

City of Cuyahoga Falls, Ohio

Notice of Special City Council Meeting

Notice is hereby given that a Special Meeting of City Council will be held on Monday, October 31, 2011, at 6:30 p.m. for the following purposes.

1. To introduce and assign to the following Committees the following ordinances.

Finance Committee

Temp. Ord. B-103

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$300,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF IMPROVING STATE ROAD BETWEEN GRAHAM ROAD AND STEELS CORNER ROAD BY WIDENING, CONSTRUCTING SIDEWALKS AND STORM WATER MANAGEMENT FACILITIES AND INSTALLING LIGHTING AND TRAFFIC SIGNALS, WHERE NECESSARY, AND ALL RELATED IMPROVEMENTS, AND DECLARING AN EMERGENCY.

Temp. Ord. B-104

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$85,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF IMPROVING THE CITY'S WATER SYSTEM BY REPLACING THE WATERLINE IN TAFT AVENUE AND REPLACING THE DEHUMIDIFICATION UNITS AT THE CITY'S WATER TREATMENT PLANT, AND DECLARING AN EMERGENCY.

Temp. Ord. B-105

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

Temp. Ord. B-106

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE PRINCIPAL AMOUNT OF \$300,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY'S BROOKLEDGE GOLF COURSE, AND DECLARING AN EMERGENCY.

Temp. Ord. B-107

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE PRINCIPAL AMOUNT OF \$8,000,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF CONSTRUCTING A COMMUNITY RECREATION CENTER AND ACQUIRING REAL ESTATE AND INTERESTS IN REAL ESTATE THEREFOR, AND DECLARING AN EMERGENCY.

Public Affairs

Temp. Ord. B-108

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT OF CONTRACT NO. 6613 WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 494, AND DECLARING AN EMERGENCY.

Temp. Ord. B-109

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT OF CONTRACT NO. 6619 WITH THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION, AND DECLARING AN EMERGENCY.

Temp. Ord. B-110

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT OF CONTRACT NO. 6616 WITH THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION, AND DECLARING AN EMERGENCY.

Temp. Ord. B-111

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT OF CONTRACT NO. 6640 WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC., AND DECLARING AN EMERGENCY.

Temp. Ord. B-112

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), LOCAL 2662, EFFECTIVE NOVEMBER 1, 2011, AND DECLARING AN EMERGENCY.

Community Development

Temp Ord. B-113

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT OR CONTRACTS WITHOUT COMPETITIVE BIDDING WITH SUPERIOR ENVIRONMENTAL CORPORATION FOR THE PROFESSIONAL SERVICES NECESSARY TO CONDUCT A PHASE II ENVIRONMENTAL ASSESSMENT OF CERTAIN REAL PROPERTY AS NECESSARY FOR PREPARATION AND SUBMISSION OF A GRANT APPLICATION TO THE CLEAN OHIO REVITALIZATION FUND, AND DECLARING AN EMERGENCY.

2. To permit a vote on Temp. Ords. B-108, B-109, B-110, B-111, B-112 and B-98 after discussion.
3. To conduct any other business, including without limitation, rules suspensions and executive sessions necessary to accomplish the foregoing.

Dated at Cuyahoga Falls, Ohio this 28th day of October, 2011.



Don L. Robart
Mayor

2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2011

7
8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE
10 AND SALE OF \$300,000 NOTES, IN ANTICIPATION
11 OF THE ISSUANCE OF BONDS, FOR THE PURPOSE
12 OF PAYING A PORTION OF THE COSTS OF
13 IMPROVING STATE ROAD BETWEEN GRAHAM ROAD
14 AND STEELS CORNER ROAD BY WIDENING,
15 CONSTRUCTING SIDEWALKS AND STORM WATER
16 MANAGEMENT FACILITIES AND INSTALLING
17 LIGHTING AND TRAFFIC SIGNALS, WHERE
18 NECESSARY, AND ALL RELATED IMPROVEMENTS,
19 AND DECLARING AN EMERGENCY.
20

21
22 WHEREAS, pursuant to Ordinance No. 105-2010 passed October 11, 2010,
23 notes in anticipation of bonds in the amount of \$550,000 dated December 8, 2010
24 (the Outstanding Notes), were issued for the purpose stated in Section 1, as part
25 of a consolidated issue pursuant to Section 133.30(B) of the Revised Code in the
26 principal amount of \$12,020,000, to mature on December 8, 2011; and
27

28 WHEREAS, this Council finds and determines that the City should retire the
29 Outstanding Notes with the proceeds of the Notes described in Section 3 and
30 other funds available to the City; and
31

32 WHEREAS, the Director of Finance, as fiscal officer of this City, has certified to
33 this Council that the estimated life or period of usefulness of the improvement
34 described in Section 1 is at least five years, the estimated maximum maturity of
35 the bonds described in Section 1 is at least 20 years, and the maximum maturity
36 of the notes described in Section 3, to be issued in anticipation of the bonds, is
37 December 8, 2030;
38

39 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga
40 Falls, Summit County, Ohio, that:
41

42 Section 1. It is necessary to issue bonds of this City in the aggregate principal
43 amount of \$300,000 (the Bonds) for the purpose of paying a portion of the costs of
44 improving State Road between Graham Road and Steels Corner Road by
45 widening, constructing sidewalks and storm water management facilities and
46 installing lighting and traffic signals, where necessary, and all related
47 improvements.
48

49 Section 2. The Bonds shall be dated approximately December 1, 2012, shall
50 bear interest at the now estimated rate of 6.0% per year, payable on June 1 and
51 December 1 of each year, commencing June 1, 2013, until the principal amount
52 is paid, and are estimated to mature in twenty annual principal installments that
53 are in such amounts that the total principal and interest payments on the Bonds

54 in any fiscal year in which principal is payable are substantially equal. The first
55 principal installment is estimated to be December 1, 2013.

56
57 Section 3. It is necessary to issue and this Council determines that notes in
58 the aggregate principal amount of \$300,000 (the Notes) shall be issued in
59 anticipation of the issuance of the Bonds and to retire, together with other funds
60 available to the City, the Outstanding Notes. The Notes shall bear interest at a
61 rate or rates not to exceed 6.0% per year (computed on the basis of a 360-day
62 year consisting of twelve 30-day months), payable at maturity and until the
63 principal amount is paid or payment is provided for. The rate or rates of interest
64 on the Notes shall be determined by the Director of Finance in the certificate
65 awarding the Notes (the "Certificate of Award") in accordance with Section 6 of
66 this ordinance.

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

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

97
98 "Book entry form" or "book entry system" means a form or system under
99 which (i) the ownership of beneficial interests in the Notes and the principal of,
100 and interest on, the Notes may be transferred only through a book entry, and (ii) a
101 single physical Note certificate is issued by the City and payable only to a
102 Depository or its nominee, with such Notes "immobilized" in the custody of the
103 Depository or its agent for that purpose. The book entry maintained by others
104 than the City is the record that identifies the owners of beneficial interests in the
105 Notes and that principal and interest.

106

107 “Depository” means any securities depository that is a clearing agency under
108 federal law operating and maintaining, with its Participants or otherwise, a book
109 entry system to record ownership of beneficial interests in the Notes or the
110 principal of, and interest on, the Notes and to effect transfers of the Notes, in book
111 entry form, and includes and means initially The Depository Trust Company (a
112 limited purpose trust company), New York, New York.

113
114 “Participant” means any participant contracting with a Depository under a
115 book entry system and includes security brokers and dealers, banks and trust
116 companies, and clearing corporations.

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

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

142
143 The Director of Finance is also hereby authorized and directed, to the extent
144 necessary or required, to enter into any agreements determined necessary in
145 connection with the book entry system for the Notes, after determining that the
146 signing thereof will not endanger the funds or securities of the City.

147
148 Section 6. The Notes shall be sold at not less than 97% of the par value
149 thereof at private sale by the Director of Finance in accordance with law and the
150 provisions of this ordinance. The Director of Finance shall, in accordance with his
151 determination of the best interests of and financial advantages to the City and its
152 taxpayers and conditions then existing in the financial market, consistently with
153 the provisions of Sections 3 and 4, establish the interest rates to be borne by the
154 Notes and their maturity, sign the Certificate of Award referred to in Sections 3
155 and 4 evidencing those determinations, cause the Notes to be prepared, and have
156 the Notes signed and delivered, together with a true transcript of proceedings with
157 reference to the issuance of the Notes if requested by the Original Purchaser or
158 Purchasers (collectively, the “Original Purchaser”), to the Original Purchaser upon
159 payment of the purchase price. The Mayor and the Director of Finance are also

160 authorized, if requested by the Original Purchaser as a condition of such sale, to
161 execute, on behalf of the City, a Note Purchase Agreement between the City and
162 such Original Purchaser relating to the sale of such Notes, or the sale of any
163 consolidated issue of which the Notes are a part, substantially in the form now on
164 file with the Clerk of Council in Council File No. _____, which Note Purchase
165 Agreement is hereby approved, together with any changes or amendments not
166 inconsistent with this ordinance and not substantially adverse to the City and
167 that are approved by the Mayor and the Director of Finance on behalf of the City,
168 all of which shall be conclusively evidenced by the signing of the Note Purchase
169 Agreement or any amendments thereto by the Mayor and the Director of Finance.
170 The Mayor, the Director of Finance, the Clerk of Council and other City officials,
171 as appropriate, are each authorized and directed to sign any transcript
172 certificates, financial statements, continuing disclosure agreement and other
173 documents and instruments and to take such actions as are necessary and
174 appropriate to consummate the transactions contemplated by this ordinance.
175 The Director of Finance is authorized, if it is determined to be in the best interest
176 of the City, to combine the issue of Notes with one or more other note issues of the
177 City into a consolidated note issue pursuant to Section 133.30(B) of the Revised
178 Code.

179
180 The Director of Finance is hereby authorized to offer all or part of the Notes at
181 par and any accrued interest to the Treasury Investment Board of the City for
182 investment under Section 731.56 of the Revised Code, in accordance with law and
183 the provisions of this ordinance if, as a result of the conditions then existing in
184 the financial markets, the Director of Finance determines it is in the best financial
185 interest of the City in lieu of the private sale authorized in the preceding
186 paragraph.

187
188 If the Mayor or the Director of Finance determines it to be in the best interests
189 of and financially advantageous to the City, either or both of those officers are
190 authorized, on behalf of the City, to apply for a rating on the Notes from one or
191 more nationally-recognized rating organizations.

