered Bonds representing more than one maturity with appropriate changes in the form of such an Improvement Bond to cover more than one maturity. The Improvement Bonds in both coupon and registered form shall be numbered as determined by the Fiscal Officer. Each Improvement Bond in registered form without coupons shall be dated as of the interest payment date on which it is authenticated or the interest payment date next preceding the date of its authentication or as of the same date as the coupon bonds if authenticated prior to the first interest payment date; provided, however, that if, at the time of authentication of a registered Improvement Bond without coupons, interest is in default, such Improvement Bond shall be dated as of the date to which interest has been paid. The Improvement Bonds bear interest payable semi-annually on June first and December first of each year, beginning June 1, 1971, until the principal sum is paid at the rates per annum set forth opposite the maturity year in the table below, with interest on any overdue principal, and, to the extent that payment of such interest is enforceable under applicable law, on any overdue installment of interest, at a rate per annum one percent in excess of the interest rate applicable to the particular bond before maturity, until the principal sum is paid. The Improvement Bonds shall mature on December first in the years and in the principal amount set opposite the year as follows:

<u>Year</u>	<u>Principal Amount Maturing</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount Maturing</u>	<u>Interest Rate</u>
1973	\$ 40,000		1982	\$ 125,000	
1974	40,000		1983	125,000	
1975	40,000		1984	125,000	
1976	40,000		1985	125,000	
1977	40,000		1986	125,000	
1978	125,000		1987	125,000	
1979	125,000		1988	125,000	
1980	125,000		2000	1,525,000	
1981	125,000				

The Improvement Bonds maturing on December 1, 2000 are subject to mandatory call for redemption of such Improvement Bonds as provided in Section 8 hereof in each of the years 1989 to 2000, both inclusive, in the respective principal amounts shown in Section 8.

The Improvement Bonds maturing on or after December 1, 1984, shall be subject to redemption in whole or in part on any interest payment date on and after December 1, 1983, at redemption prices equal to the following percentages of the principal amount redeemed, plus accrued interest to the date fixed for redemption, by notice of redemption, specifying the numbers of the Improvement Bonds (and portions of fully registered Improvement Bonds) to be called, published by the Trustee on behalf of the Municipality once a week for two consecutive weeks in a financial journal of national circulation, the first publication to be not less than thirty (30) days prior to the date of redemption, upon which date all interest upon the Improvement Bonds or portions thereof so called shall cease except for those as to which default shall be made, upon presentation, in the payment of the redemption price:

<u>From</u>	<u>To</u>	<u>Price</u>
December 1, 1983	December 1, 1987	105%
December 2, 1987	December 1, 1990	104%
December 2, 1990	December 1, 1993	103%
December 2, 1993	December 1, 1996	102%
December 2, 1996 and	thereafter	101%

If less than the entire unmatured portion of the Improvement Bonds is called for redemption at any time or from time to time, they shall be called in inverse order of maturity of those outstanding, and, if less than all of the Improvement Bonds outstanding of one maturity are to be called, the selection of Improvement Bonds or portions of fully registered Improvement Bonds of such maturity shall be made by lot by the Trustee in such manner as the Trustee may determine.

Principal and interest thereon shall be payable without deduction for services as the Municipality's paying agent, at the corporate trust office of the Trustee or at the option of the holder thereof, at the corporate trust office of a bank or trust company, said Trustee and paying agent to be designated in a

resolution hereafter adopted by the Council of the Municipality, except that principal of fully registered Improvement Bonds shall be payable only at the corporate trust office of the Trustee and interest on fully registered Improvement Bonds shall be payable by check or draft as provided in the Indenture.

The Improvement Bonds shall be signed by the Executive and the Fiscal Officer of the Municipality, provided that one or both of such signatures may be a facsimile, and shall bear the corporate seal or a facsimile thereof, and the interest coupons thereon shall bear the facsimile signature of the Fiscal Officer. When used in this Ordinance, "Executive" shall mean the City Manager, "Fiscal Officer" shall mean the Auditor, the "Legal Officer" shall mean the Solicitor. Any officer or board which hereafter succeeds, by operation of law, to the powers and duties of any such officers shall be deemed included in the applicable official designation while having such powers and duties.

Section 3. The Indenture referred to herein is the Indenture of Mortgage hereinafter provided for between the Municipality and a bank or trust company having trust powers which is to be designated in a resolution to be hereafter adopted by this Council (herein with its successors called the "Trustee").

When used in this Ordinance, "Pledged Revenues" or "Revenues" means all revenues derived by the Municipality from the operation of the Hospital or from leasing or contracting for the operation thereof.

Section 4. Sale of Improvement Bonds. The Improvement Bonds be and they are hereby awarded and sold to McDonald & Company, Cleveland, Ohio, and The Ohio Company, Columbus, Ohio, (hereinafter referred to as the "Original Purchaser"), in accordance with its written proposal for purchase dated , 1970, which is hereby accepted. The Fiscal Officer be and he is hereby authorized and directed to make the necessary arrangements on behalf of the Municipality with the Original Purchaser to establish the date, location, procedure and conditions for delivery of the Improvement Bonds to the Original Purchaser and the Executive and Fiscal Officer are authorized and directed to take all steps necessary to effect due authentication, delivery and security of the Improvement Bonds pursuant to this Ordinance and the Indenture.

