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3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. 60 -2014

7
8 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE
9 OF NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF
10 \$6,600,000, IN ANTICIPATION OF THE ISSUANCE OF
11 BONDS, FOR THE PURPOSE OF REVITALIZING THE STATE
12 ROAD REDEVELOPMENT AREA BY ACQUIRING, CLEARING
13 AND IMPROVING CERTAIN PROPERTIES IN THAT AREA,
14 AND DECLARING AN EMERGENCY.
15

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

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

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

39 WHEREAS, pursuant to Ordinance No. 51-2014 passed July 22, 2013, a note in
40 anticipation of bonds in the amount of \$7,600,000 dated August 14, 2013 (the "Outstanding
41 Note"), was issued for the purpose of revitalizing the State Road Redevelopment Area by
42 acquiring, clearing and improving certain properties in that Area (the "Project"), to mature on
43 August 14, 2014; and
44

45 WHEREAS, this Council finds and determines that the City should retire the Outstanding
46 Note with the proceeds of the Notes described in Section 3 and other funds available to the City;
47 and
48

49 WHEREAS, the Director of Finance as fiscal officer of this City has certified to
50 this Council that the estimated life or period of usefulness of the improvement
51 described in Section 1 is at least five years, the estimated maximum maturity of the
52 Bonds described in Section 1 is 48 years, and the maximum maturity of the Notes
53 described in Section 3 is 20 years;

54
55 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,
56 County of Summit, Ohio, that:

57
58 Section 1. It is necessary to issue bonds of this City in the aggregate principal
59 amount of \$6,600,000 (the "Bonds") to pay costs of the Project.

60
61 Section 2. The Bonds shall be dated August 1, 2015, shall bear interest at the now
62 estimated rate of six percent (6%) per year, payable semiannually until the principal
63 amount is paid, and are estimated to mature in 25 annual principal installments on
64 December 1 of each year that are in such amounts that the total principal and interest
65 payments on the Bonds in any fiscal year in which principal is payable are substantially
66 equal. The first principal payment of the Bonds is estimated to be December 1, 2016.

67
68 Section 3. It is necessary to issue and this Council determines that notes in the
69 aggregate principal amount of \$6,600,000 (the "Notes") shall be issued in anticipation of
70 the issuance of the Bonds and to retire, together with other funds available to the City, the
71 Outstanding Note and to pay financing costs of the issuance of the Notes. The Notes shall
72 be dated their date of issuance and shall mature one year from the date of issuance,
73 provided that the date of issuance shall not be later than August 14, 2014, and further
74 provided that the Director of Finance may, if it is determined to be necessary or advisable
75 to the sale of the Notes, establish a maturity date that is up to 15 days less than one year
76 from the date of issuance by setting forth that maturity date in a final terms certificate in
77 accordance with Section 6 of this Ordinance (the "Final Terms Certificate"). The Notes
78 shall bear interest at a rate or rates not to exceed six percent (6%) per year (computed on
79 the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and
80 until the principal amount is paid or payment is provided for. The rate of interest on the
81 Notes shall be determined by the Director of Finance in the Final Terms Certificate.

82
83 Section 4. The principal of and interest on the Notes shall be payable in lawful
84 money of the United States of America, and shall be payable, without deduction for services
85 of the City's paying agent, at the office of a bank or trust company designated by the
86 Director of Finance in the Final Terms Certificate after determining that the payment at
87 that bank or trust company will not endanger the funds or securities of the City and that
88 proper procedures and safeguards are available for that purpose (the "Paying Agent").

89
90 Section 5. The Notes shall be signed by the Mayor and Director of Finance, in the
91 name of the City and in their official capacities, provided that one of those signatures may
92 be a facsimile. The Notes shall be issued in the denominations and numbers as requested
93 by Stifel, Nicolaus & Company, Incorporated (the "Original Purchaser") and approved by
94 the Director of Finance in the Final Terms Certificate, and the entire principal amount may
95 be represented by a single note, may be issued as fully registered securities (for which the
96 Director of Finance will serve as note registrar), and may be issued in book entry or other
97 uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code

98 if it is determined by the Director of Finance that issuance of the Notes in that form will
99 facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached,
100 shall be numbered as determined by the Director of Finance and shall express upon their
101 faces the purpose, in summary terms, for which they are issued and that they are issued
102 pursuant to this Ordinance.
103