192
193 If in the judgment of the Mayor or the Director of Finance a disclosure
194 document in the form of an official statement (including within such term, but not
195 limited to, an annual information statement) is appropriate or necessary relating
196 to the original issuance of the Notes, either or both of those officers, on behalf of
197 the City and in their official capacities, are authorized to (i) prepare or cause to be
198 prepared, and make or authorize modifications, completions or changes of or
199 supplements to, such an official statement, (ii) determine, and to certify or
200 otherwise represent, when the official statement is to be "deemed final" (except for
201 permitted omissions) by the City as of its date or is a final official statement for
202 purposes of SEC Rule 15c2-12(b)(1), (3) and (4), (iii) use and distribute, or
203 authorize the use and distribution of those official statements and any
204 supplements thereto in connection with the original issuance of the Notes, and
205 (iv) complete and sign those official statements as so approved together with such
206 certificates, statements or other documents in connection with the finality,
207 accuracy and completeness of those official statements.

208
209 As used in this Section and this ordinance:
210

211 “Note proceedings” means, collectively, this ordinance and the other
212 proceedings of the City, including the Notes, that collectively provide for, among
213 other things, the rights of holders and beneficial owners of the Notes.
214

215 “Rule” means Rule 15c2-12 prescribed by the Securities and Exchange
216 Commission pursuant to the Securities Exchange Act of 1934.
217

218 “Specified Events” means the occurrence of any of the following events, within
219 the meaning of the Rule, with respect to the Notes as applicable: principal and
220 interest payment delinquencies; non-payment related defaults; unscheduled
221 draws on debt service reserves reflecting financial difficulties; unscheduled draws
222 on credit enhancements reflecting financial difficulties; substitution of credit or
223 liquidity providers, or their failure to perform; adverse tax opinions or events
224 affecting the tax-exempt status of the Notes; modifications to rights of holders or
225 beneficial owners of the Notes; Note calls; defeasances; release, substitution or
226 sale of property securing repayment of the Notes; and rating changes. The City
227 has not obtained or provided, and does not expect to obtain or provide, any debt
228 service reserves, credit enhancements or credit or liquidity providers for the Notes,
229 the Notes are not subject to call for redemption prior to maturity, and repayment
230 of the Notes is not secured by a lien on any property capable of release or sale or
231 for which other property may be substituted.
232

233 If the City prepares and causes the distribution of an official statement for the
234 Notes, for the benefit of the holders and beneficial owners from time to time of the
235 Notes, the City agrees, as the only obligated person with respect to the Notes
236 under the Rule, to provide or cause to be provided such notices, in such manner,
237 as may be required for purposes of paragraph (b)(5)(i)(C) of the Rule, including
238 specifically notice to the Municipal Securities Rulemaking Board (MSRB) through
239 its Electronic Municipal Market Access (EMMA) system, in a timely manner, of the
240 occurrence of any Specified Event, if that event is material. (The City’s agreement
241 in this paragraph is herein referred to as the Continuing Disclosure Agreement).
242

243 The Director of Finance is further authorized and directed to establish
244 procedures to ensure compliance by the City with the Continuing Disclosure
245 Agreement, including timely provision of notices as described above. Prior to
246 providing notice of the occurrence of any Specified Event or of any other events,
247 the Director of Finance shall consult with and obtain legal advice from, as
248 appropriate, the Director of Law and bond or other qualified independent special
249 counsel selected by the City. The Director of Finance, acting in the name and on
250 behalf of the City, shall be entitled to rely upon any such legal advice in
251 determining whether a notice should be provided.
252

253 The City reserves the right to amend the Continuing Disclosure Agreement,
254 and to obtain the waiver of noncompliance with any provision of that Agreement,
255 as may be necessary or appropriate to achieve its compliance with any applicable
256 federal securities law or rule, to cure any ambiguity, inconsistency or formal
257 defect or omission, and to address any change in circumstances arising from a
258 change in legal requirements, change in law, or change in the identity, nature or
259 status of the City, or type of business conducted by the City. Any such
260 amendment or waiver will not be effective unless the Agreement (as amended or
261 taking into account such waiver) would have complied with the requirements of
262 the Rule at the time of the primary offering of the Notes, after taking into account
263 any applicable amendments to or official interpretations of the Rule, as well as

264 any change in circumstances, and until the City shall have received: either (i) a
265 written opinion of bond or other qualified independent special counsel selected by
266 the City that the amendment or waiver would not materially impair the interests
267 of holders or beneficial owners of the Notes or (ii) the written consent to the
268 amendment or waiver of the holders of at least a majority of the principal amount
269 of the Notes then outstanding.
270

271 The Continuing Disclosure Agreement shall be solely for the benefit of the
272 holders and beneficial owners from time to time of the Notes. The exclusive
273 remedy for any breach of the Agreement by the City shall be limited, to the extent
274 permitted by law, to a right of holders and beneficial owners to institute and
275 maintain, or to cause to be instituted and maintained, such proceedings as may
276 be authorized at law or in equity to obtain the specific performance by the City of
277 its obligations under the Agreement. Any individual holder or beneficial owner
278 may institute and maintain, or cause to be instituted and maintained, such
279 proceedings to require the City to provide or cause to be provided a pertinent filing
280 if such a filing is due and has not been made. Any such proceedings to require
281 the City to perform any other obligation under the Agreement (including any
282 proceedings that contest the sufficiency of any pertinent filing) shall be instituted
283 and maintained only (i) by a trustee appointed by the holders and beneficial
284 owners of not less than 25% in principal amount of the Notes then outstanding or
285 (ii) by holders and beneficial owners of not less than 10% in principal amount of
286 the Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1) of
287 the Revised Code, as applicable (or any like or comparable successor provisions).
288

289 The performance by the City of the Continuing Disclosure Agreement shall be
290 subject to the annual appropriation of any funds that may be necessary to
291 perform it.
292

293 The Continuing Disclosure Agreement shall remain in effect only for such
294 period that the Notes are outstanding in accordance with their terms and the City
295 remains an obligated person with respect to the Notes within the meaning of the
296 Rule. The obligation of the City to provide the notices of the Specified Events shall
297 terminate, if and when the City no longer remains such an obligated person.
298

299 Section 7. The proceeds from the sale of the Notes, except any premium and
300 accrued interest, shall be paid into the proper fund or funds and those proceeds
301 are appropriated and shall be used for the purpose for which the Notes are being
302 issued. Any portion of those proceeds representing premium and accrued interest
303 shall be paid into the Bond Retirement Fund.
304

305 Section 8. The par value to be received from the sale of the Bonds or of any
306 renewal notes and any excess funds resulting from the issuance of the Notes
307 shall, to the extent necessary, be used to pay the debt charges on the Notes at
308 maturity and are pledged for that purpose.
309

310 Section 9. During the year or years in which the Notes are outstanding, there
311 shall be levied on all the taxable property in the City, in addition to all other taxes,
312 the same tax that would have been levied if the Bonds had been issued without
313 the prior issuance of the Notes. The tax shall be within the eleven mill limitation
314 provided by the Charter of the City, shall be and is ordered computed, certified,
315 levied and extended upon the tax duplicate and collected by the same officers, in
316 the same manner, and at the same time that taxes for general purposes for each

317 of those years are certified, levied, extended and collected, and shall be placed
318 before and in preference to all other items and for the full amount thereof. The
319 proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is
320 irrevocably pledged for the payment of the debt charges on the Notes or the Bonds
321 when and as the same fall due. In each year to the extent money from municipal
322 income tax, as provided below, is available for the payment of the debt charges on
323 the Notes and Bonds and is appropriated for that purpose, the amount of the tax
324 shall be reduced by the amount of the money so available and appropriated in
325 compliance with the covenant hereinafter set forth. To the extent necessary, the
326 debt charges on the Notes and Bonds shall be paid from municipal income taxes
327 lawfully available therefor under the Constitution and laws of the State of Ohio;
328 and the City hereby covenants, subject and pursuant to such authority, including
329 particularly Section 133.05(B)(7), Revised Code, to appropriate annually from
330 such municipal income taxes such amount as is necessary to meet such annual
331 debt charges. Nothing in this paragraph in any way diminishes the pledge of the
332 full faith and credit and property taxing power of the City to the prompt payment
333 of the debt charges on the Notes.
334

335 Section 10. The City covenants that it will use, and will restrict the use and
336 investment of, the proceeds of the Notes in such manner and to such extent, as
337 may be necessary so that (a) the Notes will not (i) constitute private activity bonds,
338 arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal
339 Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as
340 bonds to which Section 103 of the Code applies, and (b) the interest on the Notes
341 will not be treated as an item of tax preference under Section 57 of the Code.
342

343 The City further covenants that (a) it will take or cause to be taken such
344 actions that may be required of it for the interest on the Notes to be and remain
345 excluded from gross income for federal income tax purposes, (b) it will not take or
346 authorize to be taken any actions that would adversely affect that exclusion, and
347 (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the
348 proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict
349 the yield on investment property, (iii) make timely and adequate payments to the
350 federal government, (iv) maintain books and records and make calculations and
351 reports and (v) refrain from certain uses of those proceeds, and, as applicable, of
352 property financed with such proceeds, all in such manner and to the extent
353 necessary to assure such exclusion of that interest under the Code.
354

355 The City hereby represents that the Outstanding Notes (the Refunded
356 Obligation) were designated or deemed designated, and qualified, as a “qualified
357 tax-exempt obligation” under Section 265(b)(3) of the Code. The City hereby
358 covenants that it will redeem the Refunded Obligation from proceeds of, and
359 within 90 days after issuance of, the Notes, and represents that all other
360 conditions are met for treating the amount of the Notes not in excess of the
361 principal amount of the Refunded Obligation outstanding immediately prior to the
362 redemption of the Refunded Obligation as “qualified tax-exempt obligations”
363 without necessity for further designation and as not to be taken into account
364 under subparagraph (D) of Section 265(b)(3) of the Code pursuant to
365 subparagraph (D)(ii) of Section 265(b)(3) of the Code.
366

367 The amount of the Notes (such amount being the issue price of the Notes less
368 accrued interest, if any, as determined under the Code) in excess of the principal
369 amount of the Refunded Obligation that is outstanding immediately prior to the

370 redemption of the Refunded Obligation is hereby designated as “qualified
371 tax-exempt obligations” for purposes of Section 265(b)(3) of the Code. In that
372 connection, the City hereby represents and covenants that it, together with all its
373 subordinate entities or entities that issue obligations on its behalf, or on behalf of
374 which it issues obligations, in or during the calendar year in which the Notes are
375 issued, (i) have not issued and will not issue tax-exempt obligations designated as
376 “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code,
377 including the aforesaid amount of the Notes, in an aggregate amount in excess of
378 \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and
379 will not issue, tax-exempt obligations (including the aforesaid amount of the
380 Notes, but excluding obligations, other than qualified 501(c)(3) bonds as defined
381 in Section 145 of the Code, that are private activity bonds as defined in Section
382 141 of the Code and excluding refunding obligations that are not advance
383 refunding obligations as defined in Section 149(d)(5) of the Code to the extent that
384 the amount of the refunding obligations does not exceed the outstanding principal
385 amount of the refunded obligations) in an aggregate amount exceeding
386 \$10,000,000, unless the City first obtains a written opinion of nationally
387 recognized bond counsel that such designation or issuance, as applicable, will not
388 adversely affect the status of the Notes as “qualified tax-exempt obligations”.
389

