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3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. 94 -2011
7

8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND
10 SALE OF \$1,000,000 NOTES, IN ANTICIPATION OF THE
11 ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A
12 PORTION OF COSTS OF CONSTRUCTING A STATE ROUTE
13 8 INTERCHANGE AT SEASONS ROAD, INCLUDING
14 CONSTRUCTION AND INSTALLATION OF WATER, STORM
15 SEWER AND SANITARY SEWER LINES, TRAFFIC
16 SIGNALIZATION, STREET LIGHTING AND RELATED
17 IMPROVEMENTS, AND DECLARING AN EMERGENCY.
18
19

20 WHEREAS, pursuant to Ordinance No. 107-2010 passed October 11, 2010, notes in
21 anticipation of bonds in the amount of \$1,000,000 dated December 8, 2010 (the
22 Outstanding Notes), were issued for the purpose stated in Section 1, as part of a
23 consolidated issue pursuant to Section 133.30(B) of the Revised Code in the principal
24 amount of \$12,020,000, to mature on December 8, 2011; and
25

26 WHEREAS, this Council finds and determines that the City should retire the
27 Outstanding Notes with the proceeds of the Notes described in Section 3; and
28

29 WHEREAS, the Director of Finance, as fiscal officer of this City, has certified to this
30 Council that the estimated life or period of usefulness of the improvement described in
31 Section 1 is at least five years, the estimated maximum maturity of the bonds described in
32 Section 1 is at least 20 years, and the maximum maturity of the notes described in Section
33 3, to be issued in anticipation of the bonds, is December 8, 2030;
34

35 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,
36 Summit County, Ohio, that:
37

38 Section 1. It is necessary to issue bonds of this City in the aggregate principal amount
39 of \$1,000,000 (the Bonds) for the purpose of paying a portion of the costs of constructing a
40 State Route 8 interchange at Seasons Road, including construction and installation of
41 water, storm sewer and sanitary sewer lines, traffic signalization, street lighting and
42 related improvements.
43

44 Section 2. The Bonds shall be dated approximately December 1, 2012, shall bear
45 interest at the now estimated rate of 6.0% per year, payable on June 1 and December 1 of
46 each year, commencing June 1, 2013, until the principal amount is paid, and are
47 estimated to mature in twenty annual principal installments that are in such amounts
48 that the total principal and interest payments on the Bonds in any fiscal year in which
49 principal is payable are substantially equal. The first principal installment is estimated to
50 be December 1, 2013.
51

52 Section 3. It is necessary to issue and this Council determines that notes in the
53 aggregate principal amount of \$1,000,000 (the Notes) shall be issued in anticipation of the
54 issuance of the Bonds and to retire the Outstanding Notes. The Notes shall bear interest

55 at a rate or rates not to exceed 6.0% per year (computed on the basis of a 360-day year
56 consisting of twelve 30-day months), payable at maturity and until the principal amount is
57 paid or payment is provided for. The rate or rates of interest on the Notes shall be
58 determined by the Director of Finance in the certificate awarding the Notes (the "Certificate
59 of Award") in accordance with Section 6 of this ordinance.
60

61 Section 4. The debt charges on the Notes shall be payable in Federal Reserve funds of
62 the United States of America, and shall be payable, without deduction for services of the
63 City's paying agent, at the main office of The Huntington National Bank, Columbus, Ohio
64 or at the office of a bank or trust company designated by the Director of Finance in the
65 Certificate of Award after determining that the payment at that bank or trust company will
66 not endanger the funds or securities of the City and that proper procedures and
67 safeguards are available for that purpose or at the office of the Director of Finance if agreed
68 to by the Director of Finance and the Original Purchaser (the Paying Agent). The Notes
69 shall be dated the date of issuance and shall mature not earlier than six months from that
70 date and not later than twelve months from that date, as shall likewise be fixed by the
71 Director of Finance in the Certificate of Award.
72

