

ORDINANCE # 104

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WHEELER, TEXAS, AUTHORIZING THE ISSUANCE OF \$300,000 "CITY OF WHEELER, TEXAS, GENERAL OBLIGATION BONDS, SERIES 1978," DATED OCTOBER 15, 1978, FOR THE PURPOSE OF CONSTRUCTING STREET IMPROVEMENTS; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX ON ALL TAXABLE PROPERTY WITHIN THE LIMITS OF THE CITY TO PAY THE INTEREST ON SAID BONDS AND TO CREATE A SINKING FUND FOR THE REDEMPTION THEREOF AND PROVIDING FOR THE ASSESSMENT AND COLLECTION OF SUCH TAXES; ENACTING PROVISIONS INCIDENT AND RELATING TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to an election held on the 8th day of July, 1978, the City Council became authorized and empowered to issue general obligation bonds in the aggregate principal amount of \$300,00 for the purpose of constructing street improvements; and

WHEREAS, the City Council hereby finds and determines that all of the aforesaid bonds should be issued and sold at this time; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEELER, TEXAS:

*** SECTION 1: That the bonds of the City of Wheeler, Texas, to be known as "CITY OF WHEELER, TEXAS, GENERAL OBLIGATION BONDS, SERIES 1978," be and the same are hereby ordered to be issued in the principal sum of THREE HUNDRED THOUSAND DOLLARS (\$300,000) for the purpose of constructing street improvements, under and by virtue of the Constitution and laws of the State of Texas.

SECTION 2: That said bonds shall be numbered consecutively from One (1) through Sixty (60); shall each be in the denomination of Five Thousand Dollars (\$5,000), aggregating in principal amount THREE HUNDRED THOUSAND DOLLARS (\$300,000); shall be dated October

15, 1978; and shall bear interest at the per annum rates and become due and payable serially on April 15th in each of the years in accordance with the following schedule:

<u>BOND NUMBERS</u> <u>(All Inclusive)</u>	<u>MATURITY</u>	<u>AMOUNT</u>	<u>RATE</u>
1 to 4	1985	\$20,000	6.57%
5 to 9	1986	25,000	5.00%
10 to 14	1987	25,000	5.00%
15 to 19	1988	25,000	5.05%
20 to 25	1989	30,000	5.10%
26 to 31	1990	30,000	5.20%
32 to 38	1991	35,000	5.25%
39 to 45	1992	35,000	5.30%
46 to 52	1993	35,000	5.35%
53 to 60	1994	40,000	5.40%

PROVIDED, HOWEVER, that the City reserves the right to redeem the bonds of this series maturing on April 15, 1991, and subsequent, in whole or in part (but in inverse numerical order if less than all), on April 15, 1990, or on any interest payment date thereafter, at the price of par and accrued interest to the date fixed for redemption; PROVIDED, FURTHER, that at least thirty (30) days prior to a date any of said bonds are to be redeemed, a notice of redemption, signed by the City Secretary (specifying the serial numbers and amount of bonds to be redeemed) shall have been filed with the MERCANTILE NATIONAL BANK AT DALLAS, Dallas, Texas (they paying agent named in each of said bonds); and if by the date so fixed for redemption the City shall have made available funds in amounts sufficient to pay the bonds to be redeemed and accrued interest thereon, any bond or bonds not presented for redemption pursuant to such notice shall cease to bear interest from and after the date so fixed for redemption.

SECTION 3: That said bonds shall bear interest from date to maturity at the per annum rate or rates shown in the above schedule, such interest to be evidenced by proper coupons attached to each of said bonds, and said interest shall be payable on April 15, 1979, and semiannually thereafter on October 15, and April 15, in each year.

SECTION 4: That both principal of and interest on said bonds shall be payable in lawful money of the United States of America, without exchange of collection charges to the owner or holder, at the MERCANTILE NATIONAL BANK AT DALLAS, Dallas, Texas, upon presentation and surrender of bonds or proper coupons.

SECTION 5: That the seal of said City may be impressed on each of said bonds or, in the alternative, a facimile of such seal may be rinted on the said bonds. The bonds and interest coupons appurteneant thereto may be executed by the imprinted facsimile signatures of the Mayor and City Secretary of the City, and execution in such manner shall have the same effect as if such bonds and coupons had been signed by the Mayor and City Secretary in person by their manual signatures. Inasmuch as such bonds are required to be registered by the Comptroller of Public Accounts for the State of Texas, only his signature (or that of a dupty designated in writing to act for the Comptroller) shall be required to be manually subscribed to such bonds in connection with his registration certificate to appear thereon, as hereinafter provided; all in accordance with the provisions of Article 717j-1, V.A.C.S.