Section 5. Proceeds of Improvement Bonds -- The proceeds from the sale of the Improvement Bonds shall be allocated and hereby are appropriated to the following funds, hereby established: (a) the portion representing accrued interest, together with the sum of \$480,000 as capitalized interest, to the Debt Service Fund; and (b) the entire balance of such proceeds, to the Construction Fund; provided that it is hereby acknowledged and recognized that of such balance the sum of \$60,000 represents costs of the Project heretofore paid by Allen Memorial Hospital as Lessee of the existing hospital facilities and as Lessee of the hospital facilities as improved pursuant to the Project, that the Lease of December 1, 1970 between the Municipality and Allen Memorial Hospital as Lessee provides that such Lessee shall cause such \$60,000, which is payable to such Lessee from the proceeds of the Improvement Bonds, to be paid to the Construction Fund, and that to avoid an unnecessary transfer of funds such \$60,000 shall be deposited directly to the Construction Fund; and (b) the entire balance of such proceeds, to the Construction Fund. The Construction Fund shall consist of the portion of the proceeds of the Improvement Bonds provided for in this section and such additional amounts as may be paid therein by the Municipality; shall be maintained by the Municipality in a deposit account fully secured by direct obligations of the United States, or, until required for the purposes herein provided, may be

invested by the Fiscal Officer in eligible investments as defined in Section 7 of this Ordinance, maturing not later than the times when the moneys therein are required for the payments of costs of the Project; and shall be applied to the purposes for which the proceeds of the Improvement Bonds are required to be used under the foregoing sections of this Ordinance. The Allen Memorial Hospital Building Committee heretofore appointed as an advisory committee with respect to the Project shall make recommendations from time to time to the Fiscal Officer and the Treasurer of the Municipality regarding payments to be made from the Construction Fund for costs of the Project, but the failure of such Building Committee to submit recommendations regarding proposed expenditures from such fund, such recommendations being advisory only, shall not prevent the Fiscal Officer and Municipal Treasurer from making any payment for costs of the Project which they determine to be lawfully due and owing. To the extent that rental payments are received in the Lease Fund hereinafter created prior to June 1, 1971, and are available for payment of interest on the Improvement Bonds, an amount of the capitalized interest required by this section to be deposited in the Debt Service Fund equal to such rental payments so received shall be transferred to the Construction Fund.

Section 6. Revenue Fund and Application Thereof; Special Funds.
So long as any bond secured by the Indenture remain outstanding, all Pledged Revenues, shall be deposited as follows:

A. If the Municipality shall have leased or contracted for operation of the Hospital as permitted by law, into the General Fund of the Municipality so much of the Pledged Revenues as is in excess of the aggregate of the requirements of Paragraphs First through Fourth of this Subsection 6(A) and the balance into the Hospital Lease Fund hereby established, which Fund shall be maintained with the Trustee in the name of the Municipality, in a bank deposit separate and distinct from all other funds of the Municipality. Out of said Lease Fund the following payments only shall be made and in the following order, to wit:

First: Into the Debt Service Fund, on or prior to the twentieth calendar day of each month, commencing with the month of December, 1972, (i) the equal monthly sum necessary to pay the interest falling due on the Bonds on the next ensuing interest payment date; and, commencing with the month of December, 1972, (ii) the equal monthly sum necessary to pay the principal of the Bonds falling due on the next ensuing December 1 whether such retirement be at maturity or by mandatory sinking fund redemption.

Second: Into the Debt Service Reserve Fund, on or prior to the twentieth calendar day of each month beginning with the month of December, 1971, the sum of \$7,500, which sum shall be paid in for so long and resumed so often and to the extent only as may be necessary to create and thereafter maintain a balance of \$540,000 in said Debt Service Reserve Fund.

Third: Monthly on or prior to the twentieth calendar day of each month, such sum in addition to any of the foregoing allocations as may be necessary and available, after meeting the requirements of the preceding paragraphs First and Second, to make up any previous deficiency in any such monthly allocation.

Fourth: Into the Contingency Reserve Fund, on or prior to the twentieth calendar day of each month, commencing with the month of December, 1970, the amounts set forth in the following table:

<u>Months Inclusive</u>	<u>Monthly Payment</u>
December, 1970 - November, 1971	\$4,900
December, 1971 - November, 1972	1,000
December, 1972 - November, 1973	3,400
December, 1973 - November, 1974	3,400
December, 1974 - November, 1975	3,300
December, 1975 - November, 1976	2,900
December, 1976 - November, 1977	2,700
December, 1977 - November, 1978	2,800
December, 1978 - November, 1979	2,500
December, 1979 - November, 1980	2,400
December, 1980 - November, 1981	2,300
December, 1981 - November, 1982	2,200
December, 1982 - November, 1983	1,900
December, 1983 - November, 1984	1,500
December, 1984 - November, 1985	1,000
December, 1985 - November, 1986	700
December, 1986 - November, 1987	600
December, 1987 - November, 1988	500
December, 1988 - November, 1989	500
December, 1989 - November, 1990	400
December, 1990 - November, 1991	400

In the event of the issuance of Additional Bonds, the ordinance authorizing such Additional Bonds shall provide for deposit in the Contingency Reserve Fund of such additional amounts as shall become available to the Municipality or the operator of the Hospital as a depreciation allowance for the improvements financed from the proceeds of such Additional Bonds, provided that if a depreciation allowance is not then provided, then any payments or allowances that may have been substituted therefor shall be deposited

