

CITY OF CENTERVILLE, OHIO

EMERGENCY ORDINANCE NO. 8-86

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$ 735,575 OF BOND ANTICIPATION NOTES OF THE CITY OF CENTERVILLE, OHIO, FOR THE PURPOSE OF PAYING PART OF THE COST OF MAKING IMPROVEMENTS TO CLYO 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 permit the fiscal officer to certify the availability of funds, a condition precedent to execution of the construction contract; 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 the principal sum of \$ 735,575 for the purpose of paying part of the cost of improving Clyo Road from Alexandersville-Bellbrook Road in a northeasterly direction approximately 3,650 feet to connect with the existing Clyo Road extension west of Bigger Road by grading, draining, curbing, paving, installing sidewalks, constructing a storm water drainage system and installing water mains and facilities and appurtenances necessary and proper therefor, 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 \$ 735,575,

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 May 1, 1987, shall bear interest at the rate of approximately ten per cent (10%) 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 \$ 735,575, which does not exceed the amount of the bonds to be issued for the aforesaid improvements. The Notes shall be dated May 6, 1986, and shall bear interest at a rate per annum not to exceed eleven percent (11%), as shall be established by a Certificate executed by the Director of Finance not later than April 28, 1986, on the basis of the proposal received from the Purchaser identified below, payable at maturity, shall mature on May 5, 1987, unless called for redemption prior thereto as hereinafter provided, and shall be of such number and denomination as may be requested by the Purchaser of the Notes identified pursuant to SECTION 5 hereof. The Notes shall be callable for redemption prior to maturity at the option of the City at par and accrued interest, if and to the extent required by the terms of the H.R. 3838 Compliance Certificate to be executed by the Director of Finance in connection with delivery of the Notes, upon seven

(7) days' written notice to the Purchaser of the Notes. 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 "Clyo Road Phase II Special Assessment Bond Anticipation Notes", and shall be payable in lawful money of the United States of America at the office of the Purchaser, 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 The Central Trust Company, N.A., Dayton, Ohio 45402, 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, and 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 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 it will restrict the use of the proceeds of the Notes hereby authorized 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 103(c) of the Internal Revenue Code and the regulations prescribed thereunder, or under H.R. 3838, adopted by the United States House of Representatives on December 17, 1985 (the "Bill"). The Director of Finance 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 ^{of} 103(c) and regulations thereunder. The Director/Finance is also authorized and directed to execute and deliver on such date, on behalf of the City, an H.R. 3838 Compliance Certificate with respect to the Notes, the use and investment

of the proceeds thereof, and the rebate to the United States of America of certain earnings on such proceeds, in such form as shall be approved by the City's bond counsel.

SECTION 9. That in accordance with paragraph (3) of the Bill, the City hereby designates the Notes as "qualified project bonds" within the meaning of, and for all purposes of, said paragraph (3) of Section 802(e) of the Bill.

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 and the Certificate contemplated by SECTION 3 hereof 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 17th day of March, 1986.

Shirley F. Heintz - Mayor
Presiding Officer

Attest:

Maile J. Sample
Clerk of Council

CERTIFICATE OF CLERK

I hereby certify that the forgoing is a true and correct copy of Emergency Ordinance No. 8-26, adopted by the Council of the City of Centerville, Ohio, on March 17, 1986.

Maile J. Laughlin
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 and the Certificate referred to therein were filed with the County Auditor of the County of Montgomery, Ohio, on April 28, 1986.

W. D. [Signature]
Director of Finance

RECEIPT OF COUNTY AUDITOR

The undersigned County Auditor of the County of Montgomery, Ohio, hereby acknowledges receipt this 28 day of April, 1986, of a certified copy of the foregoing emergency ordinance and Certificate of the City of Centerville, Ohio.

[Signature]
County Auditor
County of Montgomery, Ohio

By Michael [Signature]
Deputy County Auditor