

AMENDED ORDINANCE NO. 12-92

BY: Mr. Brennan

AUTHORIZING THE ISSUANCE OF \$400,000 OF BONDS FOR THE PURPOSE OF RENOVATING AND IMPROVING THE JEFFREY MANSION BY CONSTRUCTING A 1,050 SQUARE FOOT ADDITION, AN ADDITIONAL STAIRWAY, FIREWALLS AND PUBLIC REST ROOMS, ADDING EMERGENCY EXITS, UPGRADING ELECTRIC, HEATING, AIR CONDITIONING AND OTHER MECHANICAL SYSTEMS, REPAIRING PLASTER WALLS AND MAKING RELATED IMPROVEMENTS, AND PURCHASING RELATED EQUIPMENT AND APPURTENANCES THEREFOR, RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 11-91 duly passed by this Council (the "Council") on February 26, 1991, notes in the principal amount of \$450,000, dated March 8, 1991, were issued in anticipation of the issuance of bonds for the purpose hereinafter stated, to mature on March 6, 1992; and

WHEREAS, the City Auditor has certified to this Council that the estimated life of the improvement stated in the title of this Ordinance (the "Project") which is to be financed from the proceeds of the bonds hereinafter described exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years; and

WHEREAS, it is now deemed necessary to issue and sell \$400,000 of said bonds under authority of the general laws of the State of Ohio, and in particular Chapter 133 of the Ohio Revised Code and the Charter of the City of Bexley, for the purpose herein stated;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, COUNTY OF FRANKLIN, STATE OF OHIO THAT:

Section 1. It is necessary to issue bonds of the City of Bexley, Ohio (the "City") in the principal sum of Four Hundred Thousand Dollars (\$400,000) to be designated "City of Bexley, Ohio Jeffrey Mansion Renovation Bonds" (the "Bonds") for the purpose described in the title to this Ordinance, retiring notes previously issued for such purpose and paying the cost of advertising, printing and legal services. The Bonds shall be issued in one lot.

Section 2. The Bonds shall be issued only as fully registered Bonds, in the denomination of \$5,000 or any integral multiple thereof, but not exceeding the principal amount of Bonds maturing on any one date; shall be numbered as determined by the City Auditor; and shall bear interest payable semiannually on the first day of June and December of each year (the "Interest Payment Dates") beginning June 1, 1992, until the principal sum is paid. Interest will be calculated on the basis of a 360 day year of twelve 30 day months. The Bonds shall mature in the principal amounts of \$40,000 in each year on December 1 of the years 1992 to 2001, inclusive.

The City Auditor is hereby authorized and directed to execute on behalf of the City a Certificate of Award (the "Certificate of Award") setting forth the final terms of the Bonds, which terms, subject to the limitations set forth in this Ordinance, shall be determined by the City Auditor. The Certificate of Award shall indicate the dated date of the Bonds, the interest rates (not to exceed a weighted interest rate of seven and one-half per centum (7 1/2%) per annum), the Original Purchaser, and such other terms not inconsistent with this Ordinance as the City Auditor shall deem appropriate.

Section 3. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance; and shall be executed by the City Auditor and the Mayor of the City, in their official capacities, provided that any of those signatures may be a facsimile. No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Bond, is signed by the Bond Registrar (as defined in Section 5 hereof) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar and approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Bonds.

Section 4. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America

without deduction for the services of the Bond Registrar as paying agent. The principal of the Bonds shall be payable upon presentation and surrender of the Bonds at the principal corporate office of the Bond Registrar. Each Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Bond is after the 15th day of the calendar month immediately preceding an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered, at the close of business on the 15th day (unless such 15th day is a non-business day, in which case the record date will be the preceding business day) of the calendar month next preceding that Interest Payment Date (the "Record Date"), on the Bond Register (as defined in Section 5 hereof) at the address appearing therein.

Any interest on any Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at his address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section 4, each Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 5. The City Auditor, or any other officer, including the Clerk of Council, is hereby appointed to act as or appoint such bank as shall be acceptable to the City Auditor and the original purchaser of the Bonds to act as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the "Bond Registrar") for the Bonds. The City Auditor, or any other officer, including the Clerk, is authorized and directed to execute on behalf of the City a Bond Registrar Agreement with the Bond Registrar, setting forth the terms of such appointment, substantially in accordance with the form heretofore presented to this Council, with such changes and

amendments as such officer, in his discretion, shall deem appropriate. If at any time, the Bond Registrar shall be unable or unwilling to serve as Bond Registrar or if the City Auditor, in his discretion, shall determine that it would be in the best interest of the City for such functions to be performed by another party, the City Auditor may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Bonds remain outstanding, the City will cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this section (the "Bond Register"). Subject to the provisions of Section 4 hereof, the person in whose name any Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

In all cases in which Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any

tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Bonds. All Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Bonds surrendered upon that transfer or exchange.

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 Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds 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; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

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 payment of the interest and principal of the Bonds when and as the same falls due.

Section 8. After publication of a Notice of Sale on the calendar maintained by the Ohio Municipal Advisory Council for such purpose, the Bonds shall be sold to such person as shall offer, in the opinion of the City Auditor, the best rate of interest for the Bonds (referred to herein as the "Original Purchaser"). The proceeds from the sale of the Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid 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 to the payment of the principal and interest of the Bonds in the manner provided by law.

Section 9. 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 Bonds 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 Bonds so that the Bonds 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 Bonds 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 or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer, including the Clerk, 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 Bonds 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 Bonds 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, including the Clerk, 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 Bonds; 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 City 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 of the City shall keep and maintain adequate records pertaining to investment of all proceeds of the Bonds 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 Bonds which limits the amount of Bond 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 Bonds requires any such reports or rebates.

The Bonds 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, including the Clerk, having responsibility with respect to the issuance of the Bonds 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 Bonds will remain "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

Section 10. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds 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 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 Bonds.

Section 11. 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 12. The Clerk is hereby directed to forward a certified copy of this Ordinance to the County Auditor of Franklin County, Ohio.

Section 13. 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 notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the City; wherefore this Ordinance shall take effect and be in force from and immediately after its passage.

Signed:

*Mark Manna*

Presiding Officer

Passed February 25, 1992

Attest:

Effective February 25, 1992

*John L. Brown*  
Clerk of Council

Approved as to form:

*Tom Mackin*  
Mayor

*James H. Gross*  
Legal Officer

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. \_\_\_\_\_ duly adopted by the Council of the City of Bexley, Ohio on the \_\_\_\_\_ day of February, 1992 and that a certified copy thereof was filed in the office of the County Auditor of Franklin County on the \_\_\_\_\_ day of February, 1992.

*John L. Brown*  
Clerk of Council

*Feb. 11, 1992 - 1st reading*

*Feb. 25, 1992 - 2nd reading  
Susp. & Adopt.*