

EMERGENCY ORDINANCE NO. 21 - 93
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER J. V. Stone
ON THE 15TH DAY OF NOVEMBER, 1993

ORDINANCE AUTHORIZING THE ISSUANCE OF \$786,245 OF BOND ANTICIPATION NOTES OF THE CITY OF CENTERVILLE, OHIO, FOR THE PURPOSE OF PAYING AT MATURITY A NOTE ISSUED PURSUANT TO ORDINANCE NO. 6-93 FOR THE PURPOSE OF PAYING PART OF THE COST OF IMPROVING CLYO ROAD PURSUANT TO RESOLUTION NO. 38-92, AND FINANCING COSTS AUTHORIZED BY OHIO REVISED CODE SECTION 133.15(B) INCIDENT THERETO AND TO THE ISSUANCE OF BONDS, OR NOTES ISSUED IN ANTICIPATION OF SUCH BONDS, AND DECLARING AN EMERGENCY

WHEREAS, the fiscal officer of the City of Centerville, Ohio (the "City"), has heretofore certified to this Council that the estimated life or period of usefulness of all the permanent improvements to be financed with proceeds of the bonds hereinafter described is at least five (5) years; that the estimated maximum maturity of such bonds is twenty (20) years; and that the estimated maximum maturity of notes issued in anticipation of the issuance of such bonds is two hundred forty (240) months, less such number of months in which any prior bond anticipation notes for such purpose have been outstanding; and

WHEREAS, a \$786,245 Clyo Road (Phase III) Special Assessment Bond Anticipation Note, 1993 Series (the "Prior Note"), issued pursuant to Ordinance No. 6-93, matures on November 30, 1993, and must be paid at maturity; now, therefore,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. That this Council hereby declares that an emergency exists affecting the public welfare, in that the Notes authorized by this emergency ordinance must be sold without delay in order to pay the Prior Note at maturity.

SECTION 2. That it is necessary to issue and sell bonds of the City (the "Bonds") in the principal amount of \$786,245, in anticipation of the collection of unpaid special assessments for the purpose of paying the Prior Note at maturity, the Prior Note having been issued for the

purpose of paying part of the cost of improving Clyo Road pursuant to Resolution No. 38-92, and paying costs authorized by Ohio Revised Code Section 133.15(B) incident thereto and to the issuance of the Bonds or notes issued in anticipation of the Bonds.

SECTION 3. That the Bonds shall be issued for the purpose aforesaid, under authority of the general laws of the State of Ohio, particularly Chapter 133 of the Ohio Revised Code, and the Charter of the City. The Bonds shall bear interest at the estimated average rate of eight per cent (8%) per annum, and are estimated to be scheduled to mature in substantially equal annual installments of principal over twenty (20) years. Debt charges on the Bonds shall be payable from the same sources as specified in SECTION 8 hereof for payment of debt charges on the Notes hereinafter defined, including lawfully available special assessments.

SECTION 4. That a note or notes (herein the "Notes") shall be issued and outstanding in anticipation of the Bonds, in the principal amount of \$786,245, which does not exceed the amount of the Bonds to be issued for the aforesaid purpose. The Notes shall be dated November 30, 1993, shall bear interest at the rate of three per cent (3.00%) per annum, payable at maturity, shall mature on October 5, 1994, and shall be numbered from 1 upwards, of such denomination or denominations, not less than \$100,000, as may be requested by the Purchaser of the Notes identified in SECTION 6 hereof. The Notes shall not be callable for redemption prior to maturity. The Notes shall be issued in bearer form, in substantially the form attached hereto as Exhibit A, which is by this reference incorporated herein, with such variations and insertions as shall be necessary to conform to the terms of this ordinance, applicable law, and the identities of the signatories.

SECTION 5. That the Notes shall be signed by the Mayor or Deputy-Mayor and by the Director of Finance. The Notes shall be designated "Clyo Road (Phase III) Special Assessment Bond Anticipation Notes, Second 1993 Series," shall be payable in lawful money of the United States of America at The Fifth Third Bank, Cincinnati, Ohio, without deduction for any registration, transfer, exchange, collection, payment, or other service charge, and shall express upon their faces the purpose for which, and identify the City legislation under which, they are issued.

SECTION 6. That the Notes shall be sold at private sale at par and accrued interest plus a premium of \$ -0- to Banc One Capital Corporation, Columbus, Ohio, (the

"Purchaser"), in accordance with its offer of purchase which is hereby accepted, and the proceeds from such sale (including any premium or accrued interest) shall be credited to the Bond Retirement Fund of the City and used for the purpose set forth in SECTION 2 hereof and for no other purpose.

SECTION 7. That the Notes shall be the full general obligations of the City, and the full faith, credit and taxing power of the City are hereby pledged for the prompt payment of same. The proceeds to be received from the sale of the Bonds (except any premium or accrued interest which shall be credited to the Bond Retirement Fund) and any excess funds resulting from the issuance of the Notes, shall, to the extent necessary, be used only for the retirement of the Notes at maturity, together with interest thereon.