SECTION 6: That the form of said bonds shall be substantially as follows:

NO. _____ UNITED STATES OF AMERICA \$5,000

STATE OF TEXAS

COUNTY OF WHEELER

CITY OF WHEELER, TEXAS, GENERAL OBLIGATION
BOND, SERIES 1978

The CITY OF WHEELER, a municipal corporation of the State of Texas, acknowledges itself indebted to and, FOR VALUE RECEIVED, Hereby promises to pay to bearer, the sum of

FIVE THOUSAND DOLLARS

(\$5,000), in lawful money of the United States of America, on the 15th day of April, 19 , with interest thereon from the date hereof to maturity at the rate of _____ PER CENTUM (0 %) per annum, payable on April 15, 1979, and semiannually thereafter on October 15 and April 15 in each year, and interest falling due on or prior to maturity hereof is payable only upon presentation and surrender of the interest coupons hereto attached as they severally become due.

BOTH PRINCIPAL OF and interest on this bond are hereby made payable at the MERCANTILE NATIONAL BANK AT DALLAS, Dallas, Texas, without exchange or collection charges to the owner or holder, and for the prompt payment of this bond and the interest thereon at maturity, the full faith, credit and resources of the City of Wheeler, Texas, are hereby irrevocably pledged.

THIS BOND is one of a series of Sixty (60) serial bonds, numbered consecutively from One (1) through Sixty (60), each in denomination of Five Thousand Dollars (\$5,000), aggregating in principal amount THREE HUNDRED THOUSAND DOLLARS (\$300,000), issued for the purpose of constructing street improvements, under authority of the Constitution and laws of the State of Texas and pursuant to an ordinance duly adopted by the City Council of the City of Wheeler, Texas, and duly recorded in the Minutes of said City Council.

AS SPECIFIED in the ordinance hereinabove mentioned, the City reserves the right to redeem the bonds of said series maturing on April 15, 1991, and subsequent, in whole or in part (but in inverse numerical order if less than all), on April 15, 1990, or on any interest payment date thereafter, at the price of par and accrued interest to the date fixed for redemption; PROVIDED, HOWEVER, that a least thirty (30) days prior to date any of said bonds are to be redeemed, a notice of redemption, signed by the City Secretary (specifying the serial numbers and amount of bonds to be redeemed), shall have been filed with the MERCANTILE NATIONAL BANK AT DALLAS, Dallas, Texas; and if by the date so fixed for redemption the City shall have made available funds in amounts sufficient to pay the bonds to be redeemed and accrued interest thereon, any bond or bonds not presented for redemption pursuant to such notice shall cease to bear interest from and after the date so fixed for redemption.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this bond and the series of which it is a part is duly authorized by law and by authority expressly conferred at an election held for that purpose within said City; that all acts, conditions and things required to be done precedent to and in the issuance of this series of bonds and of this bond, have been properly done and performed and have happened in regular and due time, form and manner as required by law; that sufficient and proper provision has been made for the levy and collection of taxes which, when collected, shall be appropriated exclusively to the payment of the interest coupons thereto annexed, as the same shall become due, and that the total indebtedness of the City of Wheeler, Texas, including the entire series of bonds of which this is one, does not exceed any constitutional or statutory limitation.

IN TESTIMONY WHEREOF, the City Council of the City of Wheeler, Texas, in accordance with the provisions of Article 717j-1, V.A.C.S., has caused the seal of said City to be impressed or a facsimile thereof to be printed hereon, and this bond and its appurtenant coupons to be executed with the imprinted facsimile signatures of the Mayor and City Secretary of said City; the date of this bond, in conformity with the ordinance above referred

to, being the FIFTEENTH DAY OF OCTOBER, 1978.

O. B. Burton
Mayor, City of Wheeler, Texas

COUNTERSIGNED:

Mildred Ramsey
Secretary, City of Wheeler, Texas

SECTION 7: That the interest coupons attached to said bonds shall be substantially as follows;

NO. _____ ON THE FIFTEENTH DAY OF \$ _____
_____, 19 __,

*(unless the bond to which this coupon pertains has been redeemed in accordance with its terms), the CITY OF WHEELER, a municipal corporation of the State of Texas, hereby promises to pay to bearer the amount shown hereon in lawful money of the United States of America, upon presentation and surrender of this coupon, at the MERCANTILE NATIONAL BANK AT DALLAS, Dallad, Texas, without exchange or collection charges, such amount being interest due on such date on "CITY OF WHEELER, TEXAS, GENERAL OBLIGATION BOND, SERIER 1978," dated October 15, 1978, Bond No. _____.

