

ORDINANCE NO. 1650 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, pursuant to Ordinance No. 1583 AC CMS, passed July 6, 1981, notes in the aggregate principal amount of \$380,000, dated August 28, 1981, were issued for the purpose hereinafter stated, to mature on August 27, 1982, and it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of such bonds; and

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, that the maximum maturity of the bonds hereinafter referred to is forty years, and that the maximum maturity of the notes to be issued in anticipation of such bonds is August 28, 1989, 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, that:

Section 1. 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. Those bonds shall be dated approximately August 1, 1983; shall bear interest at the estimated rate of thirteen per centum (13%) per annum, payable semi-annually, until the principal sum is paid; and shall mature in forty 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 and to retire the outstanding notes referred to above. Such anticipatory notes shall be designated "Waterworks Improvement Notes, Series 1982"; shall bear interest at the rate of nine and one-half per centum (9.5 %) per annum, and thereafter at the rate of twelve per centum (12 %) per annum, until the principal sum is paid; shall be dated August 27, 1982; shall mature on August 25, 1983; 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 in Federal

Reserve funds of the United States of America at the office of 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 said 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 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 said notes, when executed, to such purchaser upon payment of such purchase price. The proceeds from the sale of said notes, except any premium and accrued interest, shall be paid into the proper fund and used for the purpose for which said 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 principal and interest on said 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 of and payment for such notes.

Section 7. Said notes shall be the full general obligations of this City and the full faith, credit and revenue of said 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 said notes and any excess funds resulting from the issuance of said notes shall, to the extent necessary, be used for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 8. During the year or years while such notes run there shall be levied on all the taxable property in the City, in addition to all other items, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issue of said 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 of and interest on said notes or the 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, that in the event 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 necessary to be done precedent to and in the issuance of said 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 said notes.

Section 10. 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 11. The Clerk of this Council is hereby directed to forward a certified copy of this ordinance to the County Auditor.

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 notes herein authorized is necessary to provide funds to retire the City's outstanding indebtedness and thereby preserve its credit; wherefore, this ordinance shall be in full force and effect from and immediately after its passage.

Passed: August 16, 1982

Carl Breuninger
Chairman of Council

Attest:

Mariane H. Willbond
Clerk of Council

Posted: August 17, 1982