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3  
4 CITY OF CUYAHOGA FALLS, OHIO

5  
6 ORDINANCE NO. 51 -2013  
7

8  
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE  
10 AND SALE OF \$7,600,000 PRINCIPAL AMOUNT OF  
11 NOTES, IN ANTICIPATION OF THE ISSUANCE OF  
12 BONDS, FOR THE PURPOSE OF REVITALIZING THE  
13 STATE ROAD REDEVELOPMENT AREA BY  
14 ACQUIRING, CLEARING AND IMPROVING CERTAIN  
15 PROPERTIES IN THAT AREA, AND DECLARING AN  
16 EMERGENCY.  
17

18 WHEREAS, the City has undertaken a program for the clearance,  
19 redevelopment and rehabilitation of blighted areas in the City, and the City,  
20 under its home rule powers, and acting through this City Council, by  
21 Resolution No. 18-2007, passed October 1, 2007, approved the State Road  
22 Redevelopment and Retail Analysis Master Plan (which plan is herein referred to  
23 as the "Urban Redevelopment Plan") for the State Road commercial area (the  
24 "Plan Area"); and  
25

26 WHEREAS, the Urban Redevelopment Plan includes, but is not limited to,  
27 undertakings and activities by the City for the purpose of elimination of blight  
28 and to obtain redevelopment of the sites and facilities therein for commercial  
29 purposes to prevent the recurrence of blight, and revitalizing the Plan Area  
30 pursuant to Section 2o of Article VIII of the Ohio Constitution by providing for  
31 and enabling the environmentally safe and productive development and use or  
32 reuse of lands within the Plan Area by addressing by clearance, land acquisition  
33 or assembly or otherwise property conditions or circumstances that preclude  
34 and inhibit environmentally sound and economic use or reuse of such  
35 properties; and  
36

37 WHEREAS, this City Council, in furtherance of carrying out that Urban  
38 Redevelopment Plan and revitalizing the Plan Area, authorized the  
39 appropriation of certain property in the Plan Area by Resolution 18-2007 and by  
40 Ordinance No. 116-2007, passed October 9, 2007 and the City acquired  
41 property in the Plan area, demolished buildings thereon and remediated the  
42 site; and  
43

44 WHEREAS, pursuant to Ordinance No. 67-2012, passed July 30, 2012, notes  
45 in anticipation of bonds in the amount of \$8,600,000 dated August 15, 2012 and  
46 maturing August 15, 2013 (the Outstanding Notes) were issued for the purpose  
47 stated in Section 1 (the Project); and  
48

49 WHEREAS, this Council finds and determines that the City should retire the  
50 Outstanding Notes with the proceeds of the Notes described in Section 3 and  
51 other funds available to the City; and  
52

53 WHEREAS, the Director of Finance, as fiscal officer of this City, has certified to  
54 this Council that the estimated life or period of usefulness of the improvement  
55 described in Section 1 is at least five years, the estimated maximum maturity of  
56 the bonds described in Section 1 is 49 years, and the maximum maturity of the  
57 notes described in Section 3, to be issued in anticipation of the bonds, is August  
58 21, 2028;

59  
60 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga  
61 Falls, Summit County, Ohio, that:

62  
63 Section 1. It is necessary to issue bonds of this City in the aggregate principal  
64 amount of \$7,600,000 (the Bonds) for the purpose of revitalizing the State Road  
65 Redevelopment Area by acquiring, clearing and improving certain properties in  
66 that Area.

67  
68 Section 2. The Bonds shall be dated approximately August 1, 2014, shall bear  
69 interest at the now estimated rate of 6.5% per year, payable on June 1 and  
70 December 1 of each year, commencing December 1, 2014, until the principal  
71 amount is paid, and are estimated to mature in twenty-five annual principal  
72 installments that are in such amounts that the total principal and interest  
73 payments on the Bonds in any fiscal year in which principal is payable are no  
74 more than three times the amount of those payments in any other fiscal year.  
75 The first principal installment is estimated to be December 1, 2015.

76  
77 Section 3. It is necessary to issue and this Council determines that notes in  
78 the aggregate principal amount of \$7,600,000 (the Notes) shall be issued in  
79 anticipation of the issuance of the Bonds and to retire, together with other funds  
80 available to the City, the Outstanding Notes. The Notes shall bear interest at a  
81 rate or rates not to exceed 5.5% per year (computed on the basis of a 360-day  
82 year consisting of twelve 30-day months), payable at maturity and until the  
83 principal amount is paid or payment is provided for. The rate or rates of interest  
84 on the Notes shall be determined by the Director of Finance in the certificate  
85 awarding the Notes (the "Certificate of Award") in accordance with Section 6 of  
86 this ordinance.