73 Section 5. The Notes shall be signed by the Mayor and Director of Finance, in the
74 name of the City and in their official capacities, provided that one of those signatures may
75 be a facsimile. The Notes shall be issued in the denominations and numbers as requested
76 by the Original Purchaser, as described in Section 6 hereof, and approved by the Director
77 of Finance, provided that unless the City distributes an official statement, as described in
78 Section 6 hereof, no Note shall be issued in a denomination less than \$100,000. The
79 entire principal amount may be represented by a single note and may be issued as fully
80 registered securities (for which the Director of Finance will serve as note registrar) and in
81 book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133
82 of the Revised Code if it is determined by the Director of Finance that issuance of fully
83 registered securities in that form will facilitate the sale and delivery of the Notes. The
84 Notes shall not have coupons attached, shall be numbered as determined by the Director
85 of Finance and shall express upon their faces the purpose, in summary terms, for which
86 they are issued and that they are issued pursuant to this Ordinance. As used in this
87 section and this ordinance:
88

89 "Book entry form" or "book entry system" means a form or system under which (i) the
90 ownership of beneficial interests in the Notes and the principal of, and interest on, the
91 Notes may be transferred only through a book entry, and (ii) a single physical Note
92 certificate is issued by the City and payable only to a Depository or its nominee, with such
93 Notes "immobilized" in the custody of the Depository or its agent for that purpose. The
94 book entry maintained by others than the City is the record that identifies the owners of
95 beneficial interests in the Notes and that principal and interest.
96

97 "Depository" means any securities depository that is a clearing agency under federal
98 law operating and maintaining, with its Participants or otherwise, a book entry system to
99 record ownership of beneficial interests in the Notes or the principal of, and interest on,
100 the Notes and to effect transfers of the Notes, in book entry form, and includes and means
101 initially The Depository Trust Company (a limited purpose trust company), New York, New
102 York.
103

104 "Participant" means any participant contracting with a Depository under a book entry
105 system and includes security brokers and dealers, banks and trust companies, and
106 clearing corporations.
107

108 The Notes may be issued to a Depository for use in a book entry system and, if and as
109 long as a book entry system is utilized, (i) the Notes may be issued in the form of a single
110 Note made payable to the Depository or its nominee and immobilized in the custody of the
111 Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall
112 have no right to receive the Notes in the form of physical securities or certificates; (iii)
113 ownership of beneficial interests in book entry form shall be shown by book entry on the
114 system maintained and operated by the Depository and its Participants, and transfers of
115 the ownership of beneficial interests shall be made only by book entry by the Depository
116 and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable,
117 except for transfer to another Depository or to another nominee of a Depository, without
118 further action by the City.
119

120 If any Depository determines not to continue to act as a Depository for the Notes for
121 use in a book entry system, the Directory of Finance may attempt to establish a securities
122 depository/book entry relationship with another qualified Depository. If the Director of
123 Finance does not or is unable to do so, the Director of Finance, after making provision for
124 notification of the beneficial owners by the then Depository and any other arrangements
125 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall
126 cause the Notes in bearer or payable form to be signed by the officers authorized to sign
127 the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and
128 expense (including any costs of printing), if the event is not the result of City action or
129 inaction, of those persons requesting such issuance.
130

131 The Director of Finance is also hereby authorized and directed, to the extent necessary
132 or required, to enter into any agreements determined necessary in connection with the
133 book entry system for the Notes, after determining that the signing thereof will not
134 endanger the funds or securities of the City.
135

136 Section 6. The Notes shall be sold at not less than 97% of the par value thereof at
137 private sale by the Director of Finance in accordance with law and the provisions of this
138 ordinance. The Director of Finance shall, in accordance with his determination of the best
139 interests of and financial advantages to the City and its taxpayers and conditions then
140 existing in the financial market, consistently with the provisions of Sections 3 and 4,
141 establish the interest rates to be borne by the Notes and their maturity, sign the Certificate
142 of Award referred to in Sections 3 and 4 evidencing those determinations, cause the Notes
143 to be prepared, and have the Notes signed and delivered, together with a true transcript of
144 proceedings with reference to the issuance of the Notes if requested by the Original
145 Purchaser or Purchasers (collectively, the "Original Purchaser"), to the Original Purchaser
146 upon payment of the purchase price. The Mayor and the Director of Finance are also
147 authorized, if requested by the Original Purchaser as a condition of such sale, to execute,
148 on behalf of the City, a Note Purchase Agreement between the City and such Original
149 Purchaser relating to the sale of such Notes, or the sale of any consolidated issue of which
150 the Notes are a part, substantially in the form now on file with the Clerk of Council in
151 Council File No. _____, which Note Purchase Agreement is hereby approved, together
152 with any changes or amendments not inconsistent with this ordinance and not
153 substantially adverse to the City and that are approved by the Mayor and the Director of
154 Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of
155 the Note Purchase Agreement or any amendments thereto by the Mayor and the Director
156 of Finance. The Mayor, the Director of Finance, the Clerk of Council and other City
157 officials, as appropriate, are each authorized and directed to sign any transcript
158 certificates, financial statements, continuing disclosure agreement and other documents
159 and instruments and to take such actions as are necessary and appropriate to
160 consummate the transactions contemplated by this ordinance. The Director of Finance is

