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3  
4 CITY OF CUYAHOGA FALLS, OHIO

5  
6 ORDINANCE NO. *02* -2012  
7  
8

9 AN ORDINANCE PROVIDING FOR THE ISSUANCE  
10 AND SALE OF NOTES IN THE PRINCIPAL AMOUNT  
11 OF \$7,000,000, 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. 96-2011 passed November 14, 2011,  
21 notes in anticipation of bonds in the amount of \$8,000,000 dated December 7,  
22 2011 (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 \$9,685,000, to mature on December 6,  
25 2012; and  
26

27 WHEREAS, this Council finds and determines that the City should retire the  
28 Outstanding Notes with the proceeds of the Notes described in Section 3 and  
29 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 24 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 \$7,000,000 (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, 2013, shall  
48 bear interest at the now estimated rate of 5.5% per year, payable on June 1 and  
49 December 1 of each year, commencing June 1, 2014, until the principal amount  
50 is paid, and are estimated to mature in twenty-four 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, 2014.  
55

56 Section 3. It is necessary to issue and this Council determines that notes in  
57 the aggregate principal amount of \$7,000,000 (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 (US) LLP, which legal services are to be in the  
447 nature of legal advice and recommendations as to the documents and the  
448 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 \$6,800, 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.

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479 Passed: 10-8-12

Mark Shroy  
President of Council

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Cathleen J. Meacham  
Clerk of Council

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487 Approved: 10/9/12

Robert  
Mayor

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489  
490 9/24/12  
491 O:\2012ords\Ordinance\_-\_Natatorium.doc