390 Further, the City represents and covenants that, during any time or in any
391 manner as might affect the status of the Notes as “qualified tax exempt
392 obligations,” it has not formed or participated in the formation of, or benefitted
393 from or availed itself of, any entity in order to avoid the purposes of subparagraph
394 (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the
395 formation of, or benefit from or avail itself of, any such entity. The City further
396 represents that the Notes are not being issued as part of a direct or indirect
397 composite issue that combines issues or lots of tax exempt obligations of different
398 issuers.
399

400 The Director of Finance, as the fiscal officer, or any other officer of the City
401 having responsibility for issuance of the Notes is hereby authorized (a) to make or
402 effect any election, selection, designation, choice, consent, approval, or waiver on
403 behalf of the City with respect to the Notes as the City is permitted to or required
404 to make or give under the federal income tax laws, for the purpose of assuring,
405 enhancing or protecting favorable tax treatment or status of the Notes or interest
406 thereon or assisting compliance with requirements for that purpose, reducing the
407 burden or expense of such compliance, reducing the rebate amount or payments
408 or penalties, or making payments of special amounts in lieu of making
409 computations to determine, or paying, excess earnings as rebate, or obviating
410 those amounts or payments, as determined by that officer, which action shall be
411 in writing and signed by the officer, (b) to take any and all other actions, make or
412 obtain calculations, make payments, and make or give reports, covenants and
413 certifications of and on behalf of the City, as may be appropriate to assure the
414 exclusion of interest from gross income and the intended tax status of the Notes,
415 and (c) to give one or more appropriate certificates of the City, for inclusion in the
416 transcript of proceedings for the Notes, setting forth the reasonable expectations
417 of the City regarding the amount and use of all the proceeds of the Notes, the
418 facts, circumstances and estimates on which they are based, and other facts and
419 circumstances relevant to the tax treatment of the interest on and the tax status
420 of the Notes.
421

422 Each covenant made in this section with respect to the Notes is also made
423 with respect to all issues any portion of the debt service on which is paid from
424 proceeds of the Notes (and, if different, the original issue and any refunding issues
425 in a series of refundings), to the extent such compliance is necessary to assure
426 exclusion of interest on the Notes from gross income for federal income tax
427 purposes, and the officers identified above are authorized to take actions with
428 respect to those issues as they are authorized in this section to take with respect
429 to the Notes.

430
431 Section 11. The Clerk of Council is directed to deliver a certified copy of this
432 ordinance to the Fiscal Officer in Summit County.

433
434 Section 12. This Council determines that all acts and conditions necessary to
435 be done or performed by the City or to have been met precedent to and in the
436 issuing of the Notes in order to make them legal, valid and binding general
437 obligations of the City have been performed and have been met, or will at the time
438 of delivery of the Notes have been performed and have been met, in regular and
439 due form as required by law; that the full faith and credit and general property
440 taxing power (as described in Section 9) of the City are pledged for the timely
441 payment of the debt charges on the Notes; and that no statutory or constitutional
442 limitation of indebtedness or taxation will have been exceeded in the issuance of
443 the Notes.

444
445 Section 13. The Director of Law is authorized to engage the legal services of
446 the law firm of Squire, Sanders & Dempsey (US) LLP, which legal services are to
447 be in the nature of legal advice and recommendations as to the documents and
448 the proceedings, and rendering an approving legal opinion, in connection with the
449 issuance and sale of the Notes. In rendering those legal services, as an
450 independent contractor and in an attorney-client relationship, that Firm shall not
451 exercise any administrative discretion on behalf of this City in the formulation of
452 public policy, expenditure of public funds, enforcement of laws rules and
453 regulations of the State, any county, or cities or of this City, or the execution of
454 public trusts. For those legal services that Firm shall be paid fees now estimated
455 at \$3,500, assuming there will be no official statement, and in addition shall be
456 reimbursed for actual out-of-pocket expenses (including, but not limited to, travel,
457 long-distance telephone, fax and duplicating expenses) incurred in rendering
458 those legal services. The Director of Finance is authorized and directed to make
459 appropriate certification as to the availability of funds for that fee and any
460 reimbursement and to issue an appropriate order for their payment as they
461 become payable.

462
463 Section 14. This Council finds and determines that all formal actions of this
464 Council and of any of its committees concerning and relating to the passage of
465 this ordinance were taken in an open meeting and that all deliberations of this
466 Council and of any committees that resulted in those formal actions were held, in
467 meetings open to the public, in compliance with Chapter 107 of the City's Codified
468 Ordinances.

469
470 Section 15. This ordinance is declared to be an emergency measure necessary
471 for the immediate preservation of the public peace, health and safety of the City,
472 and for the further reason that this ordinance is required to be immediately
473 effective in order to issue and sell the Notes, which is necessary to enable the City
474 to timely retire the Outstanding Notes and thereby preserve its credit; wherefore,

475 this ordinance shall be in full force and effect immediately upon its passage and
476 approval by the Mayor.

477
478

479 Passed: _____

President of Council

481
482

483
484

Clerk of Council

485 Approved: _____

Mayor

486
487

488 10/31/11

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2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2011

7
8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND
10 SALE OF \$85,000 NOTES, IN ANTICIPATION OF THE
11 ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A
12 PORTION OF THE COSTS OF IMPROVING THE CITY'S
13 WATER SYSTEM BY REPLACING THE WATERLINE IN TAFT
14 AVENUE AND REPLACING THE DEHUMIDIFICATION
15 UNITS AT THE CITY'S WATER TREATMENT PLANT, AND
16 DECLARING AN EMERGENCY.
17

18
19 WHEREAS, pursuant to Ordinance No. 101-2010 passed October 11, 2010, notes in
20 anticipation of bonds in the amount of \$170,000 dated December 8, 2010 (the
21 Outstanding Notes), were issued for the purpose stated in Section 1, as part of a
22 consolidated issue pursuant to Section 133.30(B) of the Revised Code in the principal
23 amount of \$12,020,000, to mature on December 8, 2011; and
24

25 WHEREAS, this Council finds and determines that the City should retire the
26 Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds
27 available to the City; 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 27 years, and the maximum maturity of the notes described in Section 3, to
33 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 \$85,000 (the Bonds) for the purpose of paying a portion of the costs of improving the
40 City's water system by replacing the waterline in Taft Avenue and replacing the
41 dehumidification units at the City's Water Treatment Plant.
42

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

51 Section 3. It is necessary to issue and this Council determines that notes in the
52 aggregate principal amount of \$85,000 (the Notes) shall be issued in anticipation of the
53 issuance of the Bonds and to retire, together with other funds available to the City, the
54 Outstanding Notes. The Notes shall bear interest at a rate or rates not to exceed 6.0% per

55 year (computed on the basis of a 360-day year consisting of twelve 30-day months),
56 payable at maturity and until the principal amount is paid or payment is provided for.
57 The rate or rates of interest on the Notes shall be determined by the Director of Finance in
58 the certificate awarding the Notes (the "Certificate of Award") in accordance with Section 6
59 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 Director 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 the City's
297 water system or from municipal income tax, as provided below, is available for the
298 payment of the debt charges on the Notes and Bonds and is appropriated for that purpose,
299 the amount of the tax shall be reduced by the amount of the money so available and
300 appropriated in compliance with the covenant hereinafter set forth. To the extent not
301 provided for by the revenues from the City's water system, the debt charges on the Notes
302 and Bonds shall be paid from municipal income taxes lawfully available therefor under the
303 Constitution and laws of the State of Ohio; and the City hereby covenants, subject and
304 pursuant to such authority, including particularly Section 133.05(B)(7), Revised Code, to
305 appropriate annually from such municipal income taxes such amount as is necessary to
306 meet such annual debt charges. Nothing in this paragraph in any way diminishes the
307 pledge of the full faith and credit and property taxing power of the City to the prompt
308 payment of the debt charges on the Notes.
309

310 Section 10. The City covenants that it will use, and will restrict the use and
311 investment of, the proceeds of the Notes in such manner and to such extent, as may be
312 necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds
313 or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as
314 amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code
315 applies, and (b) the interest on the Notes will not be treated as an item of tax preference
316 under Section 57 of the Code.
317

318 The City further covenants that (a) it will take or cause to be taken such actions that
319 may be required of it for the interest on the Notes to be and remain excluded from gross
320 income for federal income tax purposes, (b) it will not take or authorize to be taken any
321 actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will,
322 among other acts of compliance, (i) apply the proceeds of the Notes to the governmental
323 purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely
324 and adequate payments to the federal government, (iv) maintain books and records and
325 make calculations and reports and (v) refrain from certain uses of those proceeds, and, as
326 applicable, of property financed with such proceeds, all in such manner and to the extent
327 necessary to assure such exclusion of that interest under the Code.
328

329 The City hereby represents that the Outstanding Notes (the Refunded Obligation) were
330 designated or deemed designated, and qualified, as a “qualified tax-exempt obligation”
331 under Section 265(b)(3) of the Code. The City hereby covenants that it will redeem the
332 Refunded Obligation from proceeds of, and within 90 days after issuance of, the Notes,
333 and represents that all other conditions are met for treating the amount of the Notes not in
334 excess of the principal amount of the Refunded Obligation outstanding immediately prior
335 to the redemption of the Refunded Obligation as “qualified tax-exempt obligations” without
336 necessity for further designation and as not to be taken into account under subparagraph
337 (D) of Section 265(b)(3) of the Code pursuant to subparagraph (D)(ii) of Section 265(b)(3) of
338 the Code.
339

340 The amount of the Notes (such amount being the issue price of the Notes less accrued
341 interest, if any, as determined under the Code) in excess of the principal amount of the
342 Refunded Obligation that is outstanding immediately prior to the redemption of the
343 Refunded Obligation is hereby designated as “qualified tax-exempt obligations” for
344 purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents
345 and covenants that it, together with all its subordinate entities or entities that issue
346 obligations on its behalf, or on behalf of which it issues obligations, in or during the
347 calendar year in which the Notes are issued, (i) have not issued and will not issue
348 tax-exempt obligations designated as “qualified tax-exempt obligations” for purposes of
349 Section 265(b)(3) of the Code, including the aforesaid amount of the Notes, in an aggregate
350 amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate
351 issuing, and will not issue, tax-exempt obligations (including the aforesaid amount of the
352 Notes, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section
353 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and
354 excluding refunding obligations that are not advance refunding obligations as defined in
355 Section 149(d)(5) of the Code to the extent that the amount of the refunding obligations
356 does not exceed the outstanding principal amount of the refunded obligations) in an
357 aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of
358 nationally recognized bond counsel that such designation or issuance, as applicable, will
359 not adversely affect the status of the Notes as “qualified tax-exempt obligations”.
360

