

ORDINANCE NO. 86-19 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 CONSTRUCTING, FURNISHING AND EQUIPPING A NEW POLICE STATION AND IMPROVING ITS SITE, 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, that the maximum maturity of the bonds hereinafter referred to is at least twenty years, and that the maximum maturity of the notes to be issued in anticipation of such bonds is twenty 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 \$710,000 for the purpose of paying costs of constructing, furnishing and equipping a new Police Station and improving its site.

Section 2. Those bonds shall be dated approximately April 1, 1987; shall bear interest at the estimated rate of seven and one-quarter per centum (7-1/4%) 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. It is necessary to issue and this Council hereby determines that notes in the aggregate principal amount of \$710,000 shall be issued in anticipation of such bonds. Those anticipatory notes shall be designated "Police Station Construction Notes"; shall bear interest at a rate 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 notes at maturity the same shall bear interest at a different rate per annum from the said maturity date until the principal sum is paid or provided for, with such rate or rates of interest to 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. Those notes shall be executed by the Mayor and Auditor and bear the seal of the corporation, provided that one of those signatures may be a facsimile; shall be payable in Federal Reserve funds of the United States of America at the Oberlin, Ohio office of The Lorain County Bank, 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 the 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, at the par value thereof together with any premium and accrued interest thereon with the interest rate or rates thereon to be fixed by the Auditor at private sale pursuant to Sections 3, 4 and 5 hereof; and the Auditor is hereby authorized and directed to deliver the notes, when executed, to the 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 the notes are being issued under the provisions of this ordinance and are hereby appropriated for that purpose. 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 the 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 the 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 the notes. The City covenants that it will take all actions that may be required of it for the interest on the Notes to be and remain exempt from federal income tax, and will not take any actions which would adversely affect such exemption, under the provisions of H.R. 3838 pending in Congress, as passed by the House on December 17, 1985, but with the effective date for certain provisions thereof listed in the March 14, 1986 Joint Statement by the leaders of the House Committee on Ways and Means and the Senate Committee on Finance and the Secretary of the Treasury, until and unless, and except to the extent, with respect to H.R. 3838, the City obtains a written opinion of nationally recognized bond counsel that this covenant, as it pertains to H.R. 3838, need not be complied with in order for the interest on the notes to continue to be exempt from federal income taxation; and the Auditor and other appropriate officers are hereby authorized to take such actions and give such certifications as may be appropriate to assure such tax exemption of the interest.

Section 7. The notes herein authorized 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 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. 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 items, a direct tax annually not less than that which would have been levied

if bonds had been issued without the prior issue of the 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 those 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 the 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 in order to make them legal, valid and binding general 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 the notes.

Section 10. The notes are hereby designated as "qualified tax-exempt obligations" to the extent permitted by Section 802(e) of H.R. 3838, entitled The Tax Reform Act of 1985, as passed by the House of Representatives on December 17, 1985 (the Bill). This Council finds and determines that the reasonably anticipated amount of tax-exempt obligations (whether or not designated as qualified) issued and to be issued by the City during this calendar year including the notes does not, and the Council hereby covenants that, during such year, the amount of tax-exempt obligations issued by the City and designated as qualified tax-exempt obligations for such purpose will not exceed \$10,000,000. The Auditor and other appropriate officers, and any of them, are authorized to take such actions and give such certifications on behalf of the City with respect to the reasonably anticipated amount of tax-exempt obligations to be issued by the City during this calendar year and with respect to such other matters as appropriate under Section 802(e).

Section 11. 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 actions were in meetings open to the public, in compliance with the law.

Section 12. The Clerk of this Council is hereby directed to forward a certified copy of this ordinance to the County Auditor.

Section 13. 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 contracts can be entered into, and the requisite certificate of availability of funds attached, at the earliest possible time in order to commence construction of the new Police Station in accordance with the favorable bids received, which improvement is urgently

needed to carry out the law enforcement functions of the City; wherefore, this ordinance shall be in full force and effect from and immediately after its passage.

Passed: April 7, 1986 (1st)
April 14, 1986 (Tabled)
April 28, 1986 (Emergency)

Richard P. Johnson
Chairman of Council

Attest: Julia A. Simonson
Clerk of Council

Posted: April 29, 1986

CERTIFICATE OF FILING

State of Ohio }
Lorain County } SS

I, JULIAN A. PIJOR, the duly elected, qualified and acting Auditor in and for the
County and State aforesaid, do hereby certify that JULIE A. SIMONSON

the duly elected, qualified and acting CLERK OF COUNCIL
in and for said CITY OF OBERLIN, OHIO COUNTY OF LORAIN, Ohio,

and ex-officio Fiscal Officer for said District, has this day officially filed in the office of
the Auditor of Lorain County a certified copy of ORDINANCE NO. 86-19 AC CMS

providing for THE ISSUANCE OF NOTES IN ANTICIPATION OF ISSUANCE OF BONDS,

~~IN THE NAME OF~~ FOR THE PURPOSE OF PAYING COSTS OF CONSTRUCTING, FURNISHING
AND EQUIPPING A NEW POLICE STATION & IMPROVING ITS SITE
AND DECLARING AN EMERGENCY.

NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF \$710,000.00

WITNESS my hand and Official Seal at Elyria, Ohio this 1ST day of MAY 1986

Julian A. Pijor
County Auditor in and for
Lorain County, Ohio

(SEAL)