

Does due to lack of motion

CITY OF JACKSON, OHIO  
ORDINANCE NO. 158-06

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,765,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF CAPITAL IMPROVEMENTS TO THE CITY'S ELECTRIC SYSTEM, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 41-06, passed February 27, 2006, a note in anticipation of bonds in the amount of \$2,765,000, dated March 15, 2006 was issued for the purpose in Section 1 to mature on July 13, 2006 (the Outstanding Note); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue the notes described in Section 3 to provide funds, together with other funds available to the City, to retire the Outstanding Note;

WHEREAS, the Auditor 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 15 years (the Bonds), and the maximum maturity of the Notes is December 15, 2024;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Jackson (the City), County of Jackson, Ohio, that:

Section 1. It is necessary to issue bonds of this City in the aggregate principal amount of \$2,765,000 to pay costs of capital improvements to the City's electric system.

Section 2. The Bonds shall be dated approximately October 1, 2006, shall bear interest at the now estimated rate of six percent per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any year in which principal is payable are substantially equal. The first principal payment of the Bonds is estimated to be December 1, 2007.

Section 3. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$2,765,000 shall be issued in anticipation of the issuance of the Bonds and to retire the Outstanding Note. The Notes shall be dated July 13, 2006 and shall mature October 12, 2006; provided that the Auditor may, if the Auditor determines it necessary or advisable to the sale of the Notes, establish a maturity date that is up to 15 days earlier by setting forth that maturity date in the certificate awarding the Notes (the Certificate of Award). The Notes shall bear interest at a rate or rates not to exceed five percent 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. The rate or rates of interest on the Notes shall be determined by the Auditor in the Certificate of Award.

Section 4. The debt charges on the Notes shall be payable in lawful money of the United States of America, or in Federal Reserve funds of the United States of America as determined by the Auditor in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent, at the principal corporate trust office of The Bank of New York Trust Company, N.A. located in Cincinnati, Ohio, or at the office of a bank or trust company designated by the Auditor in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose (the Paying Agent).

Section 5. The Notes shall be signed by the Mayor and Auditor, 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 purchaser and approved by the Auditor. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Auditor will serve as note registrar), and may be issued in book entry form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Auditor that the issuance of the Notes as fully registered securities or in book entry form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Auditor 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. As used in this section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made

only by book entry by the Depository and its Participants and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Auditor may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Auditor does not or is unable to do so, the Auditor, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer 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 Auditor 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 shall be sold by the Auditor at not less than par plus accrued interest, if any, at private sale in accordance with law and the provisions of this Ordinance. The Auditor shall sign the Certificate of Award referred to in Sections 3 and 4 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 Auditor, 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 Auditor is authorized, if it is determined to be in the best interest of the City, to combine the 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 operation of the City's electric system is available for the payment of debt charges on the Notes and the Bonds and is appropriated for that purpose, the tax described above shall be reduced by the amount of money so available and appropriated.

Section 10. This Council covenants that the City will restrict the use and investment of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary after taking in the reasonable expectations at the time the Notes are issued, so that the Notes will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the Code), and will, to the extent possible, comply with all applicable provisions of the Code and the regulations thereunder in order for the interest on the Notes to remain exempt from federal income taxation, including any expenditure requirements, investment limitations, rebate requirements or use restrictions. The Auditor or any other officer of the City is authorized and directed to give an appropriate certificate of the City for inclusion in the transcript of proceedings regarding the issuance of the Notes setting forth the facts, estimates, circumstances and reasonable expectations pertaining to the use of the proceeds of the Notes and the provisions of the Code and the regulations thereunder.

The City hereby finds and determines that the Outstanding Note was designated or is treated as "qualified tax-exempt obligations" pursuant to Section 265(b)93) of the Code. The City hereby covenants that it will redeem the Outstanding Notes from proceeds of, and within 90 days after the issuance of the Notes, and represents that all other conditions are met for treating the Notes as "qualified tax-exempt obligations".

Section 11. The Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor.

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 enable the City to timely retire the Outstanding Note and thereby preserve its credit; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed: \_\_\_\_\_, 2006

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_, 2006

\_\_\_\_\_  
Mayor

