

ORDINANCE NO. 286

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$52,000.00 IN REVENUE CERTIFICATES OF INDEBTEDNESS BY THE CITY OF WEST MIAMI, DADE COUNTY, FLORIDA, TO BE SECURED BY A PLEDGE OF REVENUES FROM EXCISE TAX ON PURCHASES OF CERTAIN UTILITIES, AND PROVIDING FOR PAYMENT THEREOF.

WHEREAS, under date of September 21, 1966, through the adoption of Ordinance No. 276, the Council of the City of West Miami, pursuant to FS 167.431 imposed an excise tax on purchases of electricity, metered gas, and bottled gas in the City of West Miami, Florida; and

WHEREAS, under the provisions of said ordinance the City of West Miami is to receive a tax of three percent (3%) on purchases of electricity, metered gas, and bottled gas sold within the City, all as more specifically set out in said ordinance; and

WHEREAS, the City has contracted for the purchase of certain real estate for use and development as a park; and

WHEREAS, the City has applied for and received a commitment for a grant of Federal assistance under Title VII of the Housing Act of 1961 as amended to reimburse the City for a portion of the cost of acquisition of said real estate; and

WHEREAS, sufficient funds are not available to the City and it must borrow such funds and desires to obtain same by the issuance of Revenue Certificates of indebtedness to be secured by the revenues of the aforementioned excise tax; and

WHEREAS, the Merchants Bank of Miami has agreed to

lend \$52,000.00 to the City by the purchase of Revenue Certificates of indebtedness as hereinafter set forth; and

WHEREAS, the City is authorized under the provisions of its charter and the statutes and laws of the State of Florida governing the powers and authority of incorporated municipalities to contract for and to purchase land for park purposes in said City and to issue certificates of indebtedness for the payment thereof payable from the source for which provision is made in this ordinance.

NOW, THEREFORE, Be It Enacted by the Mayor and Town Council of the City of West Miami, Dade County, Florida:

Section 1. That the Council has made due investigation and has ascertained and hereby formally finds and recites that the annual amount to be derived by said City from the payments required to be made under the terms of the excise tax described in the preamble hereto, if continued in the amounts now being derived therefrom, will be fully sufficient to pay principal of and interest on the revenue certificates hereinafter authorized and to carry out all of the requirements of this ordinance.

Section 2. That for the purpose of paying the cost of the land acquisition described above including the payment of all costs properly incident thereto and to the issuance of the revenue certificates, there be issued the revenue certificates of the City of West Miami (sometimes hereinafter referred to as "the City") in the total aggregate amount of \$52,000.00, which revenue certificates are hereinafter sometimes referred to as "the certificates". The certificates shall be dated July 1, 1967, shall be in the denomination of \$4,333.34 each,

shall be numbered 1 to 12, inclusive, shall be payable in lawful money of the United States of America as to both principal and interest at the Merchants Bank of Miami, in West Miami, Florida, shall bear interest until paid at the rate of five percent (5%) per annum, payable October 1, 1967, and quarterly thereafter on the same days of January, April, and July of each year, and shall mature serially in numerical order on June 30 of each of the years as follows:

<u>Certificate Numbers</u>	<u>Amount</u>	<u>Year</u>
1	\$4,333.34	1968
2	4,333.34	1968
3	4,333.34	1969
4	4,333.34	1969
5	4,333.34	1970
6	4,333.34	1970
7	4,333.34	1971
8	4,333.34	1971
9	4,333.34	1972
10	4,333.34	1972
11	4,333.34	1973
12	4,333.34	1973

Any or all of said certificates may be prepaid in part or in full at any time without penalty.

Section 3. That said certificates shall be signed by the Mayor of the City, shall be attested by the City Clerk and shall have impressed thereon the corporate seal of the City of West Miami.

Section 4. That the certificates shall be in substantially the following form:

(Form of Certificate)

UNITED STATES OF AMERICA

STATE OF FLORIDA

COUNTY OF DADE

CITY OF WEST MIAMI

EXCISE TAX REVENUE CERTIFICATES

Number _____

\$4,333.34

The City of West Miami, in Dade County, State of Florida, for value received hereby promises to pay to bearer, solely from the special fund provided therefor as hereinafter set forth, on the 30th day of June, 1968, the principal sum of Four Thousand Three Hundred Thirty Three and 34/100 Dollars (\$4,333.34) and to pay from said special fund interest thereon at the rate of five percent (5%) per annum from date hereof until paid, payable October 1, 1967, and quarterly thereafter on the same days of January, April, July and October of each year, such interest to the maturity date of this certificate to be paid as same become due. Both principal of and interest on this bond are payable in lawful money of the United States of America at the Merchants Bank of Miami, West Miami, Florida.

This certificate is one of an issue of \$52,000.00, all of like date and tenor, except as to maturity, issued by said City pursuant to the provisions of its charter, and pursuant to an ordinance duly adopted by the Mayor and City Council of said City on June 21st, 1967, for the purpose of acquiring land for providing a park in said City. Said issue of certificates is payable solely from and secured by pledge of the revenues to be received annually by said City from the collection of excise taxes on purchases of electricity, metered gas, and bottled gas pursuant to Ordinance No. 276 adopted on September 21, 1966. For a more particular statement of the security pledged to such payment, reference is made to the aforesaid ordinance of June 21, 1967. This certificate, including interest hereon, is payable solely from the aforesaid revenues and does not constitute an indebtedness of the City of West Miami within the meaning of any constitutional, statutory or charter provision or limitation, and it

is expressly agreed by the holder of this certificate that such holder shall never have the right to require or compel the exercise of the ad valorem taxing power of said City or the taxation or assessment of real estate in said City for the payment of the principal of or interest on this certificate or the making of any sinking fund, reserve or other payments provided for in the above-described ordinance. It is further agreed between said City and the holder of this certificate that this certificate and the obligation evidenced thereby shall not constitute a lien upon any property of or in the City of West Miami but shall constitute a lien only on the revenues in this paragraph described.

