

ORDINANCE NO. 1549AC CMS

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS TO PAY COSTS OF IMPROVING THE CITY'S WATERWORKS SYSTEM BY RENOVATING EXISTING ELEVATED WATER STORAGE FACILITIES AND CONSTRUCTING WATER MAINS, TOGETHER WITH ALL NECESSARY INCIDENTALS AND APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, the Auditor as fiscal officer has certified to this Council that the estimated life of the improvements hereinafter mentioned is at least five years, and that the maximum maturity of the bonds hereinafter referred to is twenty-three years, and the maximum maturity of the notes hereinafter referred to, to be issued in anticipation of such bonds is eight years if sold publicly or one 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 \$300,000 for the purpose of paying costs of improving the City's waterworks system by renovating existing elevated water storage facilities and constructing water mains, together with all necessary incidentals and appurtenances thereto.

Section 2. That such bonds shall be dated approximately January 1, 1982; shall bear interest at the estimated rate of ten and one-half per centum (10-1/2%) per annum, payable semi-annually, until the principal sum is paid, and shall mature in twenty-three 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 \$300,000 shall be issued in anticipation of such bonds. Such anticipatory notes shall be designated "Waterworks System Improvement Notes;" shall bear interest at a rate not to exceed ten and one-half per centum (10-1/2%) per annum, such interest to be payable at maturity and thereafter at the rate of ten and one-half per centum (10-1/2%) per annum, until the principal sum is paid. Such notes shall be dated the date of their 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 Mayor 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, said notes shall be sold by the Auditor at private sale for not less than the par value thereof in accordance with the provisions of Sections 3, 4 and 5 hereof; and the Auditor 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 the 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 waterworks 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.

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 to protect the health of the inhabitants of this City by providing improvements to the City's waterworks system; wherefore, this ordinance shall be in full force and effect from and immediately after its passage.

Passed: January 20, 1981

Carl Breuninger
Chairman of Council

Attest:

Eugene J. Amos
Clerk of Council

Posted: January 21, 1981