361 Further, the City represents and covenants that, during any time or in any manner as
362 might affect the status of the Notes as “qualified tax exempt obligations,” it has not formed
363 or participated in the formation of, or benefitted from or availed itself of, any entity in order
364 to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will
365 not form, participate in the formation of, or benefit from or avail itself of, any such entity.
366 The City further represents that the Notes are not being issued as part of a direct or
367 indirect composite issue that combines issues or lots of tax exempt obligations of different
368 issuers.
369

370 The Director of Finance, as the fiscal officer, or any other officer of the City having
371 responsibility for issuance of the Notes is hereby authorized (a) to make or effect any
372 election, selection, designation, choice, consent, approval, or waiver on behalf of the City
373 with respect to the Notes as the City is permitted to or required to make or give under the
374 federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax
375 treatment or status of the Notes or interest thereon or assisting compliance with
376 requirements for that purpose, reducing the burden or expense of such compliance,
377 reducing the rebate amount or payments or penalties, or making payments of special
378 amounts in lieu of making computations to determine, or paying, excess earnings as
379 rebate, or obviating those amounts or payments, as determined by that officer, which
380 action shall be in writing and signed by the officer, (b) to take any and all other actions,
381 make or obtain calculations, make payments, and make or give reports, covenants and
382 certifications of and on behalf of the City, as may be appropriate to assure the exclusion of
383 interest from gross income and the intended tax status of the Notes, and (c) to give one or
384 more appropriate certificates of the City, for inclusion in the transcript of proceedings for
385 the Notes, setting forth the reasonable expectations of the City regarding the amount and
386 use of all the proceeds of the Notes, the facts, circumstances and estimates on which they
387 are based, and other facts and circumstances relevant to the tax treatment of the interest
388 on and the tax status of the Notes.
389

390 Each covenant made in this section with respect to the Notes is also made with respect
391 to all issues any portion of the debt service on which is paid from proceeds of the Notes
392 (and, if different, the original issue and any refunding issues in a series of refundings), to
393 the extent such compliance is necessary to assure exclusion of interest on the Notes from
394 gross income for federal income tax purposes, and the officers identified above are
395 authorized to take actions with respect to those issues as they are authorized in this
396 section to take with respect to the Notes.
397

398 Section 11. The Clerk of Council is directed to deliver a certified copy of this ordinance
399 to the Fiscal Officer in Summit County.
400

401 Section 12. This Council determines that all acts and conditions necessary to be done
402 or performed by the City or to have been met precedent to and in the issuing of the Notes
403 in order to make them legal, valid and binding general obligations of the City have been
404 performed and have been met, or will at the time of delivery of the Notes have been
405 performed and have been met, in regular and due form as required by law; that the full
406 faith and credit and general property taxing power (as described in Section 9) of the City
407 are pledged for the timely payment of the debt charges on the Notes; and that no statutory
408 or constitutional limitation of indebtedness or taxation will have been exceeded in the
409 issuance of the Notes.
410

411 Section 13. The Director of Law is authorized to engage the legal services of the law
412 firm of Squire, Sanders & Dempsey (US) LLP, which legal services are to be in the nature of
413 legal advice and recommendations as to the documents and the proceedings, and
414 rendering an approving legal opinion, in connection with the issuance and sale of the
415 Notes. In rendering those legal services, as an independent contractor and in an
416 attorney-client relationship, that Firm shall not exercise any administrative discretion on
417 behalf of this City in the formulation of public policy, expenditure of public funds,
418 enforcement of laws rules and regulations of the State, any county, or cities or of this City,
419 or the execution of public trusts. For those legal services that Firm shall be paid fees now
420 estimated at \$2,500, assuming there will be no official statement, and in addition shall be
421 reimbursed for actual out-of-pocket expenses (including, but not limited to, travel,
422 long-distance telephone, fax and duplicating expenses) incurred in rendering those legal

423 services. The Director of Finance is authorized and directed to make appropriate
424 certification as to the availability of funds for that fee and any reimbursement and to issue
425 an appropriate order for their payment as they become payable.
426

427 Section 14. This Council finds and determines that all formal actions of this Council
428 and of any of its committees concerning and relating to the passage of this ordinance were
429 taken in an open meeting and that all deliberations of this Council and of any committees
430 that resulted in those formal actions were held, in meetings open to the public, in
431 compliance with Chapter 107 of the City's Codified Ordinances.
432

433 Section 15. This ordinance is declared to be an emergency measure necessary for the
434 immediate preservation of the public peace, health and safety of the City, and for the
435 further reason that this ordinance is required to be immediately effective in order to issue
436 and sell the Notes, which is necessary to enable the City to timely retire the Outstanding
437 Notes and thereby preserve its credit; wherefore, this ordinance shall be in full force and
438 effect immediately upon its passage and approval by the Mayor.
439
440

441 Passed: _____

President of Council

442

443

444

445

446

447

448

449

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10/31/11

O:\2011ords\Ordinance_-_Water.DOC

Clerk of Council

Approved: _____

Mayor

2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -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 Director 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: _____

President of Council

Clerk of Council

Approved: _____

Mayor

10/31/11
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4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2011

7
8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND
10 SALE OF NOTES IN THE PRINCIPAL AMOUNT OF
11 \$300,000, IN ANTICIPATION OF THE ISSUANCE OF
12 BONDS, FOR THE PURPOSE OF PAYING COSTS OF
13 IMPROVING THE CITY'S BROOKLEDGE GOLF COURSE,
14 AND DECLARING AN EMERGENCY.
15

16
17 WHEREAS, pursuant to Ordinance No. 104-2010 passed October 11, 2010, notes in
18 anticipation of bonds in the amount of \$700,000 dated December 8, 2010 (the
19 Outstanding Notes), were issued for the purpose stated in Section 1 (the Project), as part of
20 a consolidated issue pursuant to Section 133.30(B) of the Revised Code in the principal
21 amount of \$12,020,000, to mature on December 8, 2011; and
22

23 WHEREAS, this Council finds and determines that the City should retire the
24 Outstanding Notes with the proceeds of those Bonds and with the proceeds of the Notes
25 described in Section 3 and other funds available to the City; and
26

27 WHEREAS, the Director of Finance, as fiscal officer of this City, has certified to this
28 Council that the estimated life or period of usefulness of the improvement described in
29 Section 1 is at least five years, the estimated maximum maturity of the bonds described in
30 Section 1 is 30 years, and the maximum maturity of the notes described in Section 3, to
31 be issued in anticipation of the bonds, is December 9, 2029;
32

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

36 Section 1. It is necessary to issue bonds of this City in the principal amount of
37 \$300,000 (the Bonds) for the purpose of paying costs of improving the City's Brookledge
38 Golf Course.
39

40 Section 2. The Bonds shall be dated approximately December 1, 2012, shall bear
41 interest at the now estimated rate of 6.0% per year, payable on June 1 and December 1 of
42 each year, commencing June 1, 2013, until the principal amount is paid, and are
43 estimated to mature in twenty annual principal installments that are in such amounts
44 that the total principal and interest payments on the Bonds in any fiscal year in which
45 principal is payable are not more than three times the amount of those payments in any
46 other fiscal year. The first principal installment is estimated to be December 1, 2013.
47

48 Section 3. It is necessary to issue and this Council determines that notes in the
49 aggregate principal amount of \$300,000 (the Notes) shall be issued in anticipation of the
50 issuance of the Bonds and to retire, together with other funds available to the City, the
51 Outstanding Notes. The Notes shall bear interest at a rate or rates not to exceed 6.0% per
52 year (computed on the basis of a 360-day year consisting of twelve 30-day months),
53 payable at maturity and until the principal amount is paid or payment is provided for.

54 The rate or rates of interest on the Notes shall be determined by the Director of Finance in
55 the certificate awarding the Notes (the "Certificate of Award") in accordance with Section 6
56 of this ordinance.
57

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

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

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

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

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

105 The Notes may be issued to a Depository for use in a book entry system and, if and as
106 long as a book entry system is utilized, (i) the Notes may be issued in the form of a single

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

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

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

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

159 Notes with one or more other note issues of the City into a consolidated note issue
160 pursuant to Section 133.30(B) of the Revised Code.
161

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

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

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

188 As used in this Section and this ordinance:
189

190 “Note proceedings” means, collectively, this ordinance and the other proceedings of the
191 City, including the Notes, that collectively provide for, among other things, the rights of
192 holders and beneficial owners of the Notes.
193

194 “Rule” means Rule 15c2-12 prescribed by the Securities and Exchange Commission
195 pursuant to the Securities Exchange Act of 1934.
196

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

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

220
221 The Director of Finance is further authorized and directed to establish procedures to
222 ensure compliance by the City with the Continuing Disclosure Agreement, including timely
223 provision of notices as described above. Prior to providing notice of the occurrence of any
224 Specified Event or of any other events, the Director of Finance shall consult with and
225 obtain legal advice from, as appropriate, the Director of Law and bond or other qualified
226 independent special counsel selected by the City. The Director of Finance, acting in the
227 name and on behalf of the City, shall be entitled to rely upon any such legal advice in
228 determining whether a notice should be provided.

229
230 The City reserves the right to amend the Continuing Disclosure Agreement, and to
231 obtain the waiver of noncompliance with any provision of that Agreement, as may be
232 necessary or appropriate to achieve its compliance with any applicable federal securities
233 law or rule, to cure any ambiguity, inconsistency or formal defect or omission, and to
234 address any change in circumstances arising from a change in legal requirements, change
235 in law, or change in the identity, nature or status of the City, or type of business
236 conducted by the City. Any such amendment or waiver will not be effective unless the
237 Agreement (as amended or taking into account such waiver) would have complied with the
238 requirements of the Rule at the time of the primary offering of the Notes, after taking into
239 account any applicable amendments to or official interpretations of the Rule, as well as
240 any change in circumstances, and until the City shall have received: either (i) a written
241 opinion of bond or other qualified independent special counsel selected by the City that the
242 amendment or waiver would not materially impair the interests of holders or beneficial
243 owners of the Notes or (ii) the written consent to the amendment or waiver of the holders of
244 at least a majority of the principal amount of the Notes then outstanding.