in the Contingency Reserve Fund. The Contingency Reserve Fund shall be maintained in the custody of the Trustee as a trust fund, (i) shall to the extent necessary from time to time, be transferred to the Debt Service Fund to meet payments of principal of and interest and any premium due, whether at maturity or by redemption, and to the Debt Service Reserve Fund to meet any deficiency therein, and (ii) otherwise shall be used solely at the direction of the lessee or other operator of the Hospital in connection with the Hospital for the purchase of land; purchase or construction of new, or additions to, buildings or the purchase or erection of capital equipment located on the site of the Hospital; modernization or permanent improvement of existing buildings located on the site of the Hospital; or for improvement to the land which is the site of the Hospital or to capital equipment located on such site; (iii) provided that notwithstanding the foregoing provisions of clause (ii) if the Municipality hereafter issues unvoted general obligation bonds or notes in anticipation thereof to pay costs of improvements, extensions or enlargements of the Hospital, the Fiscal Officer of the Municipality shall certify to the Trustee a copy of the ordinance authorizing such bonds or notes and on the 15th day of January of each year a schedule showing the amount of principal and interest payable by the municipality in the then current calendar year on such notes or bonds and the due dates thereof and the Trustee, prior to making disbursements to the Municipality's lessee or other operator of the Hospital as provided in the next succeeding paragraph, shall reserve in the Contingency Reserve Fund an amount sufficient to pay to the Municipality in the then current calendar year on or prior to the due dates for the payment of principal and interest on such general obligation bonds or notes the amounts due on such dates and such amounts shall be paid to the Municipality from the Contingency Reserve Fund to the extent permitted by the balance in such Fund.

Subject to the provisions of clause (iii) of the immediately foregoing paragraph and the second paragraph of Section 7 of this Ordinance, moneys deposited in the Contingency Reserve Fund during each calendar year together with the interest earned thereon may be withdrawn from such fund on the second day of December of the calendar year following the calendar year in which such moneys were so deposited for the purposes set forth in clause (ii) of the immediately preceding sub-paragraph at the sole option and direction of the Municipality's lessee or other operator of the Hospital if there then exists no default in any of the payments required under paragraphs First through Third, inclusive, and all principal of the Bonds to be retired in the then current calendar year, whether at maturity or by redemption, shall have been retired or provision made therefor by retention in the Contingency Reserve Fund of a sufficient amount for such purpose or otherwise. The Municipality's lessee or other operator of the Hospital shall designate to the Trustee one or more officers or employees of it, any one

of whom shall execute any order directing the use of the moneys from the Contingency Reserve Fund pursuant to this paragraph Fourth.

B. If the Municipality shall be operating the Hospital, into the Hospital Revenue Fund hereby established, which Fund shall be maintained in the name of the Municipality, in a bank deposit separate and distinct from all other funds of the Municipality. Out of said Fund, after reserving therein at all times an adequate sum as working capital for the Hospital, the following payments only shall be made and in the following order, to wit:

- First: All reasonable and proper expenses of operating and maintaining the Hospital and all appurtenances thereto but to exclude depreciation and capital replacements.
- Second: Into the Debt Service Fund, on or prior to the twentieth calendar day of each month, commencing with the month of December, 1972, (i) the equal monthly sum necessary to pay the interest falling due on the Bonds on the next ensuing interest payment date; and, commencing with the month of December, 1972, (ii) the equal monthly sum necessary to pay the principal of the Bonds falling due on the next ensuing December 1 whether such retirement be at maturity or by mandatory sinking fund redemption.
- Third: Into the Debt Service Reserve Fund, on or prior to the twentieth calendar day of each month beginning with the month of December, 1971, the sum of \$7,500, which sum shall be paid in for so long and resumed so often and to the extent only as may be necessary to create and thereafter maintain a balance of \$540,000 in said Debt Service Reserve Fund.
- Fourth: Monthly, as aforesaid, beginning on the twentieth day of the month next following the month in which the balance in the Debt Service Reserve Fund is at least equal to the maximum amount required by the preceding paragraph Third to be maintained therein, into the Replacement and Improvement Fund, after making the payments required by paragraphs First to Third, inclusive, a sum at least equal to 30% of the amount payable on such deposit date into the Debt Service Fund under paragraph Second hereof, which sums shall be paid in for so long and resumed so often and to the extent only as may be necessary to create and thereafter maintain a balance in said Fund of \$175,000; provided that in any month in which payments are required to be resumed for deposit to the Debt Service Reserve Fund under paragraph Third the sum to be deposited in such month in the Replacement and Improvement Fund shall be the difference between 30% of the amount payable on the deposit date for such

month into the Debt Service Fund and the amount payable on such deposit date into the Debt Service Reserve Fund. The Replacement and Improvement Fund shall be maintained in the custody of the Trustee as a trust fund, shall, to the extent necessary from time to time, be transferred to the Debt Service Fund without drawing on the Debt Service Reserve Fund and, otherwise, shall be used solely to replace obsolete or worn-out equipment or furnishings, or to make extraordinary repairs to or improvements, extensions or enlargements of the Hospital, or for the retirement of Bonds by call or purchase for retirement. Until required for such purposes, moneys in the Replacement and Improvement Fund shall be invested in Eligible Investments as hereinafter defined, maturing, or redeemable by the holder, in not more than five years from the date of investment, when and as directed by the Fiscal Officer of the Municipality. The moneys deposited in the Replacement and Improvement Fund shall be paid out from time to time for the purposes aforesaid on order of the officer of the Municipality then operating the hospital.

Fifth: Monthly, as aforesaid, such sum in addition to any of the foregoing allocations as may be necessary and available, after meeting the requirements of the preceding paragraphs First to Fourth, inclusive, to make up any previous deficiency in any such monthly allocation.

Sixth: Annually on January 20 beginning January 20, 1974, the revenues available in the Hospital Revenue Fund at the end of the preceding calendar year, after first making the payments required by paragraphs First to Fifth hereof, and after reserving therein an amount sufficient to provide necessary accruals against the current year's requirements of paragraphs First to Fifth hereof, and after reserving therein an amount sufficient to provide necessary accruals against the current year's requirements of paragraphs First to Fourth, inclusive, shall be transferred to a fund designated "Surplus Fund."