161 authorized, if it is determined to be in the best interest of the City, to combine the issue of
162 Notes with one or more other note issues of the City into a consolidated note issue
163 pursuant to Section 133.30(B) of the Revised Code.
164

165 The Director of Finance is hereby authorized to offer all or part of the Notes at par and
166 any accrued interest to the Treasury Investment Board of the City for investment under
167 Section 731.56 of the Revised Code, in accordance with law and the provisions of this
168 ordinance if, as a result of the conditions then existing in the financial markets, the
169 Director of Finance determines it is in the best financial interest of the City in lieu of the
170 private sale authorized in the preceding paragraph.
171

172 If the Mayor or the Director of Finance determines it to be in the best interests of and
173 financially advantageous to the City, either or both of those officers are authorized, on
174 behalf of the City, to apply for a rating on the Notes from one or more nationally-
175 recognized rating organizations.
176

177 If in the judgment of the Mayor or the Director of Finance a disclosure document in the
178 form of an official statement (including within such term, but not limited to, an annual
179 information statement) is appropriate or necessary relating to the original issuance of the
180 Notes, either or both of those officers, on behalf of the City and in their official capacities,
181 are authorized to (i) prepare or cause to be prepared, and make or authorize modifications,
182 completions or changes of or supplements to, such an official statement, (ii) determine,
183 and to certify or otherwise represent, when the official statement is to be "deemed final"
184 (except for permitted omissions) by the City as of its date or is a final official statement for
185 purposes of SEC Rule 15c2-12(b)(1), (3) and (4), (iii) use and distribute, or authorize the
186 use and distribution of those official statements and any supplements thereto in
187 connection with the original issuance of the Notes, and (iv) complete and sign those official
188 statements as so approved together with such certificates, statements or other documents
189 in connection with the finality, accuracy and completeness of those official statements.
190

191 As used in this Section and this ordinance:

192
193 "Note proceedings" means, collectively, this ordinance and the other proceedings of the
194 City, including the Notes, that collectively provide for, among other things, the rights of
195 holders and beneficial owners of the Notes.
196

197 "Rule" means Rule 15c2-12 prescribed by the Securities and Exchange Commission
198 pursuant to the Securities Exchange Act of 1934.
199

200 "Specified Events" means the occurrence of any of the following events, within the
201 meaning of the Rule, with respect to the Notes as applicable: principal and interest
202 payment delinquencies; non-payment related defaults; unscheduled draws on debt service
203 reserves reflecting financial difficulties; unscheduled draws on credit enhancements
204 reflecting financial difficulties; substitution of credit or liquidity providers, or their failure
205 to perform; adverse tax opinions or events affecting the tax-exempt status of the Notes;
206 modifications to rights of holders or beneficial owners of the Notes; Note calls; defeasances;
207 release, substitution or sale of property securing repayment of the Notes; and rating
208 changes. The City has not obtained or provided, and does not expect to obtain or provide,
209 any debt service reserves, credit enhancements or credit or liquidity providers for the
210 Notes, the Notes are not subject to call for redemption prior to maturity, and repayment of
211 the Notes is not secured by a lien on any property capable of release or sale or for which
212 other property may be substituted.
213

214 If the City prepares and causes the distribution of an official statement for the Notes,
215 for the benefit of the holders and beneficial owners from time to time of the Notes, the City
216 agrees, as the only obligated person with respect to the Notes under the Rule, to provide or
217 cause to be provided such notices, in such manner, as may be required for purposes of
218 paragraph (b)(5)(i)(C) of the Rule, including specifically notice to the Municipal Securities
219 Rulemaking Board (MSRB) through its Electronic Municipal Market Access (EMMA)
220 system, in a timely manner, of the occurrence of any Specified Event, if that event is
221 material. (The City's agreement in this paragraph is herein referred to as the Continuing
222 Disclosure Agreement).

