

ORDINANCE NO. 86-44 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 WATERWORKS SYSTEM BY CONSTRUCTING A NEW 500,000 GALLON ELEVATED STORAGE TANK, RENOVATING EXISTING ELEVATED WATER STORAGE FACILITIES, AND CONSTRUCTING WATER MAINS, TOGETHER WITH ALL NECESSARY INCIDENTALS AND APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 85-44 AC CMS, passed August 19, 1985, notes in the aggregate principal amount of \$400,000, dated August 22, 1985, were issued for the purpose hereinafter stated, which notes will mature on August 21, 1986; and

WHEREAS, the amount of \$100,000 is now available to be applied against the principal amount of the outstanding notes and it appears advisable in lieu of issuing bonds at this time to issue new notes in the aggregate principal amount of \$300,000 to provide the remaining funds necessary to retire the principal of the outstanding notes at their maturity; 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 twenty-nine years, and that the maximum maturity of the notes to be issued in anticipation of such bonds may not exceed in maturity twenty years from the date of issuance of the first of the original notes issued for such purposes, namely August 28, 1979, and accordingly, the maximum maturity of the notes now to be issued would be August 28, 1999; provided, however, that if the notes are sold at private sale, then their maximum maturity would be one year;

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 \$300,000 for the purpose of paying the costs of improving the City's waterworks system by constructing a new 500,000 gallon elevated storage tank, renovating existing elevated water storage facilities, and constructing water mains, together with all necessary incidentals and appurtenances thereto.

Section 2. Those bonds shall be dated approximately August 1, 1987; shall bear interest at the estimated rate of eight and one-half per centum (8-1/2%) per annum, payable semi-annually, until the principal sum is paid; and shall mature in twenty-nine 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 \$300,000 shall be issued in anticipation of those bonds and to provide the remaining funds necessary to

retire the principal of the outstanding notes referred to above. Those anticipatory notes shall be designated "Waterworks System Improvement Notes, Series 1986"; shall bear interest at such rate as shall be fixed by the City Auditor in his certificate awarding the notes at private sale in accordance with Section 5 hereof; shall be dated August 21, 1986; shall mature on August 20, 1987; and shall be issued in such numbers and denominations as may be requested by the purchaser thereof.

Section 4. The 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 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, for not less than the par value thereof with the interest rate thereon to be fixed by the Auditor at private sale pursuant to 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 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. In order to obtain and preserve the exemption from federal income tax of interest on the notes, the City further covenants that it will take all actions that may be required of it, and will not take any actions which would adversely affect such exemption, under the provisions of any federal tax laws that apply to the notes, and also under the provisions of H.R. 3838 pending in Congress, as passed by the House of Representatives on December 17, 1985, but with the effective date stated for certain provisions listed in the Joint Statement on effective dates of pending tax reform legislation 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, the City obtains a written opinion of nationally recognized bond counsel that this covenant 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 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 the 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 waterworks system is available for the payment of the 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 necessary to be done precedent to and in the issuance of the 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 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. 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 those 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 issuance of the notes herein authorized is necessary to provide the remaining funds needed 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: July 7, 1986

Richard P. Lohmeyer
Chairman of Council

Attest:

Julia A. Simonson
Clerk of Council

Posted: July 8, 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,

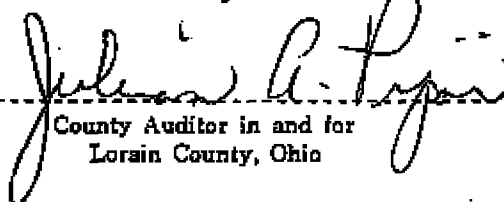
and ex-officio Fiscal Officer for said District, has this day officially filed in the office of
the Auditor of Lorain County a certified copy of ORDINANCE NO. 86-44

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

~~FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY'S WATER-~~
WORKS SYSTEM BY CONSTRUCTING A NEW 500,000 GALLON ELEVATED
STORAGE TANK, RENOVATING EXISTING ELEVATED WATER STORAGE FACILITIES
& CONSTRUCTING WATER MAINS, TOGETHER WITH NECESSARY APPURTENANCES
& DECLARING AN EMERGENCY.

NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF \$300,000.00

WITNESS my hand and Official Seal at Elyria, Ohio this 14TH day of JULY 1986.


County Auditor in and for
Lorain County, Ohio

(SEAL)