Section 7. The Debt Service Fund, Debt Service Reserve Fund and Contingency Reserve Fund shall be maintained in the custody of the Trustee, and the Debt Service and Debt Service Reserve Funds shall be used solely for the payment of the principal of and interest on the Bonds, and to the extent provided in this ordinance, for the redemption of bonds including any premium thereon. Until required for such purposes, moneys in the Debt Service Fund shall be invested in direct obligations of the United States or in certificates of deposit or savings deposits of banks or trust companies, including the Trustee, organized under the laws of the United States or any state thereof, which have combined capital and surplus of at least \$25,000,000 in dollars of the United States of America, provided that such certificates of deposit or savings deposits shall be insured by the Federal Deposit Insurance Corporation of the United States of America, designated by the Fiscal Officer and maturing, or redeemable by the

holder, not later than the next interest payment date as to moneys held for interest and not later than the principal payment or redemption date as to moneys held for retirement of principal. Until required for the purposes for which held, moneys in the Debt Service Reserve Fund shall be invested in such Eligible Investments as may be designated by the Fiscal Officer. Investments in the Debt Service Fund and Debt Service Reserve Fund may, when and as directed by the Fiscal Officer of the Municipality, be sold, surrendered, exchanged or otherwise disposed of, and, in computing the amount of each such Fund, the investments therein shall be valued at cost or current market whichever is lower. If at any time the Municipality shall provide the Trustee with moneys sufficient, together with moneys and investments then in the Debt Service Fund and Debt Service Reserve Fund, to retire on the next available redemption date any outstanding Bonds, without thereby reducing the balance thereafter remaining in the Debt Service Fund and Debt Service Reserve Fund below the amount which on such call date would be required by Section 6 to be on hand therein with respect to Bonds not so to be retired, the Trustee shall make available out of the Debt Service Fund and Debt Service Reserve Fund the amount required, together with the other moneys provided, to accomplish such retirement.

Except as otherwise in this paragraph provided, until required for the purposes for which held, moneys in the Contingency Reserve Fund may be invested by the Trustee in Eligible Investments or, so long as the Municipality is not in default in any payments required under this Ordinance and the lessee of the Hospital, if any, is not in default under the lease, in notes of such lessee payable within six months of the date on which delivered to the purchaser and secured by a pledge of the earnings of such lessee from all sources but subordinated to all rental payments required to be made to the Municipality under such lease, provided that such investment of the Contingency Reserve Fund in notes of such lessee shall be limited to that amount of such Fund which at the time of such investment is in excess of \$300,000 and so long as such notes are outstanding and unpaid there may be withdrawn from such Fund pursuant to the last paragraph of Paragraph Fourth of Section 6A of this Ordinance only that portion of the balance of such Fund in excess of the amount therein in cash or invested in Eligible Investments other than notes of such lessee.

The Surplus Fund shall be in the custody of the Municipality and shall, to the extent necessary, from time to time be transferred to the Debt Service Fund to permit the payment of all obligations payable from such Debt Service Fund without drawing upon the Replacement and Improvement Fund or Debt Service Reserve Fund, and otherwise may be used for any other lawful municipal hospital purpose, including without implied limitation, the retirement of outstanding Bonds by call or by purchase for cancellation, and payment of debt service requirements on, or the call or purchase price of, general obligation notes and bonds hereafter issued for improvements to the Hospital. Until required for such purposes, moneys in the Surplus Fund may be invested in direct obligations of the United States maturing or redeemable by the holder, in not more than five years from date of investment, or as inactive funds in accordance with the provisions of Chapter 135 of the Ohio Revised Code.

On each January 15, interest earned on deposits or investments of the Debt Service Fund and the Debt Service Reserve Fund during the preceding calendar year shall be transferred to the Contingency Reserve Fund, if the Municipality shall have leased or contracted for operation of the Hospital, or, if the

Municipality shall be operating the Hospital, to the Surplus Fund, provided that such transfer shall be made only if there exists no default in any of the payments required to be made to the Debt Service Fund and the Debt Service Reserve Fund. Moneys so transferred to the Contingency Reserve Fund may be withdrawn therefrom as provided in paragraph Fourth of Section 6A on the second day of December of the calendar year in which such moneys were so transferred.

Any Bonds purchased for cancellation shall be purchased at a price not exceeding their fair market value or their then prevailing call price, if any. Interest on any moneys or investments in each Fund shall be credited to such Fund except as otherwise provided in paragraph Third of subsection B of Section 6.

Eligible Investments shall include any of the following: (i) any bonds or other obligations of the United States of America which as to principal and interest constitute direct obligations of or are guaranteed by the United States of America, (ii) obligations of the Federal National Mortgage Association or the Government National Mortgage Association, (iii) obligations of the Federal Intermediate Credit Banks, (iv) obligations of Federal Banks for Cooperative, (v) obligations of Federal Land Banks, (vi) certificates of deposit of banks or trust companies, including the Trustee, organized under the laws of Canada or the United States of America or any province or state thereof, which have combined capital and surplus of at least \$25,000,000 in dollars of the United States of America, or of any bank or trust company having its principal office in the State of Ohio which pledges security for the moneys invested in such certificates of deposit of the same type and in the same amount as if the moneys so invested had been deposited as interim or inactive funds of an Ohio political subdivision pursuant to Chapter 135 of the Ohio Revised Code.