245
246 The Continuing Disclosure Agreement shall be solely for the benefit of the holders and
247 beneficial owners from time to time of the Notes. The exclusive remedy for any breach of
248 the Agreement by the City shall be limited, to the extent permitted by law, to a right of
249 holders and beneficial owners to institute and maintain, or to cause to be instituted and
250 maintained, such proceedings as may be authorized at law or in equity to obtain the
251 specific performance by the City of its obligations under the Agreement. Any individual
252 holder or beneficial owner may institute and maintain, or cause to be instituted and
253 maintained, such proceedings to require the City to provide or cause to be provided a
254 pertinent filing if such a filing is due and has not been made. Any such proceedings to
255 require the City to perform any other obligation under the Agreement (including any
256 proceedings that contest the sufficiency of any pertinent filing) shall be instituted and
257 maintained only (i) by a trustee appointed by the holders and beneficial owners of not less
258 than 25% in principal amount of the Notes then outstanding or (ii) by holders and
259 beneficial owners of not less than 10% in principal amount of the Notes then outstanding,
260 in accordance with Section 133.25(B)(4)(b) or (C)(1) of the Revised Code, as applicable (or
261 any like or comparable successor provisions).

262

263 The performance by the City of the Continuing Disclosure Agreement shall be subject
264 to the annual appropriation of any funds that may be necessary to perform it.
265

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

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

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

283 Section 9. During the year or years in which the Notes are outstanding, there shall be
284 levied on all the taxable property in the City, in addition to all other taxes, the same tax
285 that would have been levied if the Bonds had been issued without the prior issuance of the
286 Notes. The tax shall be within the eleven mill limitation provided by the Charter of the
287 City, shall be and is ordered computed, certified, levied and extended upon the tax
288 duplicate and collected by the same officers, in the same manner, and at the same time
289 that taxes for general purposes for each of those years are certified, levied, extended and
290 collected, and shall be placed before and in preference to all other items and for the full
291 amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement
292 Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the
293 Bonds when and as the same fall due. In each year to the extent money from the City's
294 recreation system or from municipal income tax, as provided below, is available for the
295 payment of the debt charges on the Notes and Bonds and is appropriated for that purpose,
296 the amount of the tax shall be reduced by the amount of the money so available and
297 appropriated in compliance with the covenant hereinafter set forth. To the extent not
298 provided for by the revenues from the City's recreation system, the debt charges on the
299 Notes and Bonds shall be paid from municipal income taxes lawfully available therefor
300 under the Constitution and laws of the State of Ohio; and the City hereby covenants,
301 subject and pursuant to such authority, including particularly Section 133.05(B)(7),
302 Revised Code, to appropriate annually from such municipal income taxes such amount as
303 is necessary to meet such annual debt charges. Nothing in this paragraph in any way
304 diminishes the pledge of the full faith and credit and property taxing power of the City to
305 the prompt payment of the debt charges on the Notes.
306

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

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

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

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

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

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

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

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

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

408 Section 13. The Director of Law is authorized to engage the legal services of the law
409 firm of Squire, Sanders & Dempsey (US) LLP, which legal services are to be in the nature of
410 legal advice and recommendations as to the documents and the proceedings, and
411 rendering an approving legal opinion, in connection with the issuance and sale of the
412 Notes. In rendering those legal services, as an independent contractor and in an
413 attorney-client relationship, that Firm shall not exercise any administrative discretion on
414 behalf of this City in the formulation of public policy, expenditure of public funds,
415 enforcement of laws rules and regulations of the State, any county, or cities or of this City,
416 or the execution of public trusts. For those legal services that Firm shall be paid fees now
417 estimated at \$3,500, assuming there will be no official statement, and in addition shall be
418 reimbursed for actual out-of-pocket expenses (including, but not limited to, travel,
419 long-distance telephone, fax and duplicating expenses) incurred in rendering those legal

420 services. The Director of Finance is authorized and directed to make appropriate
421 certification as to the availability of funds for that fee and any reimbursement and to issue
422 an appropriate order for their payment as they become payable.
423

424 Section 14. This Council finds and determines that all formal actions of this Council
425 and of any of its committees concerning and relating to the passage of this ordinance were
426 taken in an open meeting and that all deliberations of this Council and of any committees
427 that resulted in those formal actions were held, in meetings open to the public, in
428 compliance with Chapter 107 of the City's Codified Ordinances.
429

430 Section 15. This ordinance is declared to be an emergency measure necessary for the
431 immediate preservation of the public peace, health and safety of the City, and for the
432 further reason that this ordinance is required to be immediately effective in order to issue
433 and sell the Notes, which is necessary to enable the City to timely retire the Outstanding
434 Notes and thereby preserve its credit; wherefore, this ordinance shall be in full force and
435 effect immediately upon its passage and approval by the Mayor.
436

437
438 Passed: _____
439 _____
440 President of Council

441 _____
442 Clerk of Council

443
444 Approved: _____
445 _____
446 Mayor

447 10/31/11
448 O:\2011ords\Ordinance_-_Golf_Course.DOC

2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2011

7
8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE
10 AND SALE OF NOTES IN THE PRINCIPAL AMOUNT
11 OF \$8,000,000, IN ANTICIPATION OF THE ISSUANCE
12 OF BONDS, FOR THE PURPOSE OF PAYING A
13 PORTION OF THE COSTS OF CONSTRUCTING A
14 COMMUNITY RECREATION CENTER AND
15 ACQUIRING REAL ESTATE AND INTERESTS IN REAL
16 ESTATE THEREFOR, AND DECLARING AN
17 EMERGENCY.
18
19

20 WHEREAS, pursuant to Ordinance No. 103-2010 passed October 11, 2010,
21 notes in anticipation of bonds in the amount of \$9,000,000 dated December 8,
22 2010 (the Outstanding Notes), were issued for the purpose stated in Section 1 (the
23 Project), as part of a consolidated issue pursuant to Section 133.30(B) of the
24 Revised Code in the principal amount of \$12,020,000, to mature on December 8,
25 2011; and
26

27 WHEREAS, this Council finds and determines that the City should retire the
28 Outstanding Notes with the proceeds of those Bonds and with the proceeds of the
29 Notes described in Section 3 and other funds available to the City; and
30

31 WHEREAS, the Director of Finance, as fiscal officer of this City, has certified to
32 this Council that the estimated life or period of usefulness of the improvement
33 described in Section 1 is at least five years, the estimated maximum maturity of
34 the bonds described in Section 1 is 25 years, as the Project costs funded by the
35 Notes are allocated entirely to building costs, and the maximum maturity of the
36 notes described in Section 3, to be issued in anticipation of the bonds, is
37 December 18, 2022;
38

39 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga
40 Falls, Summit County, Ohio, that:
41

42 Section 1. It is necessary to issue bonds of this City in the principal amount of
43 \$8,000,000 (the Bonds) for the purpose of paying a portion of the costs of
44 constructing a community recreation center and acquiring real estate and
45 interests in real estate therefor.
46

47 Section 2. The Bonds shall be dated approximately December 1, 2012, shall
48 bear interest at the now estimated rate of 6.0% per year, payable on June 1 and
49 December 1 of each year, commencing June 1, 2013, until the principal amount
50 is paid, and are estimated to mature in twenty-five annual principal installments
51 that are in such amounts that the total principal and interest payments on the
52 Bonds in any fiscal year in which principal is payable are not more than three

53 times the amount of those payments in any other fiscal year. The first principal
54 installment is estimated to be December 1, 2013.
55

56 Section 3. It is necessary to issue and this Council determines that notes in
57 the aggregate principal amount of \$8,000,000 (the Notes) shall be issued in
58 anticipation of the issuance of the Bonds and to retire, together with other funds
59 available to the City, the Outstanding Notes. The Notes shall bear interest at a
60 rate or rates not to exceed 6.0% per year (computed on the basis of a 360-day
61 year consisting of twelve 30-day months), payable at maturity and until the
62 principal amount is paid or payment is provided for. The rate or rates of interest
63 on the Notes shall be determined by the Director of Finance in the certificate
64 awarding the Notes (the "Certificate of Award") in accordance with Section 6 of
65 this ordinance.
66

67 Section 4. The debt charges on the Notes shall be payable in Federal Reserve
68 funds of the United States of America, and shall be payable, without deduction for
69 services of the City's paying agent, at the main office of The Huntington National
70 Bank, Columbus, Ohio or at the office of a bank or trust company designated by
71 the Director of Finance in the Certificate of Award after determining that the
72 payment at that bank or trust company will not endanger the funds or securities
73 of the City and that proper procedures and safeguards are available for that
74 purpose or at the office of the Director of Finance if agreed to by the Director of
75 Finance and the Original Purchaser (the Paying Agent). The Notes shall be dated
76 the date of issuance and shall mature not earlier than six months from that date
77 and not later than twelve months from that date, as shall likewise be fixed by the
78 Director of Finance in the Certificate of Award.
79

80 Section 5. The Notes shall be signed by the Mayor and Director of Finance, in
81 the name of the City and in their official capacities, provided that one of those
82 signatures may be a facsimile. The Notes shall be issued in the denominations
83 and numbers as requested by the Original Purchaser, as described in Section 6
84 hereof, and approved by the Director of Finance, provided that unless the City
85 distributes an official statement, as described in Section 6 hereof, no Note shall be
86 issued in a denomination less than \$100,000. The entire principal amount may
87 be represented by a single note and may be issued as fully registered securities
88 (for which the Director of Finance will serve as note registrar) and in book entry or
89 other uncertificated form in accordance with Section 9.96 and Chapter 133 of the
90 Revised Code if it is determined by the Director of Finance that issuance of fully
91 registered securities in that form will facilitate the sale and delivery of the Notes.
92 The Notes shall not have coupons attached, shall be numbered as determined by
93 the Director of Finance and shall express upon their faces the purpose, in
94 summary terms, for which they are issued and that they are issued pursuant to
95 this Ordinance. As used in this section and this ordinance:
96

97 "Book entry form" or "book entry system" means a form or system under
98 which (i) the ownership of beneficial interests in the Notes and the principal of,
99 and interest on, the Notes may be transferred only through a book entry, and (ii) a
100 single physical Note certificate is issued by the City and payable only to a
101 Depository or its nominee, with such Notes "immobilized" in the custody of the
102 Depository or its agent for that purpose. The book entry maintained by others
103 than the City is the record that identifies the owners of beneficial interests in the
104 Notes and that principal and interest.
105

106 “Depository” means any securities depository that is a clearing agency under
107 federal law operating and maintaining, with its Participants or otherwise, a book
108 entry system to record ownership of beneficial interests in the Notes or the
109 principal of, and interest on, the Notes and to effect transfers of the Notes, in book
110 entry form, and includes and means initially The Depository Trust Company (a
111 limited purpose trust company), New York, New York.

