Legislation Details (With Text)

File #:	O-243-22	**Version:**	1	**Name:**	
Type:	Ordinance			**Status:**	Second Reading
File created:	5/9/2022			**In control:**	Finance Department
On agenda:	6/7/2022			**Final action:**	
Title:	Providing for the issuance and sale of $1,170,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of constructing, reconstructing and rehabilitating sidewalks, including, where necessary, driveway approaches and curbs, in certain locations on designated streets; and declaring an emergency.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
5/24/2022	1	City Council	First Reading	Pass

GONotesAssessedSidewalks
Finance
Melanie Campbell x1252/Bryan Benner x1194/Jamie Takacs x1468
Revised

Providing for the issuance and sale of $1,170,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of constructing, reconstructing and rehabilitating sidewalks, including, where necessary, driveway approaches and curbs, in certain locations on designated streets; and declaring an emergency.

SUMMARY & BACKGROUND:
This Ordinance authorizes the issuance and sale of $1,170,000 of notes in anticipation of the issuance of bonds to provide funding for the City's 2022 Sidewalk Program. With the issuance of the notes authorized by this ordinance, the City's outstanding debt will be increased by not more than $1,170,000. The notes will be subject to statutory direct debt limits and the statutory and constitutional indirect debt limitation 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 notes to be issued with other notes as a part of a scheduled private placement of general obligation notes later in 2022. The bonds in anticipation of which the notes are to be issued are to be retired over a period of 20 years.

The Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 20 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 240 months from their date of issuance.

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

SECTION 1. Authorized Principal Amount of Anticipated Bonds; Purpose. That it is necessary to issue bonds of the City in the aggregate principal amount of $1,170,000 (the Bonds) for the purpose of paying costs of improving 13th Street, 106th Street, 108th Street, 109th Street, 115th Street, 116th Street, 119th Street, 282nd Street, 285th Street, 323rd Street, Adams Street, Air Line Avenue, Algonquin Parkway, Ashland Avenue, Atlantic Avenue, Auburn Avenue, Austin Street, Bakewell Street, Balfe Street, Belmar Avenue, Bentley Boulevard, Benwick Road, Berdan Avenue, Berry Street, Berwick Road, Blackstone Drive, Blum Street, Bond Street, Botkins Drive, Bowen Road, Brame Place, Brigham Street, Broadway Street, Bronson Avenue, Buckingham Street, Burbank Drive, Burger Street, Butterfield Drive, Cambridge Street, Campbell Street, Capistrano Avenue, Carlton Street, Carver Boulevard, Castleton Avenue, Catalina Drive, Central Avenue, Chalmette Drive, Charlestown Avenue, Cheltenham Road, Cleveland Street, Clifton Boulevard, Clyde Street, Colburn Street, Collingwood Boulevard, Consaul Street, Country Creek Lane, Cove Boulevard, Custer Drive, Dana Street, Daniels Avenue, Delaware Avenue, Detroit Avenue, Dorchester Drive, Dorr Street, Drummond Road, Eastway Street, Elaine Drive, Eldred Avenue, Elgin Avenue, Elysian Avenue, Erie Street, Evans Street, Evansdale Avenue, Evesham Avenue, Everett Street, Fern Drive, Francis Avenue, Freeman Street, Georgetown Avenue, Glenwood Avenue, Goodale Avenue, Grantwood Drive, Greening Road, Greenwood Avenue, Gunckel Boulevard, Haddington Drive, Hampton Avenue, Hanover Street, Hawley Street, Helene Court, Hill Avenue, Hoiles Avenue, Hudson Street, Huron Street, Inwood Drive, Islington Street, Jackman Road, Jay Street, Jervis Street, Kedron Street, Keemont Drive, Kelsey Avenue, Kenwood Boulevard, Kershaw Avenue, Kevin Place, Knower Street, Kress Street, Lagrange Street, Lake Street, Laskey Road, Latonia Boulevard, Lawnview Avenue, Lawrence Avenue, Letchworth Parkway, Leybourn Avenue, Liberty Street, Licking Street, Lockwood Avenue, Macomber Street, Maher Street, Manhattan Boulevard, Maplewood Avenue, Marne Avenue, McDonald Street, Merrimac Boulevard, Michigan Street, Milburn Avenue, Monroe Street, Moore Street, Moran Avenue, Mott Avenue, Mulberry Street, Nash Road, National Avenue, Nebraska Avenue, New York Avenue, Oak Street, Oakdale Avenue, Oakland Street, Oakwood Avenue, Ontario Street, Ottawa River Road, Park Street, Parkwood Avenue, Perth Street, Powhattan Parkway, Prouty Avenue, Putnam Street, Ralph Street, Raymer Boulevard, Revere Drive, Robinwood Avenue, Royalton Road, Scottwood Avenue, Seckinger Drive, Secor Road, Sherbrooke Road, Somerset Street, South Avenue, Southmoor Drive, Spring Street, Stratten Street, Superior Street, Thayer Street, Toronto Avenue, Twining Street, Upton Avenue, University Street, Utah Street, Valentine Street, Valleywood Drive, Vance Street, Vermaas Avenue, Vermont Avenue, Victoria Place, Virginia Street, Wall Street, Waverly Avenue, Waybridge Road, Wayne Street, Wellesley Drive, Westmonte Road, Willard Street, Willow Run Drive, Willowhill Lane, Willys Parkway, Winthrop Street, Woodruff Avenue, Woodsdale Avenue, Worley Place and Yates Street by rehabilitating concrete sidewalk and driveway approaches and curbs, where necessary, together with necessary appurtenances and work incidental thereto, in the locations and in the manner provided in the Resolution of Necessity related to the improvement described in this Section, adopted on or before this date.

SECTION 2. Estimated Bond Terms. That the Bonds shall be dated approximately October 1, 2022, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 20 annual principal installments that are substantially equal. The first installment of principal of the Bonds is estimated to be payable on December 1, 2023, and the first installment of interest on the Bonds is estimated to be payable on December 1, 2022.

SECTION 3. Authorized Principal Amount of Notes; Dating; Interest Rate; Prepayment. That it is necessary to issue and this Council determines that notes in the aggregate principal amount of $1,170,000 (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 October 13, 2022. 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

powered by Legistar™

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 2.00% per year (computed on the basis of a 360 -day consisting of 12 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. Payment of Debt Charges; Paying Agent. 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. Execution of Notes. That 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. Sale of the Notes. That 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. Application of Note Proceeds. That 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. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. That 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. Provisions for Tax Levy. That 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

powered by Legistar™

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. In each year, to the extent other money is lawfully available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of money so available and appropriated.

SECTION 10. Reimbursement. As a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the "Code"), this Council declares that the City reasonably expects that capital expenditures related to the improvement described in Section 1 will be reimbursed with the proceeds of "bonds", namely the City's Sidewalk Improvement Notes, Series 2022, to be issued on or before October 13, 2022.

SECTION 11. Interpretation. That 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. Retention of Bond Counsel; Financing Costs. That 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 the 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 the 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 to secure those legal services, as well as to pay the other financing costs (as defined in Section 133.01 of the 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 5040-14800-1135001STDSTD (Debt Costs of Issuance).

SECTION 13. Interest on the Notes. 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 5057-14800-8135001STDSTD (Bond Interest Expense).

SECTION 14. Certification and Delivery of Ordinance. That the Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor.

SECTION 15. Satisfaction of Conditions for Note Issuance. That 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 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 16. Compliance with Open Meeting Requirements. That this Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION 17. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 18. Declaration of Emergency; Effective Date. That 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 improvement 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

powered by Legistar™