

ORDINANCE NO. 62-96

AUTHORIZING THE ISSUANCE OF \$1,150,000 OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF REPAIRING AND CONSTRUCTING STREETS IN THE CITY OF BEXLEY, INCLUDING ALL NECESSARY EQUIPMENT AND APPURTENANCES THEREFOR AND DECLARING AN EMERGENCY.

WHEREAS, the City Auditor (the "City Auditor") of the City of Bexley (the "City") has certified to this City Council (the "Council") that the estimated life of the improvement stated in the title of this ordinance (the "Project") which is to be financed with 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 twenty (20) 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 (the "Bonds") of the City in the maximum principal sum of One Million One Hundred Fifty Thousand Dollars (\$1,150,000), for the purpose of paying the cost of the Project.

Section 2. The Bonds shall be dated prior to the maturity date of the Notes (as defined hereinbelow), shall bear interest at the maximum average annual interest rate presently estimated to be six and one-half per centum (6.50%) per annum, payable semiannually until the principal sum is paid, and shall mature in twenty (20) annual installments. Debt service payments on the Bonds in years in which principal of the Bonds is payable shall be substantially equal.

Section 3. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Such anticipatory notes (the "Notes") shall be in the principal amount of One Million One Hundred Fifty Thousand Dollars (\$1,150,000) or such lesser amount as shall be determined by the City Auditor and certified to this Council, which sum does not exceed the amount of the Bonds. The Notes shall be dated October 22, 1996 and shall mature on June 26, 1997. The Notes shall be issued in bearer form (or, if requested by the Original Purchaser [as defined hereinbelow], in registered form; provided that the Original Purchaser shall agree to pay all costs related to such registration) and shall be executed and delivered in such number and such denominations as shall be requested by the purchaser thereof; provided, however, that notes shall be in the minimum denomination of \$100,000 each. Coupons shall not be attached to the Notes.

Section 5. The Notes shall be the full general obligation of the City, and the full faith, credit and revenue of the City 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 and are hereby pledged for such purpose.

Section 6. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Notes are outstanding, in an amount not less than that which would have been levied if the Bonds had been issued without the prior issuance of the Notes, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Notes as and when the same falls due and to provide a fund for the repayment of the principal of the Notes at maturity. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 7. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payments of the premium, if any, and interest on and principal of the Notes and Bonds when and as the same falls due. Notwithstanding the foregoing, if the City determines that funds will be available from other sources for the payment of the Notes and Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the City shall appropriate such funds to the payment of the Notes and Bonds in accordance with law.

Section 8. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the City Auditor and certified to this Council, provided that such rate shall not exceed six and one-half per centum (6.50%) per annum. After publication of a Notice of Sale in the calendar published by the Ohio Municipal Advisory Council in such form as is approved by the City Auditor, the Notes shall be, and hereby are, awarded and sold at private sale by the City Auditor to such purchaser as shall offer, in the opinion of the City Auditor, the best rate of interest on the Notes (the "Original Purchaser"), at the par value thereof. The City Auditor is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City 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 9. The Notes shall be executed by the City Auditor and the Mayor, provided that either but not both of such signatures may be a facsimile, shall be designated "City of Bexley, Franklin County, Ohio Street Improvement Notes, Series 1996", shall be payable as to both principal and interest at such bank as shall be acceptable to the City Auditor and the Original Purchaser. The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 10. The City 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 City 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 (the "Regulations").

The City Auditor, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The City Auditor 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 City 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 City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor of the City 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.

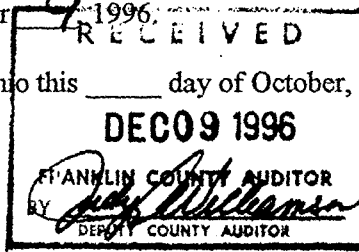
Section 11. The Notes are hereby designated by the City to be "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The City Auditor, or any other officer of the City, including the Mayor, is authorized and directed to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the representations, warranties and covenants of the City designed to assure that the Notes will remain "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

Section 12. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION NOTES

I, Joseph W. Testa, the duly elected, qualified, and acting County Auditor in and for Franklin County, Ohio hereby certify that a certified copy of an ordinance duly adopted by the City Council of the City of Bexley, Franklin County, Ohio on September 24, 1996, providing for the issuance of general obligation notes designated City of Bexley, Franklin County, Ohio Street Improvement Notes, Series 1996, in the amount of \$1,150,000 was filed in this office on October 9, 1996.

WITNESS my hand and official seal at Columbus, Ohio this _____ day of October, 1996.



County Auditor
Franklin County, Ohio

[SEAL]

Section 13. 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 14. It is hereby 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 City 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 City 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 15. The Clerk is hereby directed to forward a certified copy of this ordinance to the Auditor of Franklin County, Ohio.

Section 16. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the City can begin work on the Project during favorable weather conditions; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Signed:

Mayor

Attest:

Clerk

Adopted: 9-24, 1996

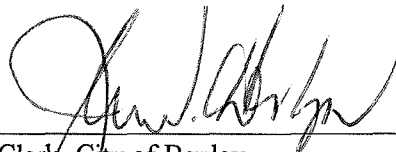
Effective: 9-24, 1996

Approved as to form:

James H. Gross
Legal Officer

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. Ord 96 duly adopted by the City Council of the City of Bexley, Franklin County, Ohio on 9-24, 1996 and that a true copy thereof was certified to the County Auditor of Franklin County, Ohio, on the ___ day of _____, 1996.



Clerk, City of Bexley,
Franklin County, Ohio