223
224 The Director of Finance is further authorized and directed to establish procedures to
225 ensure compliance by the City with the Continuing Disclosure Agreement, including timely
226 provision of notices as described above. Prior to providing notice of the occurrence of any
227 Specified Event or of any other events, the Director of Finance shall consult with and
228 obtain legal advice from, as appropriate, the Director of Law and bond or other qualified
229 independent special counsel selected by the City. The Director of Finance, acting in the
230 name and on behalf of the City, shall be entitled to rely upon any such legal advice in
231 determining whether a notice should be provided.

232
233 The City reserves the right to amend the Continuing Disclosure Agreement, and to
234 obtain the waiver of noncompliance with any provision of that Agreement, as may be
235 necessary or appropriate to achieve its compliance with any applicable federal securities
236 law or rule, to cure any ambiguity, inconsistency or formal defect or omission, and to
237 address any change in circumstances arising from a change in legal requirements, change
238 in law, or change in the identity, nature or status of the City, or type of business
239 conducted by the City. Any such amendment or waiver will not be effective unless the
240 Agreement (as amended or taking into account such waiver) would have complied with the
241 requirements of the Rule at the time of the primary offering of the Notes, after taking into
242 account any applicable amendments to or official interpretations of the Rule, as well as
243 any change in circumstances, and until the City shall have received: either (i) a written
244 opinion of bond or other qualified independent special counsel selected by the City that the
245 amendment or waiver would not materially impair the interests of holders or beneficial
246 owners of the Notes or (ii) the written consent to the amendment or waiver of the holders of
247 at least a majority of the principal amount of the Notes then outstanding.

248
249 The Continuing Disclosure Agreement shall be solely for the benefit of the holders and
250 beneficial owners from time to time of the Notes. The exclusive remedy for any breach of
251 the Agreement by the City shall be limited, to the extent permitted by law, to a right of
252 holders and beneficial owners to institute and maintain, or to cause to be instituted and
253 maintained, such proceedings as may be authorized at law or in equity to obtain the
254 specific performance by the City of its obligations under the Agreement. Any individual
255 holder or beneficial owner may institute and maintain, or cause to be instituted and
256 maintained, such proceedings to require the City to provide or cause to be provided a
257 pertinent filing if such a filing is due and has not been made. Any such proceedings to
258 require the City to perform any other obligation under the Agreement (including any
259 proceedings that contest the sufficiency of any pertinent filing) shall be instituted and
260 maintained only (i) by a trustee appointed by the holders and beneficial owners of not less
261 than 25% in principal amount of the Notes then outstanding or (ii) by holders and
262 beneficial owners of not less than 10% in principal amount of the Notes then outstanding,
263 in accordance with Section 133.25(B)(4)(b) or (C)(1) of the Revised Code, as applicable (or
264 any like or comparable successor provisions).

265

266 The performance by the City of the Continuing Disclosure Agreement shall be subject
267 to the annual appropriation of any funds that may be necessary to perform it.
268

269 The Continuing Disclosure Agreement shall remain in effect only for such period that
270 the Notes are outstanding in accordance with their terms and the City remains an
271 obligated person with respect to the Notes within the meaning of the Rule. The obligation
272 of the City to provide the notices of the Specified Events shall terminate, if and when the
273 City no longer remains such an obligated person.
274

275 Section 7. The proceeds from the sale of the Notes, except any premium and accrued
276 interest, shall be paid into the proper fund or funds and those proceeds are appropriated
277 and shall be used for the purpose for which the Notes are being issued. Any portion of
278 those proceeds representing premium and accrued interest shall be paid into the Bond
279 Retirement Fund.
280

281 Section 8. The par value to be received from the sale of the Bonds or of any renewal
282 notes and any excess funds resulting from the issuance of the Notes shall, to the extent
283 necessary, be used to pay the debt charges on the Notes at maturity and are pledged for
284 that purpose.
285

