

## CITY OF CENTERVILLE, OHIO

## EMERGENCY ORDINANCE NO. 7-90

ORDINANCE AUTHORIZING THE ISSUANCE OF \$5,900,000 OF BOND ANTICIPATION NOTES OF THE CITY OF CENTERVILLE, OHIO, FOR THE PURPOSE OF PAYING PART OF THE COST OF ACQUIRING REAL PROPERTY FOR MUNICIPAL RECREATIONAL FACILITIES AND PAYING COSTS INCIDENT THERETO, TO THE IMPROVEMENT THEREOF, AND TO THE ISSUANCE OF BONDS, OR NOTES ISSUED IN ANTICIPATION THEREOF, 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 and has further certified that the estimated maximum maturity of such bonds is thirty (30) 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, options have been obtained for the acquisition of real property constituting such permanent improvements and it is necessary to authorize the issuance of the Notes (hereinafter defined) in order to provide funds for the timely exercise of such options; now, therefore,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. 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 for the reason stated in the final preamble hereto.

SECTION 2. That it is necessary to issue and sell bonds of the City (the "Bonds") in the principal amount of \$5,900,000 (herein the "Principal Amount") for the purpose of paying part of the cost of acquiring real property for municipal recreational facilities and paying costs authorized by Revised Code Section 133.15(B) incident thereto, to the improvement thereof, and to the issuance of the Bonds, or notes issued in anticipation thereof.

SECTION 3. That the Bonds shall be issued in the Principal Amount for the purpose aforesaid, under authority of the general laws of the State of Ohio, particularly the Uniform Bond Law 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 mature in substantially equal annual installments over a period of 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 municipal income taxes to the extent needed to meet such debt charges, and this Council

covenants to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

SECTION 4. That a note or notes (herein the "Notes") shall be issued in anticipation of the Bonds in the Principal Amount, which does not exceed the amount of the Bonds to be issued for the aforesaid purpose. The Notes shall be dated April 30, 1990, shall bear interest at the rate of six and forty-nine one hundredths per cent (6.49%) per annum, payable at maturity, shall mature on April 29, 1991, shall not be callable for redemption prior thereto, shall be numbered from 1 upwards, and shall be of such and denomination or denominations, not less than \$100,000, as may be requested by the Purchaser of the Notes identified in SECTION 5 hereof.

SECTION 5. That the Notes shall be signed by the Mayor or Deputy-Mayor and by the Director of Finance of the City, either of whose signatures may be by facsimile. The Notes shall be designated "Recreational Facilities Bond Anticipation Notes, 1990 Series A," and shall be payable in lawful money of the United States of America at the main office of 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, if any, plus a premium of \$406.00, to Prescott, Ball & Turben, Inc., Columbus, Ohio, in accordance with its offer of purchase which is hereby accepted, and the proceeds from such sale, except any premium or accrued interest, shall be deposited into a separate City fund and used for the purpose described in SECTION 1 hereof and for no other purpose. Any such premium and accrued interest shall be deposited in the City's Bond Retirement Fund.

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 (excluding any premium and accrued interest) and any excess funds resulting from the issuance of the Notes, shall, to the extent necessary, be used only for the retirement of 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, (c) the amount of lawfully available municipal income taxes to be applied to such debt charges in compliance with the covenant included in SECTION 3 hereof, or (d) the amount of receipts derived from the improvements financed by the Notes, in excess of the current expenses of those improvements, which is 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, hereby covenants that (i) 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 the debt is incurred, so that they will not constitute "arbitrage bonds" under Section 148 of the

Internal Revenue Code of 1986 (herein the "Code") and the regulations prescribed thereunder, and (ii) it 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, 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 City reasonably anticipates that the amount of qualified tax-exempt obligations (other than "private activity bonds" (as defined in Section 141 of the Code) except for "qualified 501(c)(3) bonds" (as defined in Section 145 of the Code)) which will be issued by it and by all of its "subordinate entities" (within the meaning of Section 265 of the Code) during calendar year 1990 will not exceed \$10,000,000. 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.

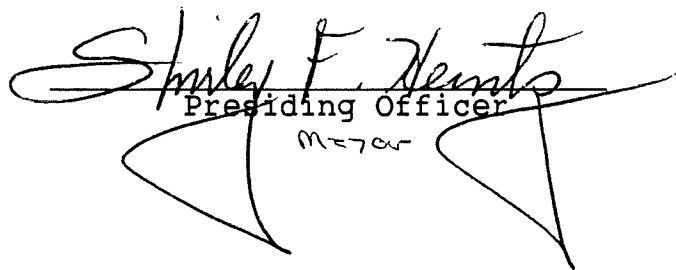
SECTION 10. That the Clerk of this Council hereby is directed to cause a summary of this emergency ordinance to be published as required by Article V of the Charter of the City.

SECTION 11. That this Council hereby finds and determines that all formal actions of Council concerning and relating to the passage of this emergency ordinance were taken 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 taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

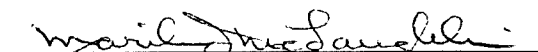
SECTION 12. That the Director of Finance hereby is directed to file a certified copy of this emergency ordinance with the County Auditor of the County of Montgomery, Ohio.

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

ADOPTED this 23rd day of April, 1990.

  
Shirley F. Herms  
Presiding Officer  
Mayor

Attest:

  
Maile J. Saughlin  
Clerk of Council

CERTIFICATE OF CLERK

I hereby certify that the forgoing is a true and correct copy of Emergency Ordinance No. 7-90, adopted by the Council of the City of Centerville, Ohio, on April 23, 1990.

Maile D. Sautter  
Clerk of Council

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned fiscal officer of the City of Centerville, Ohio, hereby certifies that a certified copy of the foregoing emergency ordinance was filed with the County Auditor of the County of Montgomery, Ohio, on the date appearing in the receipt below.

W. Sautter  
Director of Finance

RECEIPT OF COUNTY AUDITOR

The undersigned County Auditor of the County of Montgomery, Ohio, hereby acknowledges receipt this 25<sup>th</sup> day of April, 1990, of a certified copy of Emergency Ordinance No. 7-90 of the City of Centerville, Ohio.

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County Auditor  
County of Montgomery, Ohio

By Paul Scarborough  
Deputy County Auditor