112
113 “Participant” means any participant contracting with a Depository under a
114 book entry system and includes security brokers and dealers, banks and trust
115 companies, and clearing corporations.

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

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

141
142 The Director of Finance is also hereby authorized and directed, to the extent
143 necessary or required, to enter into any agreements determined necessary in
144 connection with the book entry system for the Notes, after determining that the
145 signing thereof will not endanger the funds or securities of the City.

146
147 Section 6. The Notes shall be sold at not less than 97% of the par value
148 thereof at private sale by the Director of Finance in accordance with law and the
149 provisions of this ordinance. The Director of Finance shall, in accordance with his
150 determination of the best interests of and financial advantages to the City and its
151 taxpayers and conditions then existing in the financial market, consistently with
152 the provisions of Sections 3 and 4, establish the interest rates to be borne by the
153 Notes and their maturity, sign the Certificate of Award referred to in Sections 3
154 and 4 evidencing those determinations, cause the Notes to be prepared, and have
155 the Notes, signed and delivered, together with a true transcript of proceedings
156 with reference to the issuance of the Notes, if requested by the Original Purchaser
157 or Purchasers (collectively, the “Original Purchaser”), to the Original Purchaser
158 upon payment of the purchase price. The Mayor and the Director of Finance are

159 also authorized, if requested by the Original Purchaser as a condition of such
160 sale, to execute, on behalf of the City, a Note Purchase Agreement between the
161 City and such Original Purchaser relating to the sale of such Notes, or the sale of
162 any consolidated issue of which the Notes are a part, substantially in the form
163 now on file with the Clerk of Council in Council File No. _____, which Note
164 Purchase Agreement is hereby approved, together with any changes or
165 amendments not inconsistent with this ordinance and not substantially adverse
166 to the City and that are approved by the Mayor and the Director of Finance on
167 behalf of the City, all of which shall be conclusively evidenced by the signing of the
168 Note Purchase Agreement or any amendments thereto by the Mayor and the
169 Director of Finance. The Mayor, the Director of Finance, the Clerk of Council and
170 other City officials, as appropriate, are each authorized and directed to sign any
171 transcript certificates, financial statements, continuing disclosure agreement and
172 other documents and instruments and to take such actions as are necessary and
173 appropriate to consummate the transactions contemplated by this ordinance.
174 The Director of Finance is authorized, if it is determined to be in the best interest
175 of the City, to combine the issue of Notes with one or more other note issues of the
176 City into a consolidated note issue pursuant to Section 133.30(B) of the Revised
177 Code.

178
179 The Director of Finance is hereby authorized to offer all or part of the Notes at
180 par and any accrued interest to the Treasury Investment Board of the City for
181 investment under Section 731.56 of the Revised Code, in accordance with law and
182 the provisions of this ordinance if, as a result of the conditions then existing in the
183 financial markets, the Director of Finance determines it is in the best financial
184 interest of the City in lieu of the private sale authorized in the preceding
185 paragraph.

186
187 If the Mayor or the Director of Finance determines it to be in the best interests
188 of and financially advantageous to the City, either or both of those officers are
189 authorized, on behalf of the City, to apply for a rating on the Notes from one or
190 more nationally-recognized rating organizations.

191
192 If in the judgment of the Mayor or the Director of Finance a disclosure
193 document in the form of an official statement (including within such term, but not
194 limited to, an annual information statement) is appropriate or necessary relating
195 to the original issuance of the Notes, either or both of those officers, on behalf of
196 the City and in their official capacities, are authorized to (i) prepare or cause to be
197 prepared, and make or authorize modifications, completions or changes of or
198 supplements to, such an official statement, (ii) determine, and to certify or
199 otherwise represent, when the official statement is to be "deemed final" (except for
200 permitted omissions) by the City as of its date or is a final official statement for
201 purposes of SEC Rule 15c2-12(b)(1), (3) and (4), (iii) use and distribute, or
202 authorize the use and distribution of those official statements and any
203 supplements thereto in connection with the original issuance of the Notes, and
204 (iv) complete and sign those official statements as so approved together with such
205 certificates, statements or other documents in connection with the finality,
206 accuracy and completeness of those official statements.

207
208 As used in this Section and this ordinance:
209

210 “Note proceedings” means, collectively, this ordinance and the other
211 proceedings of the City, including the Notes, that collectively provide for, among
212 other things, the rights of holders and beneficial owners of the Notes.
213

214 “Rule” means Rule 15c2-12 prescribed by the Securities and Exchange
215 Commission pursuant to the Securities Exchange Act of 1934.
216

217 “Specified Events” means the occurrence of any of the following events, within
218 the meaning of the Rule, with respect to the Notes as applicable: principal and
219 interest payment delinquencies; non-payment related defaults; unscheduled
220 draws on debt service reserves reflecting financial difficulties; unscheduled draws
221 on credit enhancements reflecting financial difficulties; substitution of credit or
222 liquidity providers, or their failure to perform; adverse tax opinions or events
223 affecting the tax-exempt status of the Notes; modifications to rights of holders or
224 beneficial owners of the Notes; Note calls; defeasances; release, substitution or
225 sale of property securing repayment of the Notes; and rating changes. The City
226 has not obtained or provided, and does not expect to obtain or provide, any debt
227 service reserves, credit enhancements or credit or liquidity providers for the Notes,
228 the Notes are not subject to call for redemption prior to maturity, and repayment
229 of the Notes is not secured by a lien on any property capable of release or sale or
230 for which other property may be substituted.
231

232 If the City prepares and causes the distribution of an official statement for the
233 Notes, for the benefit of the holders and beneficial owners from time to time of the
234 Notes, the City agrees, as the only obligated person with respect to the Notes
235 under the Rule, to provide or cause to be provided such notices, in such manner,
236 as may be required for purposes of paragraph (b)(5)(i)(C) of the Rule, including
237 specifically notice to the Municipal Securities Rulemaking Board (MSRB) through
238 its Electronic Municipal Market Access (EMMA) system, in a timely manner, of the
239 occurrence of any Specified Event, if that event is material. (The City’s agreement
240 in this paragraph is herein referred to as the Continuing Disclosure Agreement).
241

242 The Director of Finance is further authorized and directed to establish
243 procedures to ensure compliance by the City with the Continuing Disclosure
244 Agreement, including timely provision of notices as described above. Prior to
245 providing notice of the occurrence of any Specified Event or of any other events,
246 the Director of Finance shall consult with and obtain legal advice from, as
247 appropriate, the Director of Law and bond or other qualified independent special
248 counsel selected by the City. The Director of Finance, acting in the name and on
249 behalf of the City, shall be entitled to rely upon any such legal advice in
250 determining whether a notice should be provided.
251

252 The City reserves the right to amend the Continuing Disclosure Agreement,
253 and to obtain the waiver of noncompliance with any provision of that Agreement,
254 as may be necessary or appropriate to achieve its compliance with any applicable
255 federal securities law or rule, to cure any ambiguity, inconsistency or formal
256 defect or omission, and to address any change in circumstances arising from a
257 change in legal requirements, change in law, or change in the identity, nature or
258 status of the City, or type of business conducted by the City. Any such
259 amendment or waiver will not be effective unless the Agreement (as amended or
260 taking into account such waiver) would have complied with the requirements of
261 the Rule at the time of the primary offering of the Notes, after taking into account
262 any applicable amendments to or official interpretations of the Rule, as well as

263 any change in circumstances, and until the City shall have received: either (i) a
264 written opinion of bond or other qualified independent special counsel selected by
265 the City that the amendment or waiver would not materially impair the interests
266 of holders or beneficial owners of the Notes or (ii) the written consent to the
267 amendment or waiver of the holders of at least a majority of the principal amount
268 of the Notes then outstanding.
269

270 The Continuing Disclosure Agreement shall be solely for the benefit of the
271 holders and beneficial owners from time to time of the Notes. The exclusive
272 remedy for any breach of the Agreement by the City shall be limited, to the extent
273 permitted by law, to a right of holders and beneficial owners to institute and
274 maintain, or to cause to be instituted and maintained, such proceedings as may
275 be authorized at law or in equity to obtain the specific performance by the City of
276 its obligations under the Agreement. Any individual holder or beneficial owner
277 may institute and maintain, or cause to be instituted and maintained, such
278 proceedings to require the City to provide or cause to be provided a pertinent filing
279 if such a filing is due and has not been made. Any such proceedings to require
280 the City to perform any other obligation under the Agreement (including any
281 proceedings that contest the sufficiency of any pertinent filing) shall be instituted
282 and maintained only (i) by a trustee appointed by the holders and beneficial
283 owners of not less than 25% in principal amount of the Notes then outstanding or
284 (ii) by holders and beneficial owners of not less than 10% in principal amount of
285 the Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1) of
286 the Revised Code, as applicable (or any like or comparable successor provisions).
287

288 The performance by the City of the Continuing Disclosure Agreement shall be
289 subject to the annual appropriation of any funds that may be necessary to
290 perform it.
291

292 The Continuing Disclosure Agreement shall remain in effect only for such
293 period that the Notes are outstanding in accordance with their terms and the City
294 remains an obligated person with respect to the Notes within the meaning of the
295 Rule. The obligation of the City to provide the notices of the Specified Events shall
296 terminate, if and when the City no longer remains such an obligated person.
297

298 Section 7. The proceeds from the sale of the Notes, except any premium and
299 accrued interest, shall be paid into the proper fund or funds and those proceeds
300 are appropriated and shall be used for the purpose for which the Notes are being
301 issued. Any portion of those proceeds representing premium and accrued interest
302 shall be paid into the Bond Retirement Fund.
303

304 Section 8. The par value to be received from the sale of the Bonds or of any
305 renewal notes and any excess funds resulting from the issuance of the Notes
306 shall, to the extent necessary, be used to pay the debt charges on the Notes at
307 maturity and are pledged for that purpose.
308

309 Section 9. During the year or years in which the Notes are outstanding, there
310 shall be levied on all the taxable property in the City, in addition to all other taxes,
311 the same tax that would have been levied if the Bonds had been issued without
312 the prior issuance of the Notes. The tax shall be within the eleven mill limitation
313 provided by the Charter of the City, shall be and is ordered computed, certified,
314 levied and extended upon the tax duplicate and collected by the same officers, in
315 the same manner, and at the same time that taxes for general purposes for each