286 Section 9. During the year or years in which the Notes are outstanding, there shall be
287 levied on all the taxable property in the City, in addition to all other taxes, the same tax
288 that would have been levied if the Bonds had been issued without the prior issuance of the
289 Notes. The tax shall be within the eleven mill limitation provided by the Charter of the
290 City, shall be and is ordered computed, certified, levied and extended upon the tax
291 duplicate and collected by the same officers, in the same manner, and at the same time
292 that taxes for general purposes for each of those years are certified, levied, extended and
293 collected, and shall be placed before and in preference to all other items and for the full
294 amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement
295 Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the
296 Bonds when and as the same fall due. In each year to the extent money from municipal
297 income tax, as provided below, is available for the payment of the debt charges on the
298 Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be
299 reduced by the amount of the money so available and appropriated in compliance with the
300 covenant hereinafter set forth. To the extent necessary, the debt charges on the Notes and
301 Bonds shall be paid from municipal income taxes lawfully available therefor under the
302 Constitution and laws of the State of Ohio; and the City hereby covenants, subject and
303 pursuant to such authority, including particularly Section 133.05(B)(7), Revised Code, to
304 appropriate annually from such municipal income taxes such amount as is necessary to
305 meet such annual debt charges. Nothing in this paragraph in any way diminishes the
306 pledge of the full faith and credit and property taxing power of the City to the prompt
307 payment of the debt charges on the Notes.
308

309 Section 10. The City covenants that it will use, and will restrict the use and
310 investment of, the proceeds of the Notes in such manner and to such extent, as may be
311 necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds
312 or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as
313 amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code
314 applies, and (b) the interest on the Notes will not be treated as an item of tax preference
315 under Section 57 of the Code.
316

317 The City further covenants that (a) it will take or cause to be taken such actions that
318 may be required of it for the interest on the Notes to be and remain excluded from gross

319 income for federal income tax purposes, (b) it will not take or authorize to be taken any
320 actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will,
321 among other acts of compliance, (i) apply the proceeds of the Notes to the governmental
322 purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely
323 and adequate payments to the federal government, (iv) maintain books and records and
324 make calculations and reports and (v) refrain from certain uses of those proceeds, and, as
325 applicable, of property financed with such proceeds, all in such manner and to the extent
326 necessary to assure such exclusion of that interest under the Code.
327

328 The City hereby represents that the Outstanding Notes (the Refunded Obligation) were
329 designated or deemed designated, and qualified, as a "qualified tax-exempt obligation"
330 under Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the
331 Refunded Obligation from proceeds of, and within 90 days after issuance of, the Notes,
332 and represents that all other conditions are met for treating the amount of the Notes not in
333 excess of the principal amount of the Refunded Obligation outstanding immediately prior
334 to the redemption of the Refunded Obligation as "qualified tax-exempt obligations" without
335 necessity for further designation and as not to be taken into account under subparagraph
336 (D) of Section 265(b)(3) of the Code pursuant to subparagraph (D)(ii) of Section 265(b)(3) of
337 the Code.
338

339 The amount of the Notes (such amount being the issue price of the Notes less accrued
340 interest, if any, as determined under the Code) in excess of the principal amount of the
341 Refunded Obligation that is outstanding immediately prior to the redemption of the
342 Refunded Obligation is hereby designated as "qualified tax-exempt obligations" for
343 purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents
344 and covenants that it, together with all its subordinate entities or entities that issue
345 obligations on its behalf, or on behalf of which it issues obligations, in or during the
346 calendar year in which the Notes are issued, (i) have not issued and will not issue
347 tax-exempt obligations designated as "qualified tax-exempt obligations" for purposes of
348 Section 265(b)(3) of the Code, including the aforesaid amount of the Notes, in an aggregate
349 amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate
350 issuing, and will not issue, tax-exempt obligations (including the aforesaid amount of the
351 Notes, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section
352 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and
353 excluding refunding obligations that are not advance refunding obligations as defined in
354 Section 149(d)(5) of the Code to the extent that the amount of the refunding obligations
355 does not exceed the outstanding principal amount of the refunded obligations) in an
356 aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of
357 nationally recognized bond counsel that such designation or issuance, as applicable, will
358 not adversely affect the status of the Notes as "qualified tax-exempt obligations".
359

360 Further, the City represents and covenants that, during any time or in any manner as
361 might affect the status of the Notes as "qualified tax exempt obligations," it has not formed
362 or participated in the formation of, or benefitted from or availed itself of, any entity in order
363 to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will
364 not form, participate in the formation of, or benefit from or avail itself of, any such entity.
365 The City further represents that the Notes are not being issued as part of a direct or
366 indirect composite issue that combines issues or lots of tax exempt obligations of different
367 issuers.
368

369 The Director of Finance, as the fiscal officer, or any other officer of the City having
370 responsibility for issuance of the Notes is hereby authorized (a) to make or effect any
371 election, selection, designation, choice, consent, approval, or waiver on behalf of the City