87  
88 Section 4. The debt charges on the Notes shall be payable in Federal Reserve  
89 funds of the United States of America, and shall be payable, without deduction for  
90 services of the City's paying agent, at the main office of The Huntington National  
91 Bank, Columbus, Ohio or at the office of a bank or trust company designated by  
92 the Director of Finance in the Certificate of Award after determining that the  
93 payment at that bank or trust company will not endanger the funds or securities  
94 of the City and that proper procedures and safeguards are available for that  
95 purpose or at the office of the Director of Finance if agreed to by the Director of  
96 Finance and the Original Purchaser (the Paying Agent). The Notes shall be dated  
97 the date of issuance and shall mature not earlier than ten months from that date  
98 and not later than twelve months from that date, as shall likewise be fixed by the  
99 Director of Finance in the Certificate of Award.

100  
101 Section 5. The Notes shall be signed by the Mayor and Director of Finance, in  
102 the name of the City and in their official capacities, provided that one of those  
103 signatures may be a facsimile. The Notes shall be issued in the denominations  
104 and numbers as requested by the original purchaser and approved by the  
105 Director of Finance, provided that no Note shall be issued in a denomination less

106 than \$100,000. The entire principal amount may be represented by a single note  
107 and may be issued as fully registered securities (for which the Director of Finance  
108 will serve as note registrar) and in book entry or other uncertificated form in  
109 accordance with Section 9.96 and Chapter 133 of the Revised Code if it is  
110 determined by the Director of Finance that issuance of fully registered securities  
111 in that form will facilitate the sale and delivery of the Notes. The Notes shall not  
112 have coupons attached, shall be numbered as determined by the Director of  
113 Finance and shall express upon their faces the purpose, in summary terms, for  
114 which they are issued and that they are issued pursuant to this Ordinance. As  
115 used in this section and this ordinance:  
116

117 “Book entry form” or “book entry system” means a form or system under  
118 which (i) the ownership of beneficial interests in the Notes and the principal of,  
119 and interest on, the Notes may be transferred only through a book entry, and (ii) a  
120 single physical Note certificate is issued by the City and payable only to a  
121 Depository or its nominee, with such Notes “immobilized” in the custody of the  
122 Depository or its agent for that purpose. The book entry maintained by others  
123 than the City is the record that identifies the owners of beneficial interests in the  
124 Notes and that principal and interest.  
125

126 “Depository” means any securities depository that is a clearing agency under  
127 federal law operating and maintaining, with its Participants or otherwise, a book  
128 entry system to record ownership of beneficial interests in the Notes or the  
129 principal of, and interest on, the Notes and to effect transfers of the Notes, in book  
130 entry form, and includes and means initially The Depository Trust Company (a  
131 limited purpose trust company), New York, New York.  
132

133 “Participant” means any participant contracting with a Depository under a  
134 book entry system and includes security brokers and dealers, banks and trust  
135 companies, and clearing corporations.  
136

137 The Notes may be issued to a Depository for use in a book entry system and, if  
138 and as long as a book entry system is utilized, (i) the Notes may be issued in the  
139 form of a single Note made payable to the Depository or its nominee and  
140 immobilized in the custody of the Depository or its agent for that purpose; (ii) the  
141 beneficial owners in book entry form shall have no right to receive the Notes in the  
142 form of physical securities or certificates; (iii) ownership of beneficial interests in  
143 book entry form shall be shown by book entry on the system maintained and  
144 operated by the Depository and its Participants, and transfers of the ownership of  
145 beneficial interests shall be made only by book entry by the Depository and its  
146 Participants; and (iv) the Notes as such shall not be transferable or exchangeable,  
147 except for transfer to another Depository or to another nominee of a Depository,  
148 without further action by the City.  
149

150 If any Depository determines not to continue to act as a Depository for the  
151 Notes for use in a book entry system, the Directory of Finance may attempt to  
152 establish a securities depository/book entry relationship with another qualified  
153 Depository. If the Director of Finance does not or is unable to do so, the Director  
154 of Finance, after making provision for notification of the beneficial owners by the  
155 then Depository and any other arrangements deemed necessary, shall permit  
156 withdrawal of the Notes from the Depository, and shall cause the Notes in bearer  
157 or payable form to be signed by the officers authorized to sign the Notes and  
158 delivered to the assigns of the Depository or its nominee, all at the cost and

159 expense (including any costs of printing), if the event is not the result of City  
160 action or inaction, of those persons requesting such issuance.

