



## Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Passed

**File created:** 1/17/2023      **In control:** Finance Committee

**On agenda:** 1/30/2023      **Final action:** 2/1/2023

**Title:** To authorize the issuance and sale of a special assessment bond anticipation note in the amount of \$161,000.00 for the Morningstar/North-Forty Street Lighting Assessment Project; and to declare an emergency (\$161,000.00).

Section 44-1(b)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
2/1/2023	1	CITY CLERK	Attest	
1/31/2023	1	MAYOR	Signed	
1/30/2023	1	COUNCIL PRESIDENT	Signed	
1/30/2023	1	Columbus City Council	Approved	Pass

### 1. Background

This ordinance authorizes the issuance and sale of a special assessment bond anticipation note in the amount of \$161,000.00 for the Morningstar/North-Forty Street Lighting Assessment Project (\$161,000.00). This note shall be sold to the City's Treasury and Investment Board.

### 2. Fiscal Impact

A note in an amount not to exceed \$161,000.00 will be issued. It is the intent that the debt service associated with the issuance of the note will be paid from assessments paid by the property owners benefiting from the Morningstar/North-Forty Street Lighting Assessment Project.

### 3. Emergency Designation

Emergency action is requested to allow for immediate funding of the resident portion of the Morningstar/North-Forty Street Lighting Assessment Project, which will allow the Department of Public Utilities to enter into contract(s) for and begin such improvements.

To authorize the issuance and sale of a special assessment bond anticipation note in the amount of \$161,000.00 for the Morningstar/North-Forty Street Lighting Assessment Project; and to declare an emergency (\$161,000.00).

Section 44-1(b)

**WHEREAS**, pursuant to Ordinance No. 2997-2022 passed November 21, 2022, this Council determined to proceed with the street lighting project described below in accordance with Resolution No. 0014X-2019 adopted by this Council on February 4, 2019; and

**WHEREAS**, the City Auditor has certified to this Council that the estimated life of the improvements to be constructed

from the proceeds of the bonds and the note hereinafter referred to exceeds five (5) years, the maximum maturity of bonds being ten (10) years and the maximum maturity of the note being ten (10) years; and

**WHEREAS**, it is deemed necessary to issue a note in anticipation of the issuance of bonds, in the amount of \$161,000, to provide for the payment of a portion of the costs of the street lighting project described below; and

**WHEREAS**, an emergency exists in the usual daily operations of the Department of Public Utilities in that it is immediately necessary to authorize the issuance of a note in order to fund the resident portion of the street lighting project described below, which will allow the Department of Public Utilities to enter into contract(s) for and begin such improvements at the earliest possible time, for the immediate preservation of the public peace, property, health or safety; **now, therefore,**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** It is hereby declared necessary to issue bonds of the City of Columbus, Ohio (the "City") in the principal sum of \$161,000 (the "Bonds") in anticipation of the levy and collection of special assessments for the purpose of providing funds to pay the costs of installing a light-emitting diode (LED) street lighting system with decorative poles and underground wiring for the Morningstar/North-Forty area, including Sullivant Avenue, Round Up Drive, Corral Gate Court, Morningstar Drive, Branding Iron Court, Branding Iron Drive, North Forty Drive, Tricia Drive, Wild Stallion Drive, Old Ranch Court, Magna Carta Circle, Greensdale Drive, Countrie Side Drive, Countrie Glen Drive, and Countrie View Court, by installing poles, fixtures, power cable and conduit, constructing control facilities and doing such other things as may be necessary in the City.

**Section 2.** The Bonds shall be of the denomination of \$1,000 or any integral multiple thereof, shall be dated on or before the maturity date of the Note hereinafter provided for and issued in anticipation of the issuance of such Bonds, shall bear interest at a rate presently estimated to be six per centum (6.00%) per annum, payable semiannually or annually as determined at the time of issuance of the Bonds, until the principal sum is paid and shall mature in ten (10) annual installments after their issuance.

**Section 3.** It is necessary to issue and this Council hereby determines that a note (the "Note") in the principal amount of \$161,000 shall be issued in anticipation of the levy and collection of said special assessments and in anticipation of the issuance of the Bonds for the purpose set forth above.

**Section 4.** After said improvements are completed and the costs thereof ascertained, Council shall by ordinance assess upon the benefited property, in the manner provided in the legislation referring to said improvements and heretofore adopted by this Council, the entire cost and expense thereof, except the portion to be paid by the City in accordance with the provisions of the Ohio Revised Code and Section 178 of the City Charter, and shall authorize the issuance of the Bonds under the provisions of Section 133.30 of the Ohio Revised Code and Section 189 of the City Charter.

All assessments collected for the improvements and the unexpended balances remaining in the special improvement fund after the cost and expense of the improvements have been paid, shall be applied to the payment of principal of and interest on the Note, and then to the payment of principal of and interest on the Bonds.

