

## CITY OF CENTERVILLE, OHIO

EMERGENCY ORDINANCE NO. 9-89

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$307,270 OF BOND ANTICIPATION NOTES OF THE CITY OF CENTERVILLE, OHIO, FOR THE PURPOSE OF PAYING PART OF THE COST OF RELOCATING AND IMPROVING WHIPP ROAD IN THE CITY OF CENTERVILLE, OHIO, AND PAYING OTHER LAWFUL COSTS INCIDENTAL THERETO AND TO THE ISSUANCE OF BONDS, OR NOTES ISSUED IN ANTICIPATION THEREOF, AND DECLARING AN EMERGENCY.

WHEREAS, the fiscal officer of the City heretofore has certified to this Council that the estimated life of the improvements to be financed with proceeds of the bonds hereinafter described is at least five (5) years and has further certified that the maximum maturity of such bonds is twenty (20) years, being the weighted average maximum maturity calculated in accordance with Section 133.20 of the Revised Code, and that the maximum maturity of notes issued in anticipation of the issuance of said bonds is twenty (20) years, if sold publicly; otherwise, one (1) year; and

WHEREAS, by proper legislation heretofore adopted this Council has declared the necessity of constructing the improvements hereinafter mentioned and determined to proceed therewith; and

WHEREAS, bids have been received for the construction of said improvements and it is necessary to authorize the issuance of the Notes (hereinafter defined) in order to provide funds for such construction; now, therefore,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 0. 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 1. That it is necessary to issue and sell bonds of the City of Centerville, Ohio, in anticipation of the collection of special assessments, in the principal sum of \$307,270 for the purpose of paying part of the cost of relocating and improving Whipp Road, as provided in Resolution No. 17-88 and Ordinance No. 9-88, and paying other lawful costs incidental thereto and to the issuance of said bonds, or notes issued in anticipation thereof.

SECTION 2. That bonds of the City of Centerville, Ohio, shall be issued in said principal sum of \$307,270, 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. Said bonds shall be dated approximately April 1, 1990, shall bear interest at the rate of approximately eight and one-half per cent

(8-1/2%) per annum, payable semi-annually, and shall mature in substantially equal annual installments over a period of twenty (20) years.

SECTION 3. That a note or notes (herein the "Notes") shall be issued in anticipation of such bonds in the principal amount of \$307,270, which does not exceed the amount of the bonds to be issued for the aforesaid improvements. The Notes shall be dated March 30, 1989, and shall bear interest at the rate of Seven and thirty-nine one hundredths per cent (7.39 %) per annum payable at maturity, shall mature on March 29, 1990, shall not be callable for redemption prior thereto, and shall be of such number and denomination or denominations as may be requested by the Purchaser of the Notes identified in SECTION 5 hereof. The rate of interest per annum specified in this SECTION is the maximum rate of interest per annum within the meaning of Section 9.95 of the Ohio Revised Code.

SECTION 4. That the Notes shall be signed by the Mayor or Deputy-Mayor and by the Director of Finance of the City, and shall bear the seal of the corporation. The Notes shall be designated "Whipp Road Improvement Special Assessment Bond Anticipation Notes, 1989 Series," and shall be payable in lawful money of the United States of America at Bank One, Dayton, NA, Dayton, Ohio, without deduction for any collection, exchange, or bank service charges, and shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this emergency ordinance.

SECTION 5. That the Notes shall be first offered to the officer in charge of the bond retirement fund of the City at par and accrued interest and so many of the same as shall not be taken by said officer shall be sold at par and accrued interest to Bank One, Dayton, NA, Dayton, Ohio, in accordance with its offer of purchase which is hereby accepted (the Director of Finance being hereby authorized to execute an instrument evidencing such acceptance), and after depositing in the City's Special Assessment Bond Retirement Fund an amount which (together with anticipated earnings thereon) will suffice to pay interest on the Notes at maturity, the remaining proceeds from such sale, except any premium or accrued interest thereon, shall be put into a separate fund and used for the purpose described in SECTION 1 hereof and for no other purpose.

SECTION 6. That the Notes shall be the full general obligations of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of 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 only for the retirement of notes at maturity, together with interest thereon, and is hereby pledged for such purpose.

SECTION 7. That during the year or years while the Notes run, there shall be levied on all taxable property in the City of Centerville, Ohio, in addition to all other taxes, 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. 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 each of said years are certified, extended and collected. The funds derived from said tax levies thereby 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; provided, however, that it is anticipated that the Notes shall be paid from the proceeds of the sale of bonds to be issued in anticipation of the collection of special assessments; and, further, that to the extent that the Notes or bonds in anticipation of which the Notes are issued are paid from special assessments collected and appropriated for such purpose, said tax need not be levied. The tax levies hereinabove described do not represent any new tax upon the taxable property in the City of Centerville.

SECTION 8. That this Council, for and on behalf of the City of Centerville, Ohio, 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 and circumstances and reasonable expectations 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 1989 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.

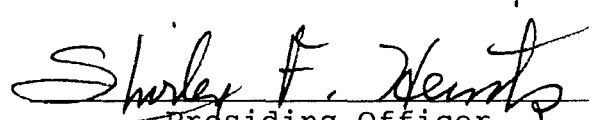
SECTION 9. That the Clerk of this Council hereby is directed to cause a summary of this emergency ordinance to be published as required by Article V of the Charter of the City.

SECTION 10. 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 11. 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 12. That this emergency ordinance shall become effective upon its adoption, in accordance with Section 5.05 of the Charter.

ADOPTED this 20th day of March, 1989.

  
Presiding Officer

Attest:

  
Clerk of Council

CERTIFICATE OF CLERK

I hereby certify that the forgoing is a true and correct copy of Emergency Ordinance No. 9-89, adopted by the Council of the City of Centerville, Ohio, on March 20, 1989.

*Marie J. Saughlin*  
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 March 21, 1989.

*W. M. ...*  
Director of Finance

RECEIPT OF COUNTY AUDITOR

The undersigned County Auditor of the County of Montgomery, Ohio, hereby acknowledges receipt this 20th day of March, 1989 of a certified copy of the foregoing emergency ordinance of the City of Centerville, Ohio.

*Dana Stamp*  
County Auditor  
County of Montgomery, Ohio

By *Paul ...*  
Deputy County Auditor