

ORDINANCE NO. 1796 AC CMS

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING THE PROPERTY OWNERS' PORTION, IN ANTICIPATION OF THE LEVY AND COLLECTION OF SPECIAL ASSESSMENTS, AND THE CITY'S PORTION OF THE COSTS OF IMPROVING MAIN STREET AND COLLEGE STREET BETWEEN CERTAIN TERMINI BY GRADING AND PAVING, CONSTRUCTING AND RECONSTRUCTING SIDEWALKS (INCLUDING DECORATIVE PAVING), CURBS, GUTTERS, DRIVEWAY AND PEDESTRIAN APPROACHES, CATCH BASINS AND STORM SEWERS, MAKING RELATED SANITARY SEWER AND WATERLINE IMPROVEMENTS, RELOCATING OVERHEAD ELECTRICAL EQUIPMENT UNDERGROUND, ACQUIRING AND INSTALLING STREET FURNITURE AND RELATED EQUIPMENT, PLANTING SHADE TREES, AND LANDSCAPING AND IMPROVING THE RELATED AREAS, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Oberlin has heretofore by proper legislation declared the necessity of improving Main Street and College Street between certain termini, and has determined that the total estimated cost of such improvement will be not less than \$965,000; 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 is twenty years, and that the maximum maturity of the notes to be issued in anticipation of such bonds is five 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, that:

Section 1. It is hereby declared necessary to issue bonds of the City of Oberlin in the aggregate principal amount of \$965,000 for the purpose of paying the property owners' portion, in anticipation of the levy and collection of special assessments, and the City's portion of the costs of improving Main street and College street between certain termini by grading and paving, constructing and reconstructing sidewalks (including decorative paving), curbs, gutters, driveway and pedestrian approaches, catch basins and storm sewers, making related sanitary sewer and waterline improvements, relocating overhead electrical equipment underground, acquiring and installing street furniture and related equipment, planting shade trees, and landscaping and improving the related areas, together with all necessary appurtenances, pursuant to and between the termini set forth in Resolution No. 842 CMS, adopted on March 12, 1984. The property owners' portion of such costs is \$398,444.20 and the City's portion is \$566,555.80.

Section 2. Those bonds shall be dated approximately June 1, 1985; shall bear interest at the estimated rate of eleven per centum (11%) per annum, payable semi-annually, until the principal sum is paid; and shall mature in twenty substantially equal annual installments after their issuance.

Section 3. It is necessary to issue and this Council hereby determines that notes in the aggregate principal amount of \$965,000 shall be issued in anticipation and the collection of special assessments and in anticipation of the bonds referred to above. Those anticipatory notes shall be designated "Street Improvement Notes, Series 1984"; shall bear interest at such rate or rates, both before and after maturity, as shall be fixed by the Auditor in his certificate awarding the notes at private sale in accordance with Section 5 hereof; 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. The notes herein authorized 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 Oberlin, Ohio office of The Lorain County Savings & Trust Co., Elyria, 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 those notes by the officer in charge of the Bond Retirement Fund for investment in such Fund, the notes shall be and hereby are awarded and sold to McDonald & Company Securities, Inc., Cleveland, Ohio, for not less than the par value thereof with the interest rate or rates thereon to be fixed by the Auditor at private sale in accordance with the provisions of Sections 3, 4 and 5 hereof; and the Auditor is hereby authorized and directed to deliver the notes, when executed, to such purchaser upon payment of such purchase price. The proceeds from the sale of those 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 that 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. The par value to be received from the sale of the bonds anticipated by the notes and any excess funds resulting from the issuance of

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

Section 8. All assessments collected for the improvement aforesaid, and any unexpended balance remaining in the improvement fund after the cost and expenses of that improvement have been paid, shall be applied to the payment of the notes and the interest thereon until both are fully provided for. In the event that assessments are not levied or bonds are not issued to provide a fund for the payment of these notes at maturity, a general tax shall be levied against all of the property in the City for the payment of the notes and the interest thereon, provided, however, that during the year or years while the notes run there shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually not less than that which would have been levied for the City's portion of the notes, if bonds had been issued without the prior issue of those notes. That 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. That tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the 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 these notes or the bonds in anticipation of which they are issued, when and as the same fall due.

Section 9. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuance of the notes herein authorized 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 the full faith, credit and revenue of the City shall be and are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of these 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 those formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Revised Code.

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

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 proper planning of the aforesaid improvements may commence in order to eliminate existing hazards to vehicular and pedestrian traffic; wherefore, this ordinance shall be in full force and effect from and immediately after its passage.

Passed: June 18, 1984

Harold A. Rhoads
Chairman of Council

Attest:

Julia A. Simonson
Clerk of Council

Posted: June 19, 1984