Section 8. Mandatory Sinking Fund Redemption. As sinking fund requirements for the retirement of the Improvement Bonds that mature on December 1, 2000, there shall be redeemed at 100% of the par value thereof in each of the years from 1989 to 2000, both inclusive, Improvement Bonds maturing on December 1, 2000 in the principal amounts stated below for the Improvement Bonds of such maturity on December 1 of the following years stated for the Improvement Bonds of such maturity:

	<u>Year</u>	<u>Principal Amount</u>
For Improvement Bonds maturing December 1, 2000	1989	\$125,000
	1990	125,000
	1991	125,000
	1992	125,000
	1993	125,000
	1994	125,000
	1995	125,000
	1996	130,000
	1997	130,000
	1998	130,000
	1999	130,000
	2000	130,000

The Trustee on behalf of the Municipality, and without necessity for further action by the Municipality, shall cause to be redeemed on December 1 in the years 1989 through 2000 Improvement Bonds maturing on December 1, 2000, in the manner provided in Section 2 hereof and in the Indenture, an aggregate principal amount of the Improvement Bonds as provided in the immediately preceding paragraph.

Section 9. Additional Bonds. The Municipality (hereinafter in this section called the "Issuer") shall have the right from time to time to issue Additional Bonds (hereinafter in this section referred to as "Parity Obligations") for the purpose only of (i) providing any necessary additional funds, but not in excess of \$250,000 to complete payment of the costs of constructing the Project, (ii) making replacements, extensions and improvements to the Hospital Facilities, or (iii) refunding for any lawful purpose any outstanding Bonds where the retirement of the Bonds thereby to be refunded will be fully accomplished not later than during the fifth calendar year next succeeding the calendar year in which such Parity Obligations are issued, which Parity Obligations shall be payable from the special funds hereinabove established and shall be secured by a lien upon the revenues of the Hospital Facilities on a parity with the Bonds then outstanding.

As used in this section the following phrases shall have the meanings set forth below:

"Net Annual Income" shall mean one half of the difference resulting by subtracting from the aggregate gross income received by the operator of the Hospital Facilities from the operation of the Hospital Facilities during the two complete fiscal years of such operator immediately preceding the date of the issuance of the Parity Obligations, the aggregate current expenses of operating the Hospital Facilities during such two years excluding from such current expenses payments made for interest on the Bonds including any then outstanding Parity Obligations, any allowance for depreciation, moneys expended for improvements having a life usefulness estimated to be in excess of five years, payments made for Annual Requirements and other payments required to be made by the Indenture or any supplement thereto into the Debt Service Reserve Fund, Contingency Reserve Fund, Replacement and Improvement Fund, and Surplus Fund.

"Projected Annual Income" shall mean one half of the difference resulting by subtracting from the aggregate gross income to be received by the operator of the Hospital Facilities from the operation of the Hospital Facilities during the two complete fiscal years of such operator immediately following the completion of the acquisition or construction to be financed from the proceeds of the Parity Obligations proposed to be issued, the aggregate current expenses of operating the Hospital Facilities during such two years, excluding from such current expenses payments to be made for interest on the Bonds including the Parity Obligations theretofore issued to finance such acquisition or construction, any allowance for depreciation, moneys to be expended for improvements having a life usefulness estimated to be in excess of five years, payments made for Projected Annual Requirements and other payments required to be made by the Indenture or any supplement thereto into the Debt Service Reserve Fund, Contingency Reserve Fund, Replacement and Improvement Fund, and Surplus Fund.

"Annual Requirements" as used in this section, shall mean one half of the aggregate maximum amount required to be paid into the Debt Service Fund in the two complete fiscal years of the operator of the Hospital Facilities immediately preceding the date of the issuance of the Parity Obligations for the payment of principal of (whether at maturity or by mandatory sinking fund retirement) and any premium or interest on the Bonds including any then outstanding Parity Obligations.

"Projected Annual Requirements" shall mean the aggregate maximum amount required to be paid into the Debt Service Fund in any fiscal year of the then operator of the Hospital Facilities following the projected date for the issuance of the proposed Parity Obligations for the payment of principal of (whether at maturity or by mandatory sinking fund retirement) and any premium or interest on the Bonds including any then outstanding Parity Obligations and the Parity Obligations proposed to be issued.

"Debt Service Coverage" shall mean that Net Annual Income is 150% of Annual Requirements and Projected Annual Income is 135% of Projected Annual Requirements.

Before the Trustee shall authenticate any Parity Obligations or execute any supplemental indenture securing Parity Obligations, it shall have received from the Issuer and without cost to the Trustee the following:

(a) A written financial feasibility study of an independent certified public accountant or firm of accountants, experienced in hospital finance, acceptable to the Trustee, evidencing that Debt Service Coverage has been and is projected to be met.

(b) The certificate of an independent architect or architectural firm having a reputation for skill and experience in the design and constructing of hospitals and related appurtenant facilities, acceptable to the Trustee, stating (i) that the facilities proposed to be financed with the proceeds derived from the sale of the Parity Obligations with respect to which such certificate is made are estimated to have a life usefulness in excess of five years and will be useful in the operation of the Hospital; (ii) the estimated of the actual cost of such facilities; and (iii) that such cost will represent the reasonable value of such facilities.

(c) An executed counterpart of a supplemental indenture, duly executed by the Issuer, providing the terms, conditions and limitations of the Parity Obligations proposed to be issued including the pledge of revenues sufficient to pay the principal thereof and any premium and interest thereon, any additional premiums on insurance and fidelity bonds required for the proposed new facilities and any additional personnel to operate such new facilities; payment into the Debt Service Reserve Fund in each month following completion of the acquisition or construction to be financed from the Parity Obligations of amounts sufficient to make the amount on deposit in the Debt

Service Reserve Fund in the seventy-second month following such completion equal to the maximum amount required to be paid into the Debt Service Fund in any one calendar year for payment of principal of (whether at maturity or by mandatory sinking fund retirement) and any premium and interest on all outstanding Bonds including Parity Obligations and the payment of any additional fees of the Trustee for services under the supplemental indenture and of the paying agents for such Parity Obligations.

