

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$400,000 OF BONDS TO PAY COSTS TO THE CITY OF IMPROVING MAIN STREET AND CERTAIN OTHER DESIGNATED STREETS BETWEEN CERTAIN TERMINI, IN COOPERATION WITH THE DIRECTOR OF TRANSPORTATION OF THE STATE OF OHIO AND OTHERWISE, BY GRADING, DRAINING, MILLING, PROFILING, RESURFACING, PAVING, WIDENING AND ERECTING TRAFFIC CONTROL DEVICES, AND DECLARING AN EMERGENCY.

WHEREAS, Council on July 7, 1977, passed Ordinance No. 94-77 authorizing the issuance of a \$185,000 note in anticipation of bonds to pay costs of improving Main Street, in cooperation with the Director of Transportation of the State of Ohio, from the southerly to the northerly corporation lines by grading, draining, paving, widening and erecting traffic control devices; and

WHEREAS, Council thereafter determined to provide for the costs of further improving Main Street from the southerly to the northerly corporation lines by milling, profiling and resurfacing and Fifth Street, N.W., from North Main Street to Pierce Avenue, N.W., and Cordelia Street, S.W., from North Main Street to Woodland Avenue, S.W., by paving; and

WHEREAS, to fund the costs of such improvements and to retire the balance of such note not retired with funds appropriated for such purpose, Council caused to be issued a \$450,000 note in anticipation of the bonds herein provided for pursuant to Ordinance No. 73-78, passed May 8, 1978; and

WHEREAS, there is available the sum of \$50,000 which this Council has determined to appropriate and to apply to the principal of such note at maturity and to fund the balance of such principal amount with the proceeds of the bonds herein authorized; and

WHEREAS, the Director of Finance has heretofore certified that the estimated life of the improvement hereinafter described is at least five years and that the maximum maturity of bonds is ten years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Canton, Stark County, Ohio:

Section 1. That it is hereby declared necessary to issue bonds of the City of North Canton in the principal amount of \$400,000 to pay costs to the City of improving Main Street from the southerly to the northerly corporation lines, Fifth Street, N.W., from North Main Street to Pierce Avenue, N.W., and Cordelia Street, S.W., from North Main Street to Woodland Avenue, S.W., in cooperation with the Director of Transportation of the State of Ohio and otherwise, by grading, draining, milling, profiling, resurfacing, paving, widening, and erecting traffic control devices; that such bonds shall be issued as one lot, and that notes have been issued in anticipation of the issuance of such bonds.

Section 2. Said bonds in the principal amount of \$400,000 shall be issued in the denomination of \$5,000 each, shall be numbered from 1 to 80, both inclusive, and shall be dated June 1, 1979. Said bonds shall bear interest at the rate of five and one-half per centum (5-1/2%) per annum, payable December 1, 1979, and semi-annually thereafter on the first days of

June and December of each year until the principal sum is paid; provided, however, that if said bonds are sold bearing a different rate of interest than hereinbefore specified, then said bonds shall bear such rate of interest as may be provided in the resolution or ordinance of Council approving the award thereof. Said bonds shall mature in their consecutive serial order as follows: \$80,000 on December 1 in each of the years from 1980 to 1984, both inclusive; which maturities are hereby determined to be in substantially equal annual installments.

Section 3. That said bonds shall express upon their faces the purpose for which they are issued; that they are issued in pursuance of this ordinance; shall be executed by the Mayor and Director of Finance, provided that one of such signatures may be a facsimile signature, and shall bear the corporate seal of the City. Interest coupons attached to said bonds shall bear the facsimile signature of the Director of Finance. They shall be designated "Street Improvement Bonds, Series 1979," and shall be payable in lawful money of the United States of America at the office of The Harter Bank & Trust Company, Canton, Ohio, without deduction for its services as the City's paying agent.

Section 4. That for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds, promptly when and as the same falls due and also to provide a fund sufficient to discharge the said serial bonds at maturity, there shall be and is hereby levied on all the taxable property in said City of North Canton, in addition to other taxes, a direct tax annually during the period said bonds are to run in an amount sufficient to provide funds to pay interest upon said bonds as and when the same falls due and also to provide a fund for the discharge of the principal of said serial bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution.

Said tax 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 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. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund, which, together with all interest collected on the same, shall be irrevocably pledged for the payment of the interest and principal of said bonds when and as the same fall due.

Section 5. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in and for the issuing of said bonds, in order to make them legal, valid and binding obligations of the City, have happened, been done and performed in regular and due form as required by law; that the full faith, credit and revenue of said City shall be and 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, will be exceeded in issuing said bonds.

Section 6. That said bonds shall be first offered at par and accrued interest to the officer in charge of the Bond Retirement Fund in his official capacity, and if said officer refuses to take any or all of said bonds, then said bonds not so taken shall be advertised for public sale and sold in the manner provided by law. The proceeds from the sale of said bonds, except the premium and accrued interest thereon, shall be used for the purpose for which said bonds are issued and for no other

purpose; the premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied in the payment of the principal and interest of said bonds in the manner provided by law.

The City hereby covenants that it will restrict the use of the proceeds of the bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for such bonds, so that the bonds will not constitute arbitrage bonds under Section 103(c) of the Internal Revenue Code and the applicable income tax regulations under that Section. The fiscal officer or any other officer, including the Clerk of Council, having responsibility for issuing the bonds is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, or consultant of the City, to give an appropriate certificate of the City, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the City regarding the amount and use of all such proceeds and the facts and estimates on which they are based, all as of the date of delivery and payment for such bonds.

Section 7. That the Clerk of Council is hereby authorized and directed to certify a copy of this ordinance to the Auditor of Stark County, Ohio, according to law.

Section 8. It is 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 9. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of said City and for the further reason that in order to protect the credit of the City, the bonds herein authorized must be issued as soon as possible in order to retire the outstanding note issued in anticipation thereof; wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

North Canton, Ohio
Passed: April 9, 1979

Approved: April 10, 1979

Dennis Grady
Mayor

Attest:

Marion J. Wilson
Clerk of Council

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M. J. Wilson
CLERK OF COUNCIL