161  
162 The Director of Finance is also hereby authorized and directed, to the extent  
163 necessary or required, to enter into any agreements determined necessary in  
164 connection with the book entry system for the Notes, after determining that the  
165 signing thereof will not endanger the funds or securities of the City.  
166

167 Section 6. The Notes shall be sold at not less than 97% of the principal  
168 amount thereof plus any accrued interest at private sale by the Director of  
169 Finance in accordance with law and the provisions of this ordinance. The  
170 Director of Finance shall, in accordance with his determination of the best  
171 interests of and financial advantages to the City and its taxpayers and conditions  
172 then existing in the financial market, consistently with the provisions of Sections  
173 3 and 4, establish the interest rates to be borne by the Notes and their maturity,  
174 sign the Certificate of Award referred to in Sections 3 and 4 evidencing those  
175 determinations, cause the Notes to be prepared, and have the Notes signed and  
176 delivered, together with a true transcript of proceedings with reference to the  
177 issuance of the Notes if requested by the original purchaser or purchasers  
178 (collectively, the "Original Purchaser"), to the Original Purchaser upon payment of  
179 the purchase price. The Mayor and the Director of Finance are also authorized, if  
180 requested by the Original Purchaser as a condition of such sale, to execute, on  
181 behalf of the City, a Note Purchase Agreement between the City and such Original  
182 Purchaser relating to the sale of such Notes, or the sale of any consolidated issue  
183 of which the Notes are a part, substantially in the form now on file with the Clerk  
184 of Council in Council File No. \_\_\_\_\_, which Note Purchase Agreement is hereby  
185 approved, together with any changes or amendments not inconsistent with this  
186 ordinance and not substantially adverse to the City and that are approved by the  
187 Mayor and the Director of Finance on behalf of the City, all of which shall be  
188 conclusively evidenced by the signing of the Note Purchase Agreement or any  
189 amendments thereto by the Mayor and the Director of Finance. The Mayor, the  
190 Director of Finance, the Clerk of Council and other City officials, as appropriate,  
191 are each authorized and directed to sign any transcript certificates, financial  
192 statements, and other documents and instruments and to take such actions as  
193 are necessary and appropriate to consummate the transactions contemplated by  
194 this ordinance. The Director of Finance is authorized, if it is determined to be in  
195 the best interest of the City, to combine the issue of Notes with one or more other  
196 note issues of the City into a consolidated note issue pursuant to Section  
197 133.30(B) of the Revised Code.  
198

199 The Director of Finance is hereby authorized to offer all or part of the Notes at  
200 par and any accrued interest to the Treasury Investment Board of the City for  
201 investment under Section 731.56 of the Revised Code, in accordance with law and  
202 the provisions of this ordinance if, as a result of the conditions then existing in the  
203 financial markets, the Director of Finance determines it is in the best financial  
204 interest of the City in lieu of the private sale authorized in the preceding  
205 paragraph.  
206

207 If the Mayor or the Director of Finance determines it to be in the best interests  
208 of and financially advantageous to the City, either or both of those officers are  
209 authorized, on behalf of the City, to apply for a rating on the Notes from one or  
210 more nationally-recognized rating organizations.  
211

212        Section 7. The proceeds from the sale of the Notes, except any premium and  
213 accrued interest, shall be paid into the proper fund or funds and those proceeds  
214 are appropriated and shall be used for the purpose for which the Notes are being  
215 issued. Any portion of those proceeds representing premium and accrued interest  
216 shall be paid into the Bond Retirement Fund.  
217

218        Section 8. The par value to be received from the sale of the Bonds or of any  
219 renewal notes and any excess funds resulting from the issuance of the Notes  
220 shall, to the extent necessary, be used to pay the debt charges on the Notes at  
221 maturity and are pledged for that purpose.  
222

