

ORDINANCE NO. 7-17

AN ORDINANCE AMENDING ORDINANCE NO. 125-16 AUTHORIZING THE ISSUANCE AND SALE OF MUNICIPAL INCOME TAX AND/OR REVENUE NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS OF THE CITY OF AVON, OHIO, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$9,250,000 FOR THE PURPOSE OF MAKING VARIOUS IMPROVEMENTS TO THE CITY'S WATER SYSTEM AND DECLARING AN EMERGENCY.

WHEREAS, on December 19, 2016, the Council of the City of Avon, Ohio (the "Council"), enacted Ordinance No. 125-16, authorizing the issuance and sale of municipal and/or revenue bond anticipation notes of the City of Avon, Ohio (the "City"), in a principal amount not to exceed \$9,250,000 (the "Notes") for the purpose of making various improvements to the City's water system, and declaring an emergency; and

WHEREAS, at the request of the Director of Finance, the Council has determined to amend Ordinance No. 125-16 to designate an additional portion of the issue price of the Notes as "qualified tax-exempt obligations."

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO:

Section 1 - Paragraph 2 of Section 8 of Ordinance No. 125-16 which reads:

The Director of Finance is hereby authorized to designate in the Certificate of Award the remaining \$2,500,000 of the Notes as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The City hereby covenants that the City, having no "subordinate entities" with authority to issue obligations within the meaning of that Section of the Code, in or during the calendar year in which the Notes are issued, (i) will not designate as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code tax-exempt obligations, including the Notes, in an aggregate principal amount in excess of \$10,000,000 and (ii) will not issue tax-exempt obligations within the meaning of Section 265(b)(4) of the Code, including the Notes (but excluding any qualified 501(c)(3) notes as defined in Section 145 of the Code and any obligations that are private activity bonds as defined in Section 141 of the Code), in an aggregate principal amount exceeding \$10,000,000, unless the City receives an opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not cause the Notes to cease to be "qualified tax-exempt obligations."

is hereby amended to read in its entirety as follows:

The Director of Finance is hereby authorized to designate the remaining \$2,500,000 of the Notes, together with any premium received on the sale of the Notes, as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code and to the extent that any additional portions of the Notes are not so deemed designated, the Director of Finance may so designate such portions in the Certificate of Award. The City hereby covenants that the City, having no "subordinate entities" with authority to issue obligations within the meaning of that Section of

the Code, in or during the calendar year in which the Notes are issued, (i) will not designate as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code tax-exempt obligations, including the Notes, in an aggregate principal amount in excess of \$10,000,000 and (ii) will not issue tax-exempt obligations within the meaning of Section 265(b)(4) of the Code, including the Notes (but excluding any qualified 501(c)(3) notes as defined in Section 145 of the Code and any obligations that are private activity bonds as defined in Section 141 of the Code), in an aggregate principal amount exceeding \$10,000,000, unless the City receives an opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not cause the Notes to cease to be “qualified tax-exempt obligations.”

The remaining paragraphs of Section 8 shall remain in full force and effect.

Section 2 - The designation of the amount of \$2,563,917.50 as a “qualified tax-exempt obligation” by the Director of Finance in the Certificate of Award is hereby ratified and confirmed.

Section 3 - It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including the City’s Charter, Codified Ordinances and any applicable provisions of Section 121.22 of the Ohio Revised Code.

Section 4 - This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being that it is necessary and appropriate to finalize the proceedings for the Notes and thereby preserve the City’s credit; therefore, this ordinance shall be in full force and effect immediately upon passage of Council by the required three-fourths majority and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

Ordinance No. 7-17 (Con't.)

ATTEST:

Barbara Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director