**Section 5.** In the event that the special assessments are not levied or the Bonds are not issued to provide a fund for the payment of the Note at maturity, a general tax shall be levied against all of the property in the City for the payment of the Note and the interest thereon; provided, however, that during the years while the Note is outstanding there shall be levied on all taxable property in the City, in addition to all other taxes and inside of the limitations of Article XII, Section 2, of the Constitution of Ohio, a direct tax annually not less than that which would have been levied if the Bonds had been issued without the prior issuance of the Note.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and shall be collected by the same officer, 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. Funds derived from said levies hereby required shall be placed in a separate and distinct fund, which, together with interest collected on the same shall be irrevocably pledged for the payment of the principal and interest on the Note or the Bonds when and as the same fall due; provided, however, that in each year to the extent that funds from the collection of the special assessments referred to in Section 1 hereof or other sources are lawfully available for the payment of the Note and Bonds, and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of such funds so available and appropriated.

**Section 6.** The Note shall be the full general obligation of the City and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Note shall, to the extent necessary, be used only for the retirement of the Note at maturity, together with interest thereon, and is hereby pledged for such purpose.

**Section 7.** The Note shall be designated "City of Columbus, Ohio Morningstar/North-Forty Street Lighting Assessment Note, 01-2023."

**Section 8.** The Note shall be issued only as one fully registered note, in the denomination of \$161,000; shall be numbered RN-1; shall mature within one year of its date of issuance; and shall bear interest payable at maturity at such rate per annum, which rate shall not exceed six per centum (6.00%) per annum, as shall be determined by the City Auditor and certified to this Council as the fair market rate for such Notes. The Note shall be subject to redemption, at a redemption price equal to the par amount redeemed, at the option of the City at any time prior to maturity upon one day's prior written notice to the Note Registrar (as defined in Section 10 hereof).

**Section 9.** The Note shall set forth the purposes for which it is issued and state that it is issued pursuant to this Ordinance; and shall be executed by the Mayor and the City Auditor of the City, in their official capacities, provided that either of those signatures may be a facsimile. The Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance.

The principal of and interest on the Note shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar as paying agent. The principal of and interest on the Note shall be payable upon presentation and surrender of the Note at its maturity at the principal office of the Note Registrar.

**Section 10.** The City Auditor is hereby appointed to act as the authenticating agent, note registrar, transfer agent and paying agent (collectively, the "Note Registrar") for the Note. So long as the Note remains outstanding, the City will cause to be maintained and kept by the Note Registrar, at the principal office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of the Note as provided in this Section (the "Note Register"). The person in whose name the Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on the Note shall be made only to or upon the order of that person. Neither the City nor the Note 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 Note, including the interest thereon, to the extent of the amount or amounts so paid.

The Note may be transferred only on the Note Register upon presentation and surrender thereof at the principal office of the Note 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 Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note in the principal amount equal to the principal amount of the Note surrendered and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange the Note for a period of fifteen (15) days next preceding the date of its maturity.

In all cases in which the Note is exchanged or transferred hereunder, the City shall cause to be executed and the Note Registrar shall authenticate and deliver a new Note in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the transfer. The City or the Note Registrar may require that those charges, if any, be paid before either begins the procedure for the transfer of the Note. The Note issued upon any transfer or exchange shall be the valid obligation of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Note surrendered upon that transfer.

**Section 11.** The Note shall be sold to the City's Treasury Investment Board (the "Original Purchaser") at a purchase price equal to 100% of the principal amount thereof plus interest accrued, if any, to the date of delivery of the Note to the Original Purchaser.

The proceeds from the sale of the Note, except accrued interest or costs of issuance, allocable to the Note, shall be deposited in the City Treasury and applied to the payment of the costs of the project described in Section 1 of this Ordinance.

Any accrued interest or premium received from such sale shall be deposited in the City Treasury and shall be credited to the proper Bond Retirement Fund to be applied to the payment of the principal of and interest on the Note in the manner provided by law. Said proceeds are hereby appropriated for such purposes.

All moneys necessary to carry out the purpose of this Ordinance are hereby deemed appropriated and authorized for expenditure by the City Auditor.

**Section 12.** The Mayor, City Auditor, the Director of Finance and Management, and Clerk of Council, or any of them individually, are hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in a form not substantially inconsistent with the terms of this Ordinance, as the Mayor, City Auditor, the Director of Finance and Management, and Clerk of Council, or any of them individually, in their discretion shall deem necessary or appropriate.

**Section 13.** 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 14.** It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Note in order to make the Note the legal, valid and binding obligation of the City have happened, been done and been performed in regular and due form as required by law; that the full 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 Note.

**Section 15.** The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the County Auditors of Franklin, Fairfield and Delaware Counties, Ohio.

**Section 16.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, and in accordance with Sections 22 and 44-1(b) of the Charter of the City of Columbus, Ohio, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and immediately after its passage and approval by the Mayor, or ten (10) days after passage if the Mayor neither approves nor vetoes the same.