This certificate is issued upon the following terms and conditions, to all of which each taker and owner hereof consents and agrees:

(a) Title to this certificate may be transferred by delivery in the same manner as a negotiable instrument payable to bearer; and

(b) Any person in possession of this certificate, regardless of the manner in which he shall have acquired possession, is hereby authorized to represent himself as the absolute owner thereof, and is hereby granted power to transfer absolute title thereto by delivery thereof to a bona fide purchaser, that is, to anyone who shall purchase the same for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against his transferor; every prior taker or owner of this certificate waives and renounces all of his equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute

title thereto and to all rights represented thereby; and

(c) The City of West Miami may treat the bearer of this certificate as the absolute owner thereof for all purposes without being affected by any notice to the contrary.

(d) This certificate may be paid and redeemed in whole or in part at any time without penalty. All acts, conditions and things required by the Constitution and Laws of Florida and the charter of said City to happen, exist and be performed precedent to and in the issuance of this certificate have happened, exist, and have been performed as so required.

IN WITNESS WHEREOF, the City of West Miami has caused this certificate to be signed by its Mayor and attested by its City Clerk, under its corporate seal, all as of the _____ day of July, 1967.

MAYOR

ATTEST:

City Clerk

Section 5. That there is hereby created for the purpose of paying principal of and interest on the bonds herein authorized a fund to be known as the "Excise Tax Certificates Sinking Fund", which is hereinafter in this ordinance sometimes referred to as the "certificates fund". Such fund shall be kept on deposit in the Merchants Bank of Miami at West Miami, Florida, or in such other bank of equal standing and rating as may hereafter be specified by the Council. The money held in said fund shall be held by said depository as a special and not a general deposit and as a special trust fund the beneficial interest in which shall

be in the holders from time to time of the obligations payable therefrom. All money in such fund shall be continually secured by the deposit of collateral security having a market value at all times of not less than the amount on deposit in such fund and shall be otherwise secured to the fullest extent required by the laws of Florida for the securing of public deposits.

Beginning with the month of July, 1967, there shall be paid into the certificate fund so much of the first revenues received in each month by the City from collection of said excise tax, while any of the certificates herein authorized remain outstanding and unpaid, as may be necessary to pay promptly as they fall due principal of and interest on the certificates herein authorized. The amounts to be paid into the certificate fund during the period July 1 through June 30 of any year shall be only that amount necessary and sufficient to pay the installments of interest becoming due on outstanding certificates on the interest dates provided therein coming due during such period, and only that amount necessary to pay any certificates maturing on June 30 of such period. In the event of prepayment of any outstanding certificates the City shall not be required to pay into the certificate fund amounts for the payment of interest or principal on such prepaid certificates during the one year period immediately preceding the original maturity dates of such prepaid certificates.

To the extent that the franchise revenues should prove at any time insufficient to make the payments hereinabove required to be made, the City agrees that it will make up such deficits from the proceeds of other revenues not derived from the imposition

of taxes and legally available for such purpose, provided, however that nothing in this paragraph shall be so construed as to pledge to the payment of the certificates herein authorized any revenues the pledging of which would make it necessary that such certificates be approved by the qualified freeholder electors of the City pursuant to the provisions of Section 6 of Article 9 of the Constitution of Florida.

Section 6. That the City of West Miami expressly covenants and agrees that it will issue no other certificates or obligations of any kind or nature payable from or enjoying a lien on or pledge of the excise tax revenues unless such certificates or obligations are issued in such manner as to be fully subordinate in all respects to the payment of the certificates herein authorized from such revenues. The provisions of this section shall inure to the benefit of and be enforceable by any holder of the certificates issued hereunder.

Section 7. That the City of West Miami hereby covenants and agrees with each successive holder of the certificates issued hereunder:

(a) That the City will do everything which it can legally do to maintain the excise tax ordinance in full force and effect until all of the certificates shall have been retired, that if for any reason beyond the control of the City the excise tax ordinance shall become inoperative or ineffective during such period, the City will take all possible steps for the immediate substitution therefor of a source of revenue sufficient to enable it to make the payments of principal and interest herein required.

(b) That all records of the City with respect to the amounts received by the City in each month from said excise tax

and the disposition made of all such revenues shall be available for inspection at all reasonable times by the holders of any of the certificates issued hereunder, and that the City will within sixty days following the close of each fiscal year supply to any holder of the certificates who may have so requested a written statement covering the receipt and disposition of such revenues during such fiscal year.

Section 8. That the certificates herein authorized shall be sold to the Merchants Bank of Miami at par. The certificates shall be prepared and executed and delivered to the purchasers thereof pursuant to payment; and the proceeds thereof applied to the purposes for which the certificates are herein authorized.

Section 9. That if any section, paragraph, clause or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 10. That this ordinance shall be in full force and effect immediately upon its adoption.

PASSED and ADOPTED this 21st day of June, 1967, by a majority of the Council of the City of West Miami, Florida, and approved by the Mayor of said City.



PRESIDENT of City Council

ATTEST:



City Clerk:

APPROVED:



Mayor