Mildred Ramsey
City Secretary

O. B. Burton
Mayor

SECTION 8: That the following certificate shall be printed on the back of each bond:

OFFICE OF COMPTROLLER

STATE OF TEXAS

0
0
0

REGISTER NO. _____

I HEREBY CERTIFY that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this bond has been examined by him as required by law, and that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation upon said City of Wheeler, Texas and said bond has this day been registered by me.

WITNESS MY HAND AND SEAL OF OFFICE, at Austin, Texas,

Comptroller of Public Accounts
of the State of Texas

SECTION 9: That to provide for the payment of the debt service requirements on the said bonds, being (i) the interest on said bonds and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while said bonds or interest thereon shall remain outstanding and unpaid, a sufficient tax on each one hundred dollars' valuation of taxable property in said City, adequate to pay such debt service requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the said debt service requirements,

*NOTE TO PRINTER: The expression in prenttheses to be included only in coupons maturing October 15, 1990 and subsequent pertaining to optional bonds, maturing in the years 1991 through 1994.

and the same shall not be diverted to any other purpose.

The taxes so levied shall be paid into a fund known as "SPECIAL SERIES 1978 GENERAL OBLIGATION BOND FUND," which is hereby established for the payment of the obligations herein authorized. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient for such bonds, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding obligations.

BE IT FURTHER DECLARED that on the 21st day of August, 1978, the City Council of the City of Wheeler, Texas approved, established and levied the tax rate for 1978 in the total amount of \$1.25, and 82¢ of such total tax rate was established and levied for the purpose of paying debt service requirements on the City's indebtedness to become due during the 1978/1979 tax year, including the bonds herein authorized to be issued. That based on the City's 1978 tax rolls, a tax rate of 82¢ per \$100 valuation of taxable property in the City (as 90% collection) will produce an amount equal to \$40,059.00, which amount when added to the sum of \$44,177.75 now on deposit in the interest and sinking funds for the payment of the City's outstanding debt will be in excess of the total debt service requirements to become due on the City's indebtedness for the 1978/1979 tax year, such total debt service requirements, including this issue of bonds, totalling \$38,873.50; and the sum of \$15,927.50 (less the amount of accrued interest received from the purchasers of the bonds) from taxes levied and to be collected for the payment of debt service requirements during the 1978/1979 tax year is hereby appropriated and shall be deposited in the "Special Series 1978 General Obligation Bond Fund" to pay the interest to become due on April 15, 1979 and October 15, 1979.

SECTION 10: The sale of the bonds herein authorized to

Mercantile National Bank of Dallas, Dallas, Texas at the price of par and accrued interest to date of delivery, plus a cash premium of \$ -0-, is hereby confirmed, Delivery of the bonds shall be made to such purchaser as soon as may be after the adoption of this ordinance, upon payment therefor in accordance with the terms of sale.

SECTION 11: The purchasers' obligation to accept delivery of the bonds herein authorized is subject to their being furnished a final opinion of Messrs. Dumas, Huguenin, Boothman and Morrow Attorneys, Dallas, Texas, approving such bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such bonds. Printing of a true and correct copy of said opinion on the reverse side of each of such bonds, with appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City of Wheeler, Texas, is hereby approved and authorized.

SECTION 12: CUSIP numbers are to be printed on the bonds herein authorized. It is expressly provided, however, that the presence or absence of CUSIP numbers on the bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving said bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the bonds.

SECTION 13: That the City hereby covenants that the proceeds from the sale of said bonds will be used as soon as practicable for the purpose for which said bonds are issued; that such proceeds will not be invested in any securities or obligations except for the temporary period pending such use; and that such proceeds will not be used directly or indirectly so as to cause all or any part of said bonds to be or become "arbitrage bonds" within the meaning of Section 103 (c) of the Internal Revenue Code of 1954, as amended, or any regulations or rulings prescribed or made pursuant thereto.

SECTION 14: That the Mayor of the City of Wheeler shall be, and he is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, and shall take and have charge and control of the bonds herein authorized pending their approval by the Attorney General and their registration by the Comptroller of Public Accounts.

SECTION 15: That the public importance of this measure and the fact that it is to the best interest of the City to provide funds for the improvements herein contemplated at the earliest possible date constitute and create an emergency and an urgent public necessity, requiring that any rule providing for ordinances to be read more than one time or at more than one meeting of the City Council be suspended, and requiring that this ordinance be passed and take effect as an emergency measure, and such rules and provisions are accordingly suspended, and this ordinance is passed as an emergency measure, and shall take effect and be in full force from and after its passage.

PASSED AND APPROVED, this the 18th day of September, 1978.

O. B. Burton
Mayor, City of Wheeler, Texas

ATTEST:

Mildred Ramsey
City Secretary, City of Wheeler, Texas

(City Seal)