(d) A certified copy of proceedings by the Council of the Issuer approving and authorizing the acquisition or construction of the proposed facilities, the issuance and sale of the proposed Parity Obligations and fixing the selling price thereof, approving and authorizing the execution of a supplemental lease if the Project be then leased, and of the supplemental indenture and taking any other action required in connection with the proposed new facilities and the proposed Parity Obligations.

(e) If the Hospital Facilities be then leased or operated by other than the Issuer, a certified copy of proceedings of any then lessee or other operator of the Hospital Facilities approving and authorizing the execution of the supplemental lease and taking any other action required in connection with the proposed new facilities and the proposed Parity Obligations.

(f) The written opinion of any attorney licensed to practice law in the State of Ohio, expressing the conclusion that upon payment of the purchase price and acceptance of any instruments of conveyance, creation or transfer the Issuer will have good and merchantable title to the additional lands or interests therein, if any, to be acquired from the proceeds of the Parity Obligations or which are the site of the facilities to be acquired or constructed from the Parity Obligations, free and clear of liens and encumbrances except for Permitted Liens and Encumbrances. In lieu of such opinion, there may be filed a standard form of title guaranty policy or a standard form of title insurance policy running in favor of the Trustee and evidencing that the Issuer has acquired such title, in a face amount equal to the cost of acquisition of such lands or interest therein, if any, or equal to reasonable valuation thereof as estimated by the Issuer, if acquired by the Issuer without cost or at nominal cost.

(g) A request and authorization to the Trustee on behalf of the Issuer signed by its Executive or its Fiscal Officer, to authenticate and deliver the Parity Obligations to, or on the order of, the purchaser thereof who is therein identified, upon payment to the Trustee for the account of the Issuer of a sum specified in such request and authorization plus accrued interest, both of which shall be deposited as provided in the supplemental indenture and executed in connection with the issuance of such Parity Obligations.

(h) The written opinion of counsel for the Issuer, to the effect that the issuance of the Parity Obligations has been duly authorized and that all conditions precedent to their delivery have been fulfilled.

(i) The opinion of nationally recognized bond counsel that the Parity Obligations proposed to be issued are permitted by the Indenture and have been duly authorized, and will, when delivered and paid for, be the valid and binding special obligations of the Issuer on a parity of lien with the \$3,100,000 of Bonds secured hereby.

(j) In the case of Parity Obligations to be issued for the purpose of refunding any outstanding Bonds, evidence satisfactory to the Trustee (i) that provision has been made to assure that moneys sufficient to retire the Bonds to be refunded will be available in the possession of the Trustee at the time provided for retirement thereof under the plan for refunding and are committed to such purpose and (ii) that moneys sufficient to pay interest accrued and to accrue and principal and premium, if any, payable on such Parity Obligations prior to such retirement of the Bonds to be refunded thereby, have been deposited in the Debt Service Fund without impairment of any provision or covenant of the Indenture, and from sources other than from the operation of the Hospital Facilities and other than the Debt Service Reserve Fund, Contingency Reserve Fund, Replacement and Improvement Fund, or the Surplus Fund except to the extent of any moneys in such funds in excess of the balances required to be maintained therein under the provisions of the Indenture, the transfer of which excess moneys for such purposes is hereby authorized, or will be deposited directly in the Debt Service Fund from appropriate portions of the proceeds from the sale of such Parity Obligations.

In making the calculation for purposes of the study of the independent certified public accountant or firm of accountants provided for in paragraph (a) above, in the case of issuance of Parity Obligations for refunding any outstanding Bonds, payments into the Debt Service Fund on account of interest, premium and principal requirements of such Parity Obligations shall be used in lieu of and to the exclusion of such payments on account of interest, premium and principal requirements of the Bonds being refunded thereby.

To the extent that the amount of deposits required to be made under the Indenture are to be determined on the basis of the principal amount or principal and interest requirements of Bonds outstanding, in determining the amounts of such deposits made or to be made while there remain outstanding Bonds for the refunding of which Parity Obligations have been issued, the principal amount and principal and interest requirements of such Parity Obligations shall be disregarded.

Upon receipt of the document required by the foregoing provisions of this Section be furnished to it, the Trustee shall, unless it has cause to believe any of the statements set out in said documents to be incorrect, thereupon authenticate the Parity Obligations proposed to be issued. When so authenticated, the Trustee shall deliver the Parity Obligations with all unmatured coupons thereunto attached upon the order of the Issuer to the

purchaser or purchasers thereof, upon the payment therefor by such purchaser or purchasers to the Issuer of the purchase price therefor. The receipt of the Issuer shall be full acquittal to the purchaser or purchasers for the purchase price of the Parity Obligations, and such purchaser or purchasers shall be under no obligation to see to the application thereof. The proceeds of the sale of any of the Parity Obligations shall, however, be held in trust and, except for Parity Obligations issued for the purpose of refunding of outstanding Bonds, disposed of only for the payment of the expenses of the issuance thereof, the payment of interest thereon during the acquisition or construction of the proposed new facilities and the balance paid into the Construction Fund to be disbursed for the cost of acquiring or constructing the proposed new facilities as provided in this legislation and in the Indenture. The proceeds of Parity Obligations issued for the purpose of refunding outstanding Bonds shall be disposed of as provided in the supplemental indenture executed in connection with the issuance of such Parity Obligations and applied in the manner provided in the evidence submitted to the Trustee pursuant to paragraph (j) of this section.

