

101-99

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 101-09

Passed October 26, 2009

10/20/09- Squires & Sanders
(Finance & Property)

ORDINANCE NO. 101-09

An ordinance providing for the issuance and sale of not to exceed \$900,000 notes, in anticipation of the issuance of bonds, for the purpose of paying costs of constructing a waterline between certain termini, together with the necessary appurtenances, and declaring an emergency.

WHEREAS, the Director of Finance as fiscal officer of this 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 40 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the bonds, is 20 years; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF NORTH CANTON, COUNTY OF STARK, STATE OF OHIO, THAT::

Section 1. It is necessary to issue bonds of this City in the aggregate principal amount of not to exceed \$900,000 (the Bonds) for the purpose of paying costs of constructing (a) approximately 834 lineal feet of 12-inch raw waterline from water supply well #10; running north 650 feet along the east side of the Zimber Creek; and crossing Zimber Creek; (b) approximately 6,782 lineal feet of 16-inch raw waterline from west side of Zimber Creek; running 1,200 feet north along the west side of Zimber Creek; crossing Interstate 77; running 500 feet north along the Metro railroad right-of-way; crossing the Zimber Creek; running north along Salway Street SW to Linda Street SW; and then running west along Linda Street SW to the dead end of the street where it will connect to existing City owned raw water system lines; (c) 70 lineal feet of 22-inch steel encasement pipe from east side of Zimber creek to west side of Creek located on City-owned well field property; and (d) 715 lineal feet of 28-inch steel encasement pipe from west side of Interstate 77 to east side of Interstate 77; and west side of Metro railroad to south end of Salway Street SW right-of-way; together with the necessary appurtenances.

Section 2. The Bonds shall be dated approximately October 1, 2010, shall bear interest at the now estimated rate of 6.00% per year, payable semiannually on each June 1 and December 1 until the principal amount is paid, and are estimated to mature in 40 annual principal installments on December 1 of each year that are substantially equal. The first principal payment of the Bonds is estimated to be December 1, 2011.

Section 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$900,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is up to sixty days less than one year from the date of issuance, by setting forth that maturity date in the Certificate of Award. The Notes shall bear interest at a rate or rates not to exceed 5.50% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. If requested by the original purchaser, the Notes may provide that, in the event the City does not pay or make provision for payment at maturity of the debt charges on the Notes, the principal amount of the Notes shall bear interest at a different rate or rates not to exceed 10.00% per year from the maturity date until the City pays or makes provision to pay that principal amount. The rate or rates of interest on the Notes shall be determined by the Director of Finance in the certificate awarding the Notes (the Certificate of Award) in accordance with Section 6.

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or payable form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

- Section 6. The Notes are hereby sold at not less than par plus accrued interest at private sale to Ross, Sinclair & Associates, Inc., in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the original purchaser, 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 purchaser, to the original purchaser upon payment of the purchase price. The Mayor, 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. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.
- 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. 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. In each year to the extent money from the water fund is available for the payment of the 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 the money so available. Nothing in this paragraph in any way diminishes the pledge of the full faith and credit and property taxing power of the City to the prompt payment of the debt charges on the Notes and Bonds.
- Section 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

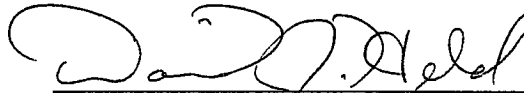
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Section 12. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the 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 13. 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 in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 14. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety 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 provide money to construct the improvement described in Section 1; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

North Canton, Ohio
Adopted: 10/26/09



MAYOR

SIGNED 10/26, 2009

ATTEST:


CLERK OF COUNCIL

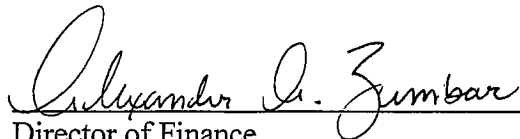
FISCAL OFFICER'S CERTIFICATE

To the Council of the City of North Canton, Ohio:

Section 1. As fiscal officer of the City of North Canton, Ohio, I certify in connection with your proposed issue of not to exceed \$900,000 notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds) for the purpose of paying costs of constructing (a) approximately 811 lineal feet of 12-inch raw waterline from [approximately 4,200 feet west of Market Avenue North and 400 feet north of East Maple Street in the City of North Canton and running south to East Maple Street; then running west along East Maple Street to Pershing Avenue; then running south along Pershing Avenue to Bachtel Street; then running west along Bachtel Street to Hillcrest Avenue; then running south along Hillcrest Avenue to Glenwood Street]; (b) approximately 6,778 lineal feet of 16-inch raw waterline from the west side of Zimber Creek; running 1,200 feet north along the west side of Zimber Creek; crossing Interstate 77; running 500 feet north along the Metro railroad right-of-way; crossing the Zimber Creek; running north along Salway Street SW to Linda Street SW; and then running west along Linda Street SW to the dead end of the street where it will connect to existing City owned raw water system lines; (c) 70 lineal feet of 22-inch steel encasement pipe from east side of Zimber creek to west side of Creek located on City-owned well field property; and (d) 715 lineal feet of 28-inch steel encasement pipe from west side of Interstate 77 to east side of Interstate 77; and west side of Metro railroad to south end of Salway Street SW right-of-way; together with the necessary appurtenances (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 40 years, being my estimate of the life or period of usefulness of that improvement. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 240 months from the date of issuance of the original notes issued for this purpose.

Dated: October 26, 2009


Director of Finance
City of North Canton, Ohio