



Legislation Text

File #: O-328-21, **Version:** 1

GONotesStmWaterDrainage

Finance

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Revised

Providing for the issuance and sale of notes in the aggregate principal amount of \$700,000, in anticipation of the issuance of bonds, to provide funds to pay a portion of the costs of improving the City's storm water drainage system by constructing a storm water sewer main from an existing main at a point in Central Avenue just west of its intersection with Upton Avenue southwesterly in City streets and easements acquired and to be acquired to connect to an existing main in ProMedica Parkway; and declaring an emergency.

SUMMARY & BACKGROUND:

This ordinance authorizes the issuance and sale of \$700,000 of notes in anticipation of the issuance of bonds to provide funds to pay a portion of the costs of a storm water drainage improvement project described in Section 1 the Colony Area of the City. The amount of the City's outstanding debt will be increased by \$700,000 by the issuance of these notes. They will be subject to legal debt limits and reduce the City's legal borrowing capacity.

The notes are to be sold to the City Treasury and will be held as an investment. They are expected to remain outstanding until they may be retired with proceeds of bonds to be issued with other series as a part of a scheduled public offering of general obligation bonds later in 2021. The bonds in anticipation of which the notes are to be issued are to be retired over a period of twenty years.

The Director of Finance, as fiscal officer of this City, has certified to this Council that the estimated life or period of usefulness of each class of the included in the Project and described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is twenty years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 240 months.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. It is necessary to issue bonds of this City in the aggregate principal amount of \$700,000 (the Bonds) to provide funds to pay a portion of the costs of improving the City's storm water drainage system by constructing a storm water sewer main from an existing main at a point in Central Avenue just west of its intersection with Upton Avenue southwesterly in City streets and easements acquired and to be acquired approximately 1,400 feet to connect to an existing main in ProMedica Parkway.

SECTION 2. The Bonds shall be dated approximately October 1, 2021, shall bear interest at the now estimated rate of 4% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty annual principal installments that are substantially equal. The first installment of principal of the Bonds is estimated to be payable on December 1, 2022, and the first installment of interest on the Bonds is

estimated to be payable on June 1, 2022.

SECTION 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$700,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated as of the date of their issuance and shall mature on December 31, 2021. The Notes shall be prepayable by and at the sole option of the City, in whole or in part, at any time prior to maturity without penalty or premium. Prepayment prior to maturity shall be made by depositing with the Paying Agent (as defined in Section 4) the principal amount then to be prepaid, together with interest accrued thereon to the date of prepayment, and giving notice thereof to the original purchasers specifying the prepayment date. If money for prepayment is on deposit with the Paying Agent on the specified prepayment date, interest on the principal amount prepaid shall cease to accrue on the date of prepayment. The Notes shall bear interest at the rate of 1.90% per year (computed on the basis of a 360-day consisting of twelve 30-day months), payable at maturity or at any date of earlier prepayment and until the principal amount is paid or payment is provided for.

SECTION 4. The debt charges on the Notes shall be payable in lawful money of the United States of America, without deduction for services of the City's paying agent, at the office of the City's Director of Finance (the Paying Agent), Toledo, Ohio.

SECTION 5. The Notes shall be signed by the Mayor and Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the original purchasers and approved by the Director of Finance, provided that the entire principal amount may be represented by a single note. The Notes may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) in accordance with Section 9.96 and Chapter 133 of the Revised Code, if it is determined by the Director of Finance that issuance of fully registered securities will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance.

SECTION 6. The Notes shall be offered to the Director of Finance and the Commissioner of Taxation and Treasury, as officers in charge of the investments of the City, for purchase at a price not less than par, in accordance with law, Chapter 192 of the Toledo Municipal Code and the provisions of this ordinance. Any Notes not purchased as investments of the City shall be sold by the Director of Finance at private sale at a price not less than par, in accordance with law and the provisions of this ordinance. The Director of Finance shall cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchasers, to the original purchasers upon payment of the purchase price. The Mayor, the Director of Law, the Director of Finance, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

SECTION 7. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. The expenditure of those proceeds for that purpose, including, without limitation, for financing costs as defined in Section 133.01 of the Revised Code, is hereby authorized and approved. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is 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 those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due.

SECTION 10. The legal services of the law firm of Squire Patton Boggs (US) LLP be and are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes, any renewal notes and the Bonds and rendering at delivery related legal opinions. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services.

The expenditure of the amounts necessary secure those legal services as well as to pay the other financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the issuance of the Notes is hereby authorized and approved and the amounts necessary to pay those costs are hereby appropriated from the proceeds of the Notes and otherwise from Account Code 5040-14800-558400-1135001STDSTD (Debt Costs of Issuance).

SECTION 11. As used in this ordinance, "Director of Finance" shall mean the person at the time performing the duties of the chief fiscal officer of the City; "Mayor" shall mean the person at the time performing the duties of the chief executive officer of the City; and "Director of Law" shall mean the person at the time performing the duties of the chief legal officer of the City.

SECTION 12. The expenditure of the amounts necessary to pay any interest on the Notes payable in the current calendar year is authorized and approved and the amount necessary to pay that interest is hereby appropriated from Account Code 5040-14800-551500-1135001STDSTD (Bond Interest Expense).

SECTION 13. The Clerk of Council is directed to deliver a certified copy of this ordinance to the County Auditor.

SECTION 14. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City of Toledo have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional

limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 15. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this ordinance were taken, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION 16. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and property of the City, and for the further reason that this ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to timely enter into and meet its obligations under contracts for the Project described in Section 1; wherefore, this ordinance shall be in full force and effect immediately upon its passage or at the earliest time allowed by law.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council
_____.

Attest: _____
Clerk of Council