Section 10. Terms of the Bonds Generally. -- The Bonds shall be designated as set forth in the preambles to this ordinance, shall be payable in lawful money of the United States, shall be in coupon form but with privilege of registration as to principal or in fully registered form as provided in the ordinance authorizing such Bonds or in the Indenture, shall be negotiable instruments, shall express upon their faces the purpose for which they are issued, shall be issued pursuant to Article XVIII, Section 3 of the Constitution of the State of Ohio and shall be signed by the Executive and by the Fiscal Officer of the Municipality and sealed with the corporate seal or shall be executed and sealed in such manner as may be required in such ordinance or by law or charter provision (if any) applicable at the time of issuance of the respective Bonds. Interest coupons attached to the Bonds shall bear the facsimile signature of the Fiscal Officer or such other facsimile or manual signature as shall be required by such ordinance or by law or charter provisions (if any) applicable at the time of issuance of the respective Bonds. The Additional Bonds shall bear such designation as may be necessary to distinguish them from the Improvement Bonds or other Additional Bonds having different provisions and shall have maturities, interest rates, interest payment dates, redemption provisions, denominations and other provisions as provided in this ordinance or in the ordinances hereafter adopted providing for issuance of the Additional Bonds, provided, however, that such terms and provisions shall not be inconsistent with this ordinance, the Indenture or the then outstanding Bonds.

The Bonds shall be payable solely from the Pledged Revenues and shall be secured only, but equally and ratably without priority of one over another by reason of number or of date of Bond, sale, execution or delivery, by the Indenture constituting a lien upon and pledge of said Revenues, after provision for the reasonable operation and maintenance expenses of the Hospital Facilities as above provided, and anything in the Indenture, in this ordinance or in the Bonds to the contrary notwithstanding, neither the general resources of the Municipality shall be required to be used, nor the general credit of the Municipality pledged, for the performance of any duty under the Indenture, this ordinance or the Bonds, but any payment to be made under the Indenture, this ordinance or the Bonds shall be made only from the Pledged Revenues; provided, however, that, if otherwise lawful, nothing herein shall be deemed to prohibit the Municipality from using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of the Indenture, this ordinance or the Bonds.

Section 11. Covenants of Municipality. -- The Municipality, by the issuance of the Improvement Bonds, shall covenant with the holders of the Bonds and the Trustee (a) that it will promptly and economically construct the Project with the moneys in the Construction Fund, provided that the aggregate cost of the Project will not exceed the moneys available therefor in the Construction Fund; (b) that, within its power so to do, it will at all times prescribe and charge such rates for the services rendered by the Hospital Facilities to the users thereof or will provide by lease or contract with others for the charging of such Hospital Facilities rates and payment to the Municipality of such payments, rentals or other considerations for the use and operation of the Hospital Facilities and will so restrict the expenditures of the Municipality for the operation and maintenance of the Hospital Facilities, as shall result in Hospital Facilities revenues at least adequate, after meeting such operation and maintenance expenses of the Municipality above provided, to provide for (i) the payments provided by this ordinance to be made into the Debt Service Fund, Debt Service Reserve Fund, or other Special Funds; (ii) proper improvement and replacement reserves and (iii) sufficient earnings coverage to permit the issuance of Additional Bonds required for the construction of necessary or advisable replacements, extensions and improvements.

Section 12. The Indenture. -- In order to secure the payment of the principal of and interest on the Bonds as the same shall become due and payable, the Executive and the Fiscal Officer of the Municipality are hereby authorized and directed in its name and on its behalf to make, execute, acknowledge and deliver to the Trustee, in trust for the purchasers and subsequent holders of the Bonds, a good and sufficient indenture constituting a prior pledge of and lien upon the Pledged Revenues for so long as any of such Bonds shall remain outstanding and unpaid in such form and containing such terms, covenants and conditions not inconsistent with this ordinance as shall be approved by the Original Purchaser of the Improvement Bonds and by the Legal Officer of the Municipality.

Provision shall be made therein that, in case the Municipality shall be in default in the payment of any Bonds or interest or premium thereon, or in default for more than 30 days in making any payment required by this ordinance, the Bonds, or the Indenture, or by any supplemental indenture or in any other legislation authorizing the same, other than the aforesaid payments of principal, interest or premium, or for more than 60 days in performing any of the other covenants or requirements of the Indenture, the Bonds, or of this ordinance, the Trustee may elect to, and upon request of the owners or holders of 10 percent in amount of the outstanding Bonds shall, declare the entire amount of outstanding Bonds due and payable, and proceed to enforce the Indenture; but such provision shall be subject to the condition that, if at any time within six months after the principal of said Bonds shall have been so declared due and payable, all sums payable under the Indenture, except the principal of Bonds thereby secured which have not reached their maturity dates, shall have been duly paid and all existing defaults shall have been made good, then and in every such case such payment shall constitute a waiver of such default and its consequences and an automatic rescission and annulment of such declaration; but no such waiver shall extend to or affect any subsequent default nor impair any rights consequent thereon.

The Indenture shall contain covenants and provisions as to remedies of the Trustee and bondholders; and shall provide for the appointment of a receiver with powers customary in general equity cases to operate the Hospital Facilities, and to apply the revenues thereof to the payment of the Bonds and interest thereon, in accordance with this ordinance, the Bonds, and the Indenture, in event of litigation involving the operation or administration of the Hospital Facilities or default by the Municipality in performance of the terms and conditions of this ordinance, the Bonds, or the Indenture. The Indenture shall also contain provisions granting to the Trustee, in the event of a default by the Municipality in the performance of the terms and conditions of this ordinance, the Bonds, or the Indenture, the right, with or without declaring the Bonds due and payable, to enter upon and take possession of the Hospital Facilities and operate or lease the same in the name of and as the agent of the Issuer.