SECTION 8. That for the purpose of providing the necessary funds to pay debt charges on the Notes when and as due, there shall be levied on all taxable property in the City, within the ten mill tax limitation, in addition to all other taxes, a direct tax annually not less than that which would have been levied if the Bonds had been issued without the prior issuance of the Notes. The amount of said tax to be levied or collected in any year shall be reduced by the amount to be available for the purpose of paying debt charges on the Notes from (a) any surplus in the City's Bond Retirement Fund, (b) the proceeds of sale of (i) the Bonds, (ii) any bonds of the City issued for the purpose of retiring the Notes at maturity, or (iii) bond anticipation notes issued to retire the Notes at maturity, or (c) the amount of lawfully available special assessments to be applied to such debt charges. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers and in the same manner and at the same time that taxes for general purposes for the year are certified, extended and collected. The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund, which, together with all interest collected on the same, shall be irrevocably pledged for the payment of the principal and interest of the Notes or the Bonds in anticipation of which they are issued when and as the same fall due.

SECTION 9. That this Council, for and on behalf of the City, covenants that it (i) 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 the debt is incurred, so that they will not constitute "arbitrage bonds" under Section 148 of the Internal Revenue Code

of 1986, as amended (herein the "Code"), and the regulations prescribed thereunder, and (ii) will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Notes) so that the interest on the Notes will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion. The Director of Finance or another officer having responsibility with respect to the issuance of the Notes is authorized and directed to give an appropriate certificate on behalf of the City, on the date of delivery of the Notes for inclusion in the transcript of proceedings, setting forth the facts, estimates, covenants, circumstances, reasonable expectations and elections of the City pertaining to the use of the proceeds thereof and the provisions of said Section 148 and regulations thereunder. The Notes are not "private activity bonds," and each Note is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Code.

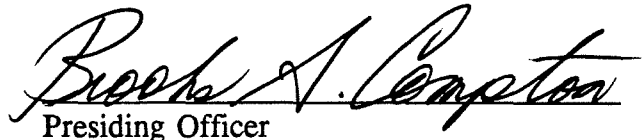
SECTION 10. That the Clerk of Council is hereby directed to cause a summary of this emergency ordinance to be published as required by Article V of the Charter of the City.

SECTION 11. That this Council hereby finds and determines that all formal actions of Council concerning and relating to the adoption of this ordinance were taken in one or more open meetings of this Council; and that all deliberations of this Council and of its committees, if any, which resulted in such formal actions, were taken in meetings open to the public, in compliance with all legal requirements including (without implied limitation) Section 121.22 of the Ohio Revised Code.

SECTION 12. That the Director of Finance is hereby directed to file a certified copy of this ordinance with the County Auditor of the County of Montgomery, Ohio.

SECTION 13. That this emergency ordinance shall become effective upon its adoption, in accordance with Section 5.05 of the Charter of the City.

ADOPTED this 15th day of November, 1993.


Presiding Officer

Attest: 
Clerk of Council

\$ _____

\$ _____

UNITED STATES OF AMERICA
STATE OF OHIO
COUNTY OF MONTGOMERY

City of Centerville

CLYO ROAD (PHASE III) SPECIAL ASSESSMENT
BOND ANTICIPATION NOTE, SECOND 1993 SERIES

KNOW ALL MEN BY THESE PRESENTS, that the City of Centerville (the "City"), in the County of Montgomery and State of Ohio, acknowledges itself to owe and for value received hereby promises to pay the bearer the principal sum of

_____ DOLLARS

on the 5th day of October, 1994, with interest thereon from the date hereof at the rate of _____ per cent (___%) per annum, payable at maturity. The principal sum and interest thereon are payable in lawful money of the United States of America, without deduction for any registration, transfer, exchange, collection, payment, or other service charge, at the main office of _____, _____, Ohio _____, upon presentation and surrender of this Note (the "Note") at maturity. This Note is not callable for redemption prior to maturity.

This Note is one of a series of _____ (___) notes of like tenor and effect (the "Notes"), except as to denomination, aggregating \$786,245 and issued in anticipation of the issuance of a like principal amount of general obligation special assessment bonds of the City for the purpose of paying at maturity a bond anticipation note issued for the purpose of paying part of the cost of improving Clyo Road in the City, and paying costs authorized by Ohio Revised Code Section 133.15(B) incident thereto and to the issuance of the bonds in anticipation of which the Notes are issued, or other notes issued in anticipation of such bonds, under authority of, pursuant to and in full compliance with the general laws of the State of Ohio, particularly Chapter 133 of the Revised Code, and pursuant to Ordinance No. _____ - 93, duly adopted by the Council of the City on the 15th day of November, 1993.

This Note is a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986.

AND IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things necessary to be done precedent to and in the issuing of this Note in order to make it the legal, valid and binding obligation of the City have been done, have happened and have been performed in regular and due form as required by law; that the full faith, credit and taxing power of the City are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing this Note.

IN WITNESS WHEREOF, the City has caused this Note to be signed by its Mayor or Deputy Mayor and its Director of Finance as of the 30th day of November, 1993.

SPECIMEN

Director of Finance

SPECIMEN

Mayor/Deputy Mayor

CERTIFICATE

The undersigned Clerk of Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true copy of Emergency Ordinance No. 21 - 93, duly adopted by the Council of the City at a regular meeting on November 15, 1993.

Marilyn J. McLaughlin
Marilyn J. McLaughlin
Clerk of Council

RECEIPT

The undersigned County Auditor of the County of Montgomery, Ohio, hereby acknowledges receipt this 23rd day of November, 1993, from the Director of Finance of the City of Centerville, Ohio (the "City"), of a certified copy of Emergency Ordinance No. 21 - 93 of the City.

RECEIVED

NOV 23 1993

A. J. WAGNER
MONTGOMERY COUNTY AUDITOR

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A. J. Wagner
County Auditor
County of Montgomery, Ohio

By M. G. Moore
Deputy County Auditor