372 with respect to the Notes as the City is permitted to or required to make or give under the
373 federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax
374 treatment or status of the Notes or interest thereon or assisting compliance with
375 requirements for that purpose, reducing the burden or expense of such compliance,
376 reducing the rebate amount or payments or penalties, or making payments of special
377 amounts in lieu of making computations to determine, or paying, excess earnings as
378 rebate, or obviating those amounts or payments, as determined by that officer, which
379 action shall be in writing and signed by the officer, (b) to take any and all other actions,
380 make or obtain calculations, make payments, and make or give reports, covenants and
381 certifications of and on behalf of the City, as may be appropriate to assure the exclusion of
382 interest from gross income and the intended tax status of the Notes, and (c) to give one or
383 more appropriate certificates of the City, for inclusion in the transcript of proceedings for
384 the Notes, setting forth the reasonable expectations of the City regarding the amount and
385 use of all the proceeds of the Notes, the facts, circumstances and estimates on which they
386 are based, and other facts and circumstances relevant to the tax treatment of the interest
387 on and the tax status of the Notes.
388

389 Each covenant made in this section with respect to the Notes is also made with respect
390 to all issues any portion of the debt service on which is paid from proceeds of the Notes
391 (and, if different, the original issue and any refunding issues in a series of refundings), to
392 the extent such compliance is necessary to assure exclusion of interest on the Notes from
393 gross income for federal income tax purposes, and the officers identified above are
394 authorized to take actions with respect to those issues as they are authorized in this
395 section to take with respect to the Notes.
396

397 Section 11. The Clerk of Council is directed to deliver a certified copy of this ordinance
398 to the Fiscal Officer in Summit County.
399

400 Section 12. This Council determines that all acts and conditions necessary to be done
401 or performed by the City or to have been met precedent to and in the issuing of the Notes
402 in order to make them legal, valid and binding general obligations of the City have been
403 performed and have been met, or will at the time of delivery of the Notes have been
404 performed and have been met, in regular and due form as required by law; that the full
405 faith and credit and general property taxing power (as described in Section 9) of the City
406 are pledged for the timely payment of the debt charges on the Notes; and that no statutory
407 or constitutional limitation of indebtedness or taxation will have been exceeded in the
408 issuance of the Notes.
409

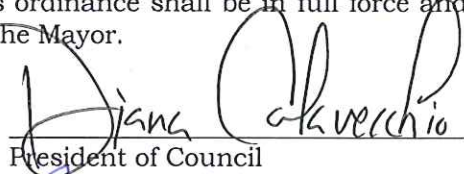
410 Section 13. The Director of Law is authorized to engage the legal services of the law
411 firm of Squire, Sanders & Dempsey (US) LLP, which legal services are to be in the nature of
412 legal advice and recommendations as to the documents and the proceedings, and
413 rendering an approving legal opinion, in connection with the issuance and sale of the
414 Notes. In rendering those legal services, as an independent contractor and in an
415 attorney-client relationship, that Firm shall not exercise any administrative discretion on
416 behalf of this City in the formulation of public policy, expenditure of public funds,
417 enforcement of laws rules and regulations of the State, any county, or cities or of this City,
418 or the execution of public trusts. For those legal services that Firm shall be paid fees now
419 estimated at \$4,000, assuming there will be no official statement, and in addition shall be
420 reimbursed for actual out-of-pocket expenses (including, but not limited to, travel,
421 long-distance telephone, fax and duplicating expenses) incurred in rendering those legal
422 services. The Director of Finance is authorized and directed to make appropriate
423 certification as to the availability of funds for that fee and any reimbursement and to issue
424 an appropriate order for their payment as they become payable.

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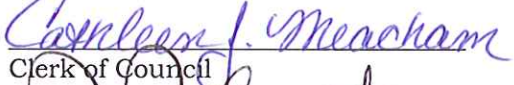
Section 14. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting and that all deliberations of this Council and of any committees that resulted in those formal actions were held, in meetings open to the public, in compliance with Chapter 107 of the City's Codified Ordinances.

Section 15. 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 Notes 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: 11-14-11

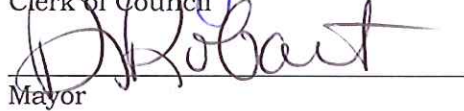


President of Council



Clerk of Council

Approved: 11/15/11



Mayor

10/31/11
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