

ORDINANCE NO. 1403 AC CMS

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF A NOTE IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF IMPROVING WEST HAMILTON STREET BY REPAIRING, RESURFACING, AND CONSTRUCTING NECESSARY DRAINAGE IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, the Auditor as fiscal officer has certified to this Council that the estimated life of the improvement hereinafter mentioned is at least five (5) years, and that the maximum maturity of the bonds hereinafter referred to is twenty (20) years, and that the maximum maturity of the note hereinafter referred to, to be issued in anticipation of such bonds is eight (8) years if sold at public sale, or one (1) year if sold at private sale;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

Section 1. That it is hereby declared necessary to issue bonds of the City of Oberlin in the aggregate principal amount of \$38,000 for the purpose of improving West Hamilton Street by repairing, resurfacing, and constructing necessary drainage improvements, together with all necessary appurtenances thereto.

Section 2. That such bonds shall be dated approximately September 1, 1979, shall bear interest at the estimated rate of six and one-quarter per centum (6-1/4%) per annum, payable semi-annually, until the principal sum is paid, and shall mature in twenty (20) substantially equal annual installments after their issuance.

Section 3. That it is necessary to issue and this Council hereby determines that a note in the principal amount of \$38,000 shall be issued in anticipation of the issuance of such bonds. Such anticipatory note shall bear interest at a rate not to exceed eight per centum (8%) per annum, payable at maturity, with provision, if requested by the purchaser, that in the event of default in the payment of the principal of such note at maturity the same shall bear interest at a rate not exceeding eight per centum (8%) per annum as may be required by the purchaser from the said maturity date until the principal sum is paid. Such note shall be dated the date of issuance and shall mature on one year from such date, but, if agreed to by the purchaser thereof, shall be issued subject to redemption prior to maturity at par and accrued interest.

Section 4. Such note shall be executed by the City Manager and Auditor and bear the seal of the corporation, shall be payable at the office of a bank or trust company designated by the purchaser and located within Lorain County, provided that such designation shall be approved by the Auditor, and shall express upon its face the purpose for which it is issued and that it is issued pursuant to this ordinance.

Section 5. Subject to the rejection of such note by the officer in charge of the Bond Retirement Fund for investment in such fund, such note shall be sold at private sale by the Auditor for not less than the par value thereof, together with any premium and accrued interest thereon in accordance with Sections 3, 4 and 5 hereof; and the Auditor is hereby authorized and directed to deliver such note, when executed, to such purchaser upon payment of such purchase price. The proceeds from the sale of such note, except any premium and accrued interest shall be paid into the proper fund and used for the purpose for which such note is being issued under the provisions of this ordinance. 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 principal and interest of such note in the manner provided by law.

Section 6. The City of Oberlin hereby covenants that it will restrict the use of the proceeds of the note in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for such note, so that the note will not constitute arbitrage bonds under Section 103(c) of the Internal Revenue Code and the regulations prescribed under that Section. The fiscal officer or any other officer, including the Clerk of Council, having responsibility for issuing the note is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, or consultant of the City, to give an appropriate certificate of the City, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the City on the date of delivery and payment for such note regarding the amount and use of the proceeds of the note pursuant to said Section 103(c) and regulations thereunder.

Section 7. Such note shall be the full general obligation of this City and the full faith, credit and revenue of this City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the bonds anticipated by such note and any excess funds resulting from the issuance of such note shall, to the extent necessary, be used for the retirement of such note at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 8. That during the years while such note runs there shall be levied on all the taxable property in this City, in addition to all other taxes, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issue of such note. 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 and 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 the interest collected on the same shall be irrevocably pledged for the payment of the principal and interest of such note or bonds in anticipation of which it is issued, when and as the same fall due.

Section 9. It is hereby determined that all acts, conditions and things required to be done precedent to and in the issuance of such note, in order to make it a legal, valid and binding obligation of this City, have happened, been done and performed in regular and due form as required by law; that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of such note.

Section 10. The Clerk of this Council is hereby directed to forward a certified copy of this ordinance to the County Auditor.

Section 11. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 12. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this City, and for the further reason that the immediate issuance of the note herein authorized is necessary to provide funds for the project to eliminate existing hazards to pedestrian and vehicular traffic and protect the health and safety of the abutting property owners; wherefore, this ordinance shall be in full force and effect from and immediately after its passage.

Passed: 9/18, 1978

R. L. H. H.
Chairman of Council

Attest:

Elizabeth Kelly
Clerk of Council

Posted: September 19, 1978