316 of those years are certified, levied, extended and collected, and shall be placed
317 before and in preference to all other items and for the full amount thereof. The
318 proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is
319 irrevocably pledged for the payment of the debt charges on the Notes or the Bonds
320 when and as the same fall due. In each year to the extent money from the City's
321 recreation system or from municipal income tax, as provided below, is available
322 for the payment of the debt charges on the Notes and Bonds and is appropriated
323 for that purpose, the amount of the tax shall be reduced by the amount of the
324 money so available and appropriated in compliance with the covenant hereinafter
325 set forth. To the extent not provided for by the revenues from the City's recreation
326 system, the debt charges on the Notes and Bonds shall be paid from municipal
327 income taxes lawfully available therefor under the Constitution and laws of the
328 State of Ohio; and the City hereby covenants, subject and pursuant to such
329 authority, including particularly Section 133.05(B)(7), Revised Code, to
330 appropriate annually from such municipal income taxes such amount as is
331 necessary to meet such annual debt charges. Nothing in this paragraph in any
332 way diminishes the pledge of the full faith and credit and property taxing power of
333 the City to the prompt payment of the debt charges on the Notes.
334

335 Section 10. The City covenants that it will use, and will restrict the use and
336 investment of, the proceeds of the Notes in such manner and to such extent, as
337 may be necessary so that (a) the Notes will not (i) constitute private activity bonds,
338 arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal
339 Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as
340 bonds to which Section 103 of the Code applies, and (b) the interest on the Notes
341 will not be treated as an item of tax preference under Section 57 of the Code.
342

343 The City further covenants that (a) it will take or cause to be taken such
344 actions that may be required of it for the interest on the Notes to be and remain
345 excluded from gross income for federal income tax purposes, (b) it will not take or
346 authorize to be taken any actions that would adversely affect that exclusion, and
347 (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the
348 proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict
349 the yield on investment property, (iii) make timely and adequate payments to the
350 federal government, (iv) maintain books and records and make calculations and
351 reports and (v) refrain from certain uses of those proceeds, and, as applicable, of
352 property financed with such proceeds, all in such manner and to the extent
353 necessary to assure such exclusion of that interest under the Code.
354

355 The City hereby represents that the Outstanding Notes (the Refunded
356 Obligation) were designated or deemed designated, and qualified, as a "qualified
357 tax-exempt obligation" under Section 265(b)(3) of the Code. The City hereby
358 covenants that it will redeem the Refunded Obligation from proceeds of, and
359 within 90 days after issuance of, the Notes, and represents that all other
360 conditions are met for treating the amount of the Notes not in excess of the
361 principal amount of the Refunded Obligation outstanding immediately prior to the
362 redemption of the Refunded Obligation as "qualified tax-exempt obligations"
363 without necessity for further designation and as not to be taken into account
364 under subparagraph (D) of Section 265(b)(3) of the Code pursuant to
365 subparagraph (D)(ii) of Section 265(b)(3) of the Code.
366

367 The amount of the Notes (such amount being the issue price of the Notes less
368 accrued interest, if any, as determined under the Code) in excess of the principal

369 amount of the Refunded Obligation that is outstanding immediately prior to the
370 redemption of the Refunded Obligation is hereby designated as “qualified
371 tax-exempt obligations” for purposes of Section 265(b)(3) of the Code. In that
372 connection, the City hereby represents and covenants that it, together with all its
373 subordinate entities or entities that issue obligations on its behalf, or on behalf of
374 which it issues obligations, in or during the calendar year in which the Notes are
375 issued, (i) have not issued and will not issue tax-exempt obligations designated as
376 “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code,
377 including the aforesaid amount of the Notes, in an aggregate amount in excess of
378 \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and
379 will not issue, tax-exempt obligations (including the aforesaid amount of the
380 Notes, but excluding obligations, other than qualified 501(c)(3) bonds as defined
381 in Section 145 of the Code, that are private activity bonds as defined in Section
382 141 of the Code and excluding refunding obligations that are not advance
383 refunding obligations as defined in Section 149(d)(5) of the Code to the extent that
384 the amount of the refunding obligations does not exceed the outstanding principal
385 amount of the refunded obligations) in an aggregate amount exceeding
386 \$10,000,000, unless the City first obtains a written opinion of nationally
387 recognized bond counsel that such designation or issuance, as applicable, will not
388 adversely affect the status of the Notes as “qualified tax-exempt obligations”.
389

390 Further, the City represents and covenants that, during any time or in any
391 manner as might affect the status of the Notes as “qualified tax exempt
392 obligations,” it has not formed or participated in the formation of, or benefitted
393 from or availed itself of, any entity in order to avoid the purposes of subparagraph
394 (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the
395 formation of, or benefit from or avail itself of, any such entity. The City further
396 represents that the Notes are not being issued as part of a direct or indirect
397 composite issue that combines issues or lots of tax exempt obligations of different
398 issuers.
399

400 The Director of Finance, as the fiscal officer, or any other officer of the City
401 having responsibility for issuance of the Notes is hereby authorized (a) to make or
402 effect any election, selection, designation, choice, consent, approval, or waiver on
403 behalf of the City with respect to the Notes as the City is permitted to or required
404 to make or give under the federal income tax laws, for the purpose of assuring,
405 enhancing or protecting favorable tax treatment or status of the Notes or interest
406 thereon or assisting compliance with requirements for that purpose, reducing the
407 burden or expense of such compliance, reducing the rebate amount or payments
408 or penalties, or making payments of special amounts in lieu of making
409 computations to determine, or paying, excess earnings as rebate, or obviating
410 those amounts or payments, as determined by that officer, which action shall be
411 in writing and signed by the officer, (b) to take any and all other actions, make or
412 obtain calculations, make payments, and make or give reports, covenants and
413 certifications of and on behalf of the City, as may be appropriate to assure the
414 exclusion of interest from gross income and the intended tax status of the Notes,
415 and (c) to give one or more appropriate certificates of the City, for inclusion in the
416 transcript of proceedings for the Notes, setting forth the reasonable expectations
417 of the City regarding the amount and use of all the proceeds of the Notes, the
418 facts, circumstances and estimates on which they are based, and other facts and
419 circumstances relevant to the tax treatment of the interest on and the tax status
420 of the Notes.
421

422 Each covenant made in this section with respect to the Notes is also made
423 with respect to all issues any portion of the debt service on which is paid from
424 proceeds of the Notes (and, if different, the original issue and any refunding issues
425 in a series of refundings), to the extent such compliance is necessary to assure
426 exclusion of interest on the Notes from gross income for federal income tax
427 purposes, and the officers identified above are authorized to take actions with
428 respect to those issues as they are authorized in this section to take with respect
429 to the Notes.

430
431 Section 11. The Clerk of Council is directed to deliver a certified copy of this
432 ordinance to the Fiscal Officer in Summit County.

433
434 Section 12. This Council determines that all acts and conditions necessary to
435 be done or performed by the City or to have been met precedent to and in the
436 issuing of the Notes in order to make them legal, valid and binding general
437 obligations of the City have been performed and have been met, or will at the time
438 of delivery of the Notes have been performed and have been met, in regular and
439 due form as required by law; that the full faith and credit and general property
440 taxing power (as described in Section 9) of the City are pledged for the timely
441 payment of the debt charges on the Notes; and that no statutory or constitutional
442 limitation of indebtedness or taxation will have been exceeded in the issuance of
443 the Notes.

444
445 Section 13. The Director of Law is authorized to engage the legal services of
446 the law firm of Squire, Sanders & Dempsey (US) LLP, which legal services are to
447 be in the nature of legal advice and recommendations as to the documents and
448 the proceedings, and rendering an approving legal opinion, in connection with the
449 issuance and sale of the Notes. In rendering those legal services, as an
450 independent contractor and in an attorney-client relationship, that Firm shall not
451 exercise any administrative discretion on behalf of this City in the formulation of
452 public policy, expenditure of public funds, enforcement of laws rules and
453 regulations of the State, any county, or cities or of this City, or the execution of
454 public trusts. For those legal services that Firm shall be paid fees now estimated
455 at \$6,000, assuming there will be no official statement, and in addition shall be
456 reimbursed for actual out-of-pocket expenses (including, but not limited to, travel,
457 long-distance telephone, fax and duplicating expenses) incurred in rendering
458 those legal services. The Director of Finance is authorized and directed to make
459 appropriate certification as to the availability of funds for that fee and any
460 reimbursement and to issue an appropriate order for their payment as they
461 become payable.

462
463 Section 14. This Council finds and determines that all formal actions of this
464 Council and of any of its committees concerning and relating to the passage of
465 this ordinance were taken in an open meeting and that all deliberations of this
466 Council and of any committees that resulted in those formal actions were held, in
467 meetings open to the public, in compliance with Chapter 107 of the City's Codified
468 Ordinances.

469
470 Section 15. This ordinance is declared to be an emergency measure necessary
471 for the immediate preservation of the public peace, health and safety of the City,
472 and for the further reason that this ordinance is required to be immediately
473 effective in order to issue and sell the Notes, which is necessary to enable the City
474 to timely retire the Outstanding Notes and thereby preserve its credit; wherefore,

475 this ordinance shall be in full force and effect immediately upon its passage and
476 approval by the Mayor.

477

478

479 Passed: _____

480

President of Council

481

482

483

Clerk of Council

484

485 Approved: _____

486

Mayor

487

488 10/31/11

489 O:\2011ords\Ordinance_-_Natatorium.DOC

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. - 2011

6
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
8 AN AMENDMENT OF CONTRACT NO. 6613 WITH THE
9 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL
10 494, AND DECLARING AN EMERGENCY.

11
12 WHEREAS, pursuant to the authority of Ord. No. 112-2010, the Mayor entered into a collec-
13 tive bargaining agreement (Contract No. 6613) with the International Association of Firefighters,
14 Local 494 (IAFF), representing firefighters, and

15
16 WHEREAS, the Mayor and his representatives and the IAFF have bargained collectively and
17 in good faith and said bargaining has resulted in a tentative agreement on an amendment to Con-
18 tract No. 6613, and

19
20 WHEREAS, on or about October 28, 2011, the membership of IAFF ratified said amendment;

21
22 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
23 of Summit and State of Ohio, that:

24
25 Section 1. The Mayor is hereby authorized to enter into an amendment of Contract No. 6613
26 with the International Association Of Firefighters, Local 494, (IAFF), representing firefighters,
27 substantially in the form of agreement placed on file with the Clerk of Council in Council File No.
28 _____.

29
30 Section 2. Any other ordinances and resolutions or portions of ordinances and resolutions
31 inconsistent herewith are hereby repealed but any ordinances and resolutions or portions of ordi-
32 nances and resolutions not inconsistent herewith and which have not previously been repealed
33 are hereby ratified and confirmed.

34
35 Section 3. It is found and determined that all formal actions of this Council concerning and
36 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
37 that all deliberations of this Council and of any of its committees that resulted in such formal
38 action were in meetings open to the public, in compliance with all legal requirements including
39 Chapter 107 of the Codified Ordinances.

