

ORDINANCE NO. 8-89

BY: MR. SCHMITZ

AUTHORIZING THE ISSUANCE OF NOTES IN THE AMOUNT OF \$650,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF RENOVATING AND IMPROVING THE JEFFREY MANSION BY CONSTRUCTING A 1,050 SQUARE FOOT ADDITION, AN ADDITIONAL STAIRWAY, FIREWALLS AND PUBLIC REST ROOMS, ADDING EMERGENCY EXITS, UPGRADING ELECTRIC, HEATING, AIR CONDITIONING AND OTHER MECHANICAL SYSTEMS, REPAIRING PLASTER WALLS AND MAKING RELATED IMPROVEMENTS, AND PURCHASING RELATED EQUIPMENT AND APPURTENANCES THEREFORE, RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 3-88 passed January 30, 1988, notes in the principal amount of \$750,000 dated March 11, 1988, were issued for the purpose hereinafter stated, to mature March 10, 1989, and it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of such bonds; and

WHEREAS, the Fiscal Officer has certified to this council that the estimated life of the improvement to be constructed from the proceeds of bonds and notes hereinafter referred to exceeds five (5) years, the maximum maturity of bonds being twenty (20) years and notes being nineteen (19) years.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, COUNTY OF FRANKLIN, STATE OF OHIO THAT:

Section 1. It is hereby declared necessary to issue bonds of the City of Bexley, Ohio, (the "Municipality") in the

amount of \$650,000 for the purpose of renovating and improving the Jeffrey Mansion by constructing a 1,050 square foot addition, an additional stairway, firewalls and public rest rooms, adding emergency exits, upgrading electric, heating, air conditioning and other mechanical systems, repairing plaster walls and making related improvements, and purchasing related equipment and appurtenances therefore and paying the costs of advertising, printing, legal services and other costs incidental thereto (the "Bonds").

Section 2. The Bonds shall be of the denomination of \$5,000 each, shall be dated approximately March 1, 1990, shall bear interest at a rate presently estimated to be eight per centum (8%) per annum, payable semiannually until the principal sum is paid and shall mature in twenty (20) annual installments after their issuance.

Section 3. It is necessary to issue and this Council hereby determines that notes shall be issued in anticipation of the issuance of the Bonds and to retire the outstanding notes dated March 11, 1988.

Section 4. Such anticipatory notes (the "Notes") shall be in the amount of \$650,000, which sum does not exceed the amount of the Bonds, and shall bear interest at such rate per annum based on a 360 day year payable at maturity (not to exceed seven and one-half percentum (7-1/2%) per annum) as is certified to this council by the City Auditor, and ten per centum (10%) per annum or the maximum permitted by law, whichever is lower, from and after maturity. The Notes shall be dated March 10, 1989, shall mature on March 9, 1990 and shall be executed and delivered in such number and such denominations as shall be requested by the purchaser thereof. Coupons shall not be attached to the Notes.

Section 5. The Notes shall be executed by the Mayor and City Auditor, shall bear the corporate seal of the Municipality, provided that one but not both of such signatures may be a facsimile signature and such seal may be a facsimile seal, shall be designated "City of Bexley, Ohio Jeffrey Mansion Renovation Notes", shall be payable as to both principal and interest at the office of such bank as shall be acceptable to the City Auditor and the original purchaser of the Notes, and shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 6. Subject to rejection by the officers in charge of the Bond Retirement Fund, the Notes shall be, and hereby are, awarded and sold at public sale on March 1, 1989 by

the City Auditor to such purchaser as shall offer, in the opinion of the Finance Director, the best rate of interest on the Notes at the par value thereof and the Clerk is hereby authorized and directed to deliver the Notes, when executed, to said purchaser upon payment of such purchase price and accrued interest to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of this Municipality and used for the purpose aforesaid and for no other purpose. Any accrued interest or premium shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Notes in the manner provided by law.

Section 7. The Notes shall be the full general obligation of the Municipality and the full faith, credit and revenue of the Municipality are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds 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, and is hereby pledged for such purpose.

Section 8. During the years while the Notes are outstanding there shall be levied on all taxable property in the Municipality, in addition to all other taxes and inside of the limitations of Article XII, Section 2, of the Constitution of Ohio, 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.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and shall be collected by the same officer, in the same manner, and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. Funds derived from said levies hereby required shall be placed in a separate and distinct fund, which, together with interest collected on the same shall be irrevocably pledged for the payment of the principal and interest on the Notes or the Bonds when and as the same fall due; provided, however, that in each year to the extent that funds from other sources are lawfully available for the payment of the Notes and Bonds, and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such funds so available and appropriated.

The Municipality hereby covenants to pay debt service charges on the Bonds from lawfully available municipal income taxes to the extent needed to meet such debt service charges and

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

Section 9. The Municipality hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The Municipality further 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 the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations"). The Fiscal Officer or any other officer, including the Clerk of this Council, having responsibility with respect to the issuance of the Notes is authorized and directed to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the Municipality pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the Municipality regarding compliance by the Municipality with sections 141 through 150 of the Code and the Regulations.

The Fiscal Officer of the Municipality shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the Municipality to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the Municipality to rebate arbitrage profits to the United States Department of the Treasury. The Fiscal Officer of the Municipality is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

The Notes are hereby designated by the Municipality to be "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The Fiscal Officer or any other officer, including the Clerk of this Council, having responsibility with

respect to the issuance of the Notes is authorized and directed to give an appropriate certificate on behalf of the Municipality, for inclusion in the transcript of proceedings, setting forth the representations, warranties and covenants of the Municipality designed to assure that the Notes will remain "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

Section 10. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption 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 such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 11. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the Municipality have happened, been done and been performed in regular and due form as required by law; that the full faith, credit and revenue of the Municipality are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 12. The Clerk is hereby directed to forward a certified copy of this ordinance to the Auditor of Franklin County, Ohio.

Section 13. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Municipality and its inhabitants for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the Municipality; wherefore this ordinance shall take effect and be in force from and immediately after its passage.

Signed:

Albert Myers  
Presiding Officer

Passed February 28, 1989

Attest:

Effective \_\_\_\_\_, 1989

John W. Horky  
Clerk of Council

*Feb. 14, 1989 - 1<sup>st</sup> Reading & Suspend Rules*  
*Feb. 14, 1989 - 2<sup>nd</sup> Reading*  
*Feb. 28, 1989 - 3<sup>rd</sup> Reading, adopt.*

Approved as to form:

James H. Shuss  
Legal Officer

Approved:

Donald H. Madison  
Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. \_\_\_\_\_ duly adopted by the Council of the City of Bexley, Ohio on the \_\_\_\_\_ day of February, 1989 and that a certified copy thereof was filed in the office of the County Auditor of Franklin County on the \_\_\_\_\_ day of February, 1989.

John W. Horky  
Clerk of Council