The Indenture shall contain covenants by the Municipality that:

- (a) It will segregate the Pledged Revenues from all other municipal funds, will keep or cause to be kept proper books and records in such a manner as to show the complete financial results of the operation of the Hospital Facilities, the Revenues and operation and maintenance expenses thereof, all capital expenditures for replacements or betterments thereto and the amounts deposited under Section 6 hereof; and will furnish, or cause to be furnished, to the Trustee and to the Original Purchaser of the Improvement Bonds monthly reports covering the operations and income of the Hospital Facilities and an annual report of the books, accounts and operations thereof audited and certified by certified public accountants.
- (b) It will permit or cause to be permitted the authorized representative of the Trustee, of the Original Purchaser of the Improvement Bonds or of any holder or holders of ten per centum in amount of any series of Bonds at the time outstanding to inspect the Hospital Facilities and all records, accounts and data relating thereto at all reasonable times.
- (c) It will operate, or cause to be operated, the Hospital Facilities in a lawful, efficient and economical manner and maintain, or cause to be maintained, the same in a good state of repair and operating efficiency.
- (d) It will acquire and maintain good and marketable title in fee simple to, or good and sufficient leasehold estates in, the Hospital Facilities subject to permitted liens and encumbrances as defined in the Indenture.
- (e) It will not sell or otherwise dispose of any portion of the Hospital Facilities except upon the conditions provided in the Indenture.
- (f) It will not, except as expressly permitted by this ordinance create, or suffer to be created, any lien or charge which would constitute a lien prior to, or on a parity with, the lien of the Indenture upon the Pledged Revenues or would constitute a lien or encumbrance upon the Hospital Facilities other than a permitted lien or encumbrance as defined in the Indenture.

- (g) It will cause the Hospital Facilities to be operated pursuant to lease or contract with others experienced in the operation of such Hospital Facilities or it will place and keep in charge of the operation of the Hospital Facilities a person or persons in its employ having experience in the operation of such Facilities.
- (h) It will not, without consent of two-thirds in principal amount of the outstanding Bonds (excluding Bonds held or owned by the Municipality or any then lessee of the Hospital Facilities) extend, or assent to the extension of, the time for payment of any Bonds or coupons.
- (i) It will execute and deliver instruments of further assurance to carry out the purposes of the Indenture, the Bonds and ordinances authorizing the same and will comply with all requirements of law with respect to the Hospital Facilities and their operation.
- (j) Other covenants and provisions generally included in indentures securing revenue bonds or as may be necessary for the due protection of the rights and security of the holders of the Bonds.

The Indenture shall contain appropriate provisions whereby the Municipality, by ordinance of its Council and with the written consent of the holders of not less than 66-2/3% in aggregate principal amount of outstanding Bonds (excluding Bonds held or owned by the Municipality), may modify or amend any covenant, condition or provision of the Indenture so long as such action shall not result in changing the redemption provisions or interest and principal maturity dates or reducing the principal amount or interest rate on any Bond without the consent of the holder thereof nor modifying the rights or obligations of the Trustee without its consent, nor reducing the percentage herein specified, nor imposing upon any part of the properties or revenues of the Hospital Facilities described in the Indenture any mortgage or lien ranking prior to the lien of said Indenture; provided that the Municipality and the Trustee without the consent of or notice to any of the holders of the bonds may modify or amend any covenant, condition or provision of the Indenture to the extent not inconsistent with the terms and provisions of this Ordinance and the resolution referred to in Section 3 hereof or the Indenture for any of the following purposes:

- (a) To cure any ambiguity, inconsistency or formal defect or omission in this Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the holders of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the holders of the Bonds or the Trustee or either of them;
- (c) To subject to the lien and pledge of this Indenture additional revenues;

- (d) To add to the covenants and agreements of the Municipality contained in this Indenture other covenants and agreements thereafter to be observed for the protection of the holders of the Bonds, or to surrender or limit any right power or authority herein reserved to or conferred upon the Municipality, including the limitation of rights of redemption so that in certain instances Bonds of different series will be redeemed in some prescribed ratio to one another;
- (e) To evidence any succession to the Municipality and the assumption by such successors of the covenants and agreements of the Municipality herein and in Bonds contained; and
- (f) In connection with the issuance of Additional Bonds.

The Indenture shall provide that, until the payment in full of the Bonds and the interest thereon and of all sums required to be paid by the terms of the Indenture, no appointment of a receiver shall affect the duty of the Municipality to deposit into the Hospital Revenue Fund the Pledged Revenues, and the application of moneys in said Fund as provided in Section 6 hereof, except as may otherwise be ordered by a court of competent jurisdiction for the protection of the holders of the Bonds or the enforcement of their rights.

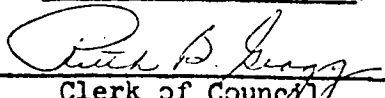
Section 13. Obligations Enforceable by Mandamus. -- It is hereby declared that the covenants and obligations of the Municipality contained in this ordinance, in the Indenture or in the Bonds constitute, and are hereby established as, duties specifically enjoined by law resulting from an office, trust or station upon the Municipality and its officials within the meaning of Revised Code Section 2731.01.

Section 14. Separability Clause. -- Each section of this ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision of any section thereof to be invalid or void shall not be deemed nor held to affect the validity of any other section or subdivision of this ordinance.

Section 15. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City of Oberlin, and for the further reason that this ordinance should become effective immediately to permit the City of Oberlin to proceed with the construction of the Project to avoid any further delay in the improvement and expansion of the hospital facilities, such improvement and expansion being urgently required to provide additional hospital beds and relieve overcrowded conditions and to provide improved medical care facilities in and for the City and its residents; wherefore, this Ordinance shall be in full force and effect from and immediately after its passage.

Passed: November 16, 1970

Attest: _____


Clerk of Council


Chairman of Council

Posted: November 16, 1970