223        Section 9. During the year or years in which the Notes are outstanding, there  
224 shall be levied on all the taxable property in the City, in addition to all other taxes,  
225 the same tax that would have been levied if the Bonds had been issued without  
226 the prior issuance of the Notes. The tax shall be within the eleven mill limitation  
227 provided by the Charter of the City, shall be and is ordered computed, certified,  
228 levied and extended upon the tax duplicate and collected by the same officers, in  
229 the same manner, and at the same time that taxes for general purposes for each  
230 of those years are certified, levied, extended and collected, and shall be placed  
231 before and in preference to all other items and for the full amount thereof. The  
232 proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is  
233 irrevocably pledged for the payment of the debt charges on the Notes or the Bonds  
234 when and as the same fall due. In each year to the extent money from the  
235 municipal income tax, as provided below, is available for the payment of the debt  
236 charges on the Notes and Bonds and is appropriated for that purpose, the amount  
237 of the tax shall be reduced by the amount of the money so available and  
238 appropriated in compliance with the covenant hereinafter set forth. To the extent  
239 necessary, the debt charges on the Notes and Bonds shall be paid from municipal  
240 income taxes lawfully available therefor under the Constitution and laws of the  
241 State of Ohio; and the City hereby covenants, subject and pursuant to such  
242 authority, including particularly Section 133.05(B)(7), Revised Code, to  
243 appropriate annually from such municipal income taxes such amount as is  
244 necessary to meet such annual debt charges. Nothing in this paragraph in any  
245 way diminishes the pledge of the full faith and credit and property taxing power of  
246 the City to the prompt payment of the debt charges on the Notes.  
247

248        Section 10. The City does not intend or represent that the interest on the  
249 Notes will be excluded from gross income for federal income tax purposes under  
250 Section 103 of the Internal Revenue Code of 1986 and the City is not obligated to  
251 take any action to attempt to secure or maintain any such exclusion.  
252

253        Section 11. The Clerk of Council is directed to deliver a certified copy of this  
254 ordinance to the Fiscal Officer in Summit County.  
255

256        Section 12. This Council determines that all acts and conditions necessary to  
257 be done or performed by the City or to have been met precedent to and in the  
258 issuing of the Notes in order to make them legal, valid and binding general  
259 obligations of the City have been performed and have been met, or will at the time  
260 of delivery of the Notes have been performed and have been met, in regular and  
261 due form as required by law; that the full faith and credit and general property  
262 taxing power (as described in Section 9) of the City are pledged for the timely  
263 payment of the debt charges on the Notes; and that no statutory or constitutional

264 limitation of indebtedness or taxation will have been exceeded in the issuance of  
265 the Notes.  
266

267 Section 13. The Director of Law is authorized to engage the legal services of  
268 the law firm of Squire Sanders (US) LLP, which legal services are to be in the  
269 nature of legal advice and recommendations as to the documents and the  
270 proceedings, and rendering an approving legal opinion, in connection with the  
271 issuance and sale of the Notes. In rendering those legal services, as an  
272 independent contractor and in an attorney-client relationship, that Firm shall not  
273 exercise any administrative discretion on behalf of this City in the formulation of  
274 public policy, expenditure of public funds, enforcement of laws rules and  
275 regulations of the State, any county, or cities or of this City, or the execution of  
276 public trusts. For those legal services that Firm shall be paid fees now estimated  
277 at \$9,500, and in addition shall be reimbursed for actual out-of-pocket expenses  
278 (including, but not limited to, travel, long-distance telephone, fax and duplicating  
279 expenses) incurred in rendering those legal services. The Director of Finance is  
280 authorized and directed to make appropriate certification as to the availability of  
281 funds for that fee and any reimbursement and to issue an appropriate order for  
282 their payment as they become payable.  
283


284 Section 14. This Council finds and determines that all formal actions of this  
285 Council and of any of its committees concerning and relating to the passage of  
286 this ordinance were taken in an open meeting and that all deliberations of this  
287 Council and of any committees that resulted in those formal actions were held, in  
288 meetings open to the public, in compliance with Chapter 107 of the City's Codified  
289 Ordinances.  
290


291 Section 15. This ordinance is declared to be an emergency measure necessary  
292 for the immediate preservation of the public peace, health and safety of the City,  
293 and for the further reason that this ordinance is required to be immediately  
294 effective in order to issue and sell the Notes, which is necessary to enable the City  
295 to timely retire the Outstanding Notes and thereby preserve its credit; wherefore,  
296 this ordinance shall be in full force and effect immediately upon its passage and  
297 approval by the Mayor.  
298  
299

300  
301 Passed: 7-22-13

  
\_\_\_\_\_  
President of Council

302  
303  
304  
305  
306  
307 Approved: 7/23/13

  
\_\_\_\_\_  
Clerk of Council

  
\_\_\_\_\_  
Mayor