

ORDINANCE NO. 1471 AC CMS

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY'S WATER SYSTEM BY CONSTRUCTING A NEW 500,000 GALLON ELEVATED STORAGE TANK, TOGETHER WITH ALL NECESSARY INCIDENTALS AND APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has determined to improve the City's water system by constructing new elevated water storage facilities, new distribution lines and improvements to the water treatment plant; and

WHEREAS, pursuant to the recommendations of the Public Utilities Commission and the Consulting Engineers to the City, this Council has determined to construct such improvements in several stages and to finance such improvements in stages; and

WHEREAS, this Council, by legislation enacted on this date, has determined to finance the first stage of such improvements by the issuance of general obligation bond anticipation notes, which notes are anticipated to be retired from the proceeds of mortgage revenue bonds issued pursuant to Article XVIII Section 12 of the Ohio Constitution; and

WHEREAS, this Council finds and determines that the first stage of such improvement should be initially financed by the issuance of the general obligation bond anticipation notes herein authorized; and

WHEREAS, the Director of Finance, 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 herein referred to is forty (40) years, and the maximum maturity of the notes, hereinafter referred to, to be issued in anticipation of said bonds is eight (8) years if sold publicly or one (1) year if sold privately;

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 \$380,000 for the purpose of paying costs of improving the City's water system by constructing a new 500,000 gallon elevated storage tank, together with all necessary incidentals and appurtenances thereto.

Section 2. That such bonds shall be dated approximately August 1, 1980, 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 forty (40) substantially equal annual installments after their issuance.

Section 3. That it is necessary to issue and this Council hereby determines that notes in the aggregate principal amount of \$380,000 shall be issued in anticipation of such bonds. Such anticipatory notes shall bear interest at the rate of Six and twenty-five hundredths per centum (6.25 %) per annum, such interest to be payable at maturity, and thereafter at the rate of eight per centum (8%) per annum until the principal sum is paid. Such notes shall be dated the date of issuance, shall mature on one year from date and shall be issued in such numbers and denominations as may be requested by the purchaser thereof.

Section 4. Such notes shall be executed by the City Manager and Auditor and bear the seal of the corporation, shall be payable at the office of the legal depository of the City, presently The Lorain County Savings & Trust Co., Oberlin Branch, Oberlin, Ohio and shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 5. Subject to the rejection of such notes by the officer in charge of the Bond Retirement Fund for investment in such fund, such notes shall be and hereby are awarded and sold to McDonald & Company, Cleveland, Ohio, at the par value thereof together with any premium and accrued interest thereon; and the fiscal officer is hereby authorized and directed to deliver such notes, when executed, to such purchaser upon payment of such purchase price. The proceeds from the sale of such notes, except any premium and accrued interest, shall be paid into the proper fund and used for the purpose for which such notes are 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 notes 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 notes 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 notes, so that the notes will not constitute arbitrage bonds under Section 103(c) of the Internal Revenue Code and the applicable income tax regulations under that Section. The fiscal officer or any other officer having responsibility for issuing the notes 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 regarding the amount and use of all such proceeds and the facts and estimates on which they are based, all as of the date of delivery and payment for such notes.

Section 7. Such notes shall be the full general obligations 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 notes, and any excess funds

resulting from the issuance of such notes shall, to the extent necessary, be used for the retirement of such notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 8. That during the years while such notes run 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 issuance of such notes. 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 notes or bonds in anticipation of which they are issued, when and as the same fall due; provided, however, that in each year to the extent the income from the water system is available for the payment of such notes and bonds and is appropriated for such purpose, the amount of such tax shall be reduced by the amount of the income so available and appropriated, and provided further, however, that if such notes are retired with the proceeds of mortgage revenue bonds issued pursuant to Article XVIII Section 12, Ohio Constitution, the levy of such tax shall not be required.

Section 9. It is hereby determined that all acts, conditions and things required to be done precedent to and in the issuance of such notes, in order to make them legal, valid and binding obligations 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 notes.

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 effectiveness of this ordinance is necessary so that the funds necessary for the

contracts for the aforesaid improvements may be certified and such contracts executed to begin construction of said improvements; wherefore, this ordinance shall be in full force and effect from and immediately after its passage.

Passed: August 6, 1979 (Emergency)

John F. Bauma
Chairman of Council

Attest:

Eugene F. Simon
Clerk of Council

Posted: August 7, 1979