40
41 Section 4. This ordinance is hereby declared to be an emergency measure necessary for the
42 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
43 Falls and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the
44 members elected or appointed to Council, it shall take effect and be in force immediately upon its
45 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
46 period allowed by law.

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49 Passed: _____
50 _____
51 President of Council

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54 _____
55 Clerk of Council

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57 Approved: _____
58 _____
59 Mayor

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. - 2011

6
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
8 AN AMENDMENT OF CONTRACT NO. 6619 WITH THE OHIO
9 PATROLMEN'S BENEVOLENT ASSOCIATION, AND DECLARING
10 AN EMERGENCY.

11
12 WHEREAS, pursuant to the authority of Ord. No. 139-2010, the Mayor entered into a collec-
13 tive bargaining agreement (Contract No. 6619) with the Ohio Patrolmen's Benevolent Association
14 ("OPBA"), representing patrol officers and community service officers ("CSOs"), and
15

16 WHEREAS, the Mayor and his representatives and the OPBA (representing patrol officers and
17 CSOs) have bargained collectively and in good faith and said bargaining has resulted in a tenta-
18 tive agreement on an amendment to Contract No. 6619, and
19

20 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
21 of Summit and State of Ohio, that:

22
23 Section 1. The Mayor is hereby authorized to enter into an amendment of Contract No. 6619
24 with the Ohio Patrolmen's Benevolent Association (representing patrol officers and CSOs), sub-
25 stantially in the form of agreement placed on file with the Clerk of Council in Council File No.
26 _____.

27
28 Section 2. Any other ordinances and resolutions or portions of ordinances and resolutions
29 inconsistent herewith are hereby repealed but any ordinances and resolutions or portions of ordi-
30 nances and resolutions not inconsistent herewith and which have not previously been repealed
31 are hereby ratified and confirmed.
32

33 Section 3. It is found and determined that all formal actions of this Council concerning and
34 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
35 that all deliberations of this Council and of any of its committees that resulted in such formal
36 action were in meetings open to the public, in compliance with all legal requirements including
37 Chapter 107 of the Codified Ordinances.
38

39 Section 4. This ordinance is hereby declared to be an emergency measure necessary for the
40 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
41 Falls and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the
42 members elected or appointed to Council, it shall take effect and be in force immediately upon its
43 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
44 period allowed by law.
45

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47 Passed: _____
48 _____
49 President of Council

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51 _____
52 Clerk of Council

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55 Approved: _____
56 _____
57 Mayor

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. - 2011

6
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
8 AN AMENDMENT OF CONTRACT NO. 6616 WITH THE OHIO
9 PATROLMEN'S BENEVOLENT ASSOCIATION, AND DECLARING
10 AN EMERGENCY.

11
12 WHEREAS, pursuant to the authority of Ord. No. 126-2010, the Mayor entered into a collec-
13 tive bargaining agreement (Contract No. 6616) with the Ohio Patrolmen's Benevolent Association
14 ("OPBA"), representing sergeants and lieutenants, and

15
16 WHEREAS, the Mayor and his representatives and the OPBA (representing sergeants and
17 lieutenants) have bargained collectively and in good faith and said bargaining has resulted in a
18 tentative agreement on an amendment to Contract No. 6616, and

19
20 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
21 of Summit and State of Ohio, that:

22
23 Section 1. The Mayor is hereby authorized to enter into an amendment of Contract No. 6616
24 with the Ohio Patrolmen's Benevolent Association (representing sergeants and lieutenants), sub-
25 stantially in the form of agreement placed on file with the Clerk of Council in Council File No.
26 _____.

27
28 Section 2. Any other ordinances and resolutions or portions of ordinances and resolutions
29 inconsistent herewith are hereby repealed but any ordinances and resolutions or portions of ordi-
30 nances and resolutions not inconsistent herewith and which have not previously been repealed
31 are hereby ratified and confirmed.

32
33 Section 3. It is found and determined that all formal actions of this Council concerning and
34 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
35 that all deliberations of this Council and of any of its committees that resulted in such formal
36 action were in meetings open to the public, in compliance with all legal requirements including
37 Chapter 107 of the Codified Ordinances.

38
39 Section 4. This ordinance is hereby declared to be an emergency measure necessary for the
40 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
41 Falls and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the
42 members elected or appointed to Council, it shall take effect and be in force immediately upon its
43 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
44 period allowed by law.

45
46
47 Passed: _____
48 _____
49 President of Council

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51 _____
52 Clerk of Council

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55 Approved: _____
56 _____
57 Mayor

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3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. - 2011

7
8 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
9 AN AMENDMENT OF CONTRACT NO. 6640 WITH THE
10 FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.,
11 AND DECLARING AN EMERGENCY.
12

13 WHEREAS, pursuant to the authority of Ord. No. 125-2010, the Mayor entered into a collec-
14 tive bargaining agreement (Contract No. 6640) with the Fraternal Order of Police, Ohio Labor
15 Council, Inc. ("FOP"), representing dispatchers, and
16

17 WHEREAS, the Mayor and his representatives and the FOP have bargained collectively and in
18 good faith and said bargaining has resulted in a tentative agreement on an amendment to Con-
19 tract No. 6640, and
20

21 WHEREAS, on or about October 24, 2011, the membership of FOP ratified said amendment;
22

23 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
24 of Summit and State of Ohio, that:
25

26 Section 1. The Mayor is hereby authorized to enter into an amendment of Contract No. 6640
27 with the Fraternal Order of Police, Ohio Labor Council, Inc. ("FOP"), representing dispatchers,
28 substantially in the form of agreement placed on file with the Clerk of Council in Council File No.
29 _____.
30

31 Section 2. Any other ordinances and resolutions or portions of ordinances and resolutions
32 inconsistent herewith are hereby repealed but any ordinances and resolutions or portions of ordi-
33 nances and resolutions not inconsistent herewith and which have not previously been repealed
34 are hereby ratified and confirmed.
35

36 Section 3. It is found and determined that all formal actions of this Council concerning and
37 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
38 that all deliberations of this Council and of any of its committees that resulted in such formal
39 action were in meetings open to the public, in compliance with all legal requirements including
40 Chapter 107 of the Codified Ordinances.
41

42 Section 4. This ordinance is hereby declared to be an emergency measure necessary for the
43 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
44 Falls and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the
45 members elected or appointed to Council, it shall take effect and be in force immediately upon its
46 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
47 period allowed by law.
48

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50 Passed: _____

President of Council

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54 _____
55 Clerk of Council
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58 Approved: _____

Mayor

59
60 10/31/11

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. - 2011

6
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
8 AN AGREEMENT WITH THE AMERICAN FEDERATION OF
9 STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME),
10 LOCAL 2662, EFFECTIVE NOVEMBER 1, 2011, AND
11 DECLARING AN EMERGENCY.

12
13 WHEREAS, Ohio Revised Code Chapter 4117 authorizes public employees to bargain collec-
14 tively with public employers regarding wages, hours, terms and other conditions of employment
15 and to enter into collective bargaining agreements; and

16
17 WHEREAS, the Mayor and his representatives and AFSCME Local 2662 have bargained col-
18 lectively and in good faith and said bargaining has resulted in a tentative agreement on a
19 collective bargaining agreement effective November 1, 2011, and

20
21 WHEREAS, on or about October 27, 2011, the membership of AFSCME Local 2662 ratified
22 said collective bargaining agreement;.

23
24 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
25 of Summit and State of Ohio, that:

26
27 Section 1. The Mayor is hereby authorized to enter into a collective bargaining agreement as
28 negotiated with and ratified by AFSCME Local 2662, effective November 1, 2011, substantially in
29 the form of agreement placed on file with the Clerk of Council in Council File No. _____.

30
31 Section 2. Any other ordinances and resolutions or portions of ordinances and resolutions
32 inconsistent herewith are hereby repealed but any ordinances and resolutions or portions of ordi-
33 nances and resolutions not inconsistent herewith and which have not previously been repealed
34 are hereby ratified and confirmed.

35
36 Section 3. It is found and determined that all formal actions of this Council concerning and
37 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
38 that all deliberations of this Council and of any of its committees that resulted in such formal
39 action were in meetings open to the public, in compliance with all legal requirements including
40 Chapter 107 of the Codified Ordinances.

41
42 Section 4. This ordinance is hereby declared to be an emergency measure necessary for the
43 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
44 Falls and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the
45 members elected or appointed to Council, it shall take effect and be in force immediately upon its
46 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
47 period allowed by law.

48
49
50 Passed: _____

President of Council

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54 _____
Clerk of Council

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58 Approved: _____

Mayor

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. - 2011

6
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A
8 CONTRACT OR CONTRACTS WITHOUT COMPETITIVE BIDDING
9 WITH SUPERIOR ENVIRONMENTAL CORPORATION FOR THE
10 PROFESSIONAL SERVICES NECESSARY TO CONDUCT A
11 PHASE II ENVIRONMENTAL ASSESSMENT OF CERTAIN REAL
12 PROPERTY AS NECESSARY FOR PREPARATION AND
13 SUBMISSION OF A GRANT APPLICATION TO THE CLEAN OHIO
14 REVITALIZATION FUND, AND DECLARING AN EMERGENCY.
15

16 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit and State
17 of Ohio, that:

18
19 Section 1. The Mayor is hereby authorized to enter into a contract or contracts without
20 competitive bidding with Superior Environmental Corporation, on the basis of its proposal dated
21 October 25, 2011, for the professional services necessary to conduct a Phase II Environmental
22 Assessment and ancillary environmental services in connection with certain real property (Parcels
23 ##02-18449, 02-19506 and 02-18447), as necessary for preparation and submission of a grant
24 application to the Clean Ohio Revitalization Fund.
25

26 Section 2. The Director of Finance is hereby authorized and directed to make payment for
27 same from the CDBG fund, line item Contractual Other.
28

29 Section 3. Any other ordinances and resolutions or portions of ordinances and resolutions
30 inconsistent herewith are hereby repealed, but any ordinances and resolutions or portions of
31 ordinances and resolutions not inconsistent herewith and which have not previously been
32 repealed are hereby ratified and confirmed.
33

34 Section 4. It is found and determined that all formal actions of this Council concerning and
35 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
36 that all deliberations of this Council and of any of its committees that resulted in such formal
37 action were in meetings open to the public, in compliance with all legal requirements including
38 Chapter 107 of the Codified Ordinances.
39

40 Section 5. This ordinance is hereby declared to be an emergency measure necessary for the
41 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
42 Falls and the inhabitants thereof and provided, it receives the affirmative vote of two-thirds of the
43 members elected or appointed to Council, it shall take effect and be in force immediately upon its
44 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
45 period allowed by law.
46

47
48 Passed: _____

President of Council

Clerk of Council

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54 Approved: _____

Mayor

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58 10/31/2011

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