104 The Notes may be issued to any securities depository (a "Depository") that is a
105 clearing agency under federal law operating and maintaining, with any participants
106 contracting with a Depository under a book entry system and includes security brokers
107 and dealers, banks and trust companies, and clearing corporations or otherwise
108 ("Participants"), a system (a "book entry system") under which (i) the ownership of
109 beneficial interests in the Notes and the principal of, and interest on, the Notes may be
110 transferred only through a book entry, and (ii) a single physical Note certificate is issued
111 by the City and payable only to a Depository or its nominee, with such Notes "immobilized"
112 in the custody of the Depository or its agent for that purpose. If, and as long as a book
113 entry system is utilized, (i) the Notes may be issued in the form of a single Note made
114 payable to the Depository or its nominee and immobilized in the custody of the Depository
115 or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no
116 right to receive the Notes in the form of physical securities or certificates; (iii) ownership of
117 beneficial interests in book entry form shall be shown by book entry on the system
118 maintained and operated by the Depository and its Participants, and transfers of the
119 ownership of beneficial interests shall be made only by book entry by the Depository and
120 its Participants; and (iv) the Notes as such shall not be transferable or exchangeable,
121 except for transfer to another Depository or to another nominee of a Depository, without
122 further action by the City.
123

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

135 The Director of Finance is also hereby authorized and directed, to the extent
136 necessary or required, to enter into any agreements determined necessary in connection
137 with the book entry system for the Notes, after determining that the signing thereof will
138 not endanger the funds or securities of the City.
139

140 Section 6. The Notes shall be sold to the Original Purchaser at a purchase price of
141 not less than par of the principal amount thereof plus accrued interest by the Director of
142 Finance in accordance with law and the provisions of this Ordinance. The note purchase
143 agreement by and between the City and the Original Purchaser (the "Note Purchase
144 Agreement") now on file with the Clerk of this Council is now approved, and the Director
145 of Finance is authorized to sign and deliver, on behalf of the City, the Note Purchase
146 Agreement with such changes that are not inconsistent with the provisions of this
147 Ordinance, are not materially adverse to the interests of the City and are approved by the

148 Director of Finance. That any such changes to the Note Purchase Agreement are not
149 materially adverse to the interests of the City and approved by the Director of Finance shall
150 be evidenced conclusively by the signing of the Note Purchase Agreement by the Director
151 of Finance. The Director of Finance shall sign the Final Terms Certificate referred to in
152 Section 3 and 4 and cause the Notes to be prepared, and have the Notes signed and
153 delivered, together with a true transcript of proceedings with reference to the issuance of
154 the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment
155 of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk
156 of Council and other City officials, as appropriate, are each authorized and directed to sign
157 any transcript certificates, financial statements and other documents and instruments
158 and to take such actions as are necessary or appropriate to consummate the transactions
159 contemplated by this Ordinance. The Director of Finance is authorized, if it is determined
160 to be in the best interest of the City, to combine the Notes with one or more other note
161 issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the
162 Revised Code.

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

170
171 Section 7. A portion of the proceeds from the sale of the Notes sufficient, together
172 with other funds available to the City, to retire the Outstanding Note at maturity shall be
173 deposited into the bond retirement fund and used to retire the Outstanding Note. The
174 remaining proceeds from the sale of the Notes shall be paid into the proper fund or funds
175 and those proceeds are appropriated and shall be used for the purpose for which the Notes
176 are being issued. Any income earned from the investment of the proceeds of the Notes shall
177 be deposited into the fund in which such proceeds are deposited (and shall not be
178 transferred to the General Fund). The proceeds from the sale of the Notes and the
179 investment earnings on those proceeds are appropriated for the uses described above.

180
181 Section 8. The par value to be received from the sale of the Bonds or of any renewal
182 notes and any excess funds resulting from the issuance of the Notes shall, to the extent
183 necessary, be used to pay the principal of and interest on the Notes at maturity and are
184 pledged for that purpose.

185
186 Section 9. During the year or years in which the Notes are outstanding, there shall
187 be levied on all the taxable property in the City, in addition to all other taxes, the same tax
188 that would have been levied if the Bonds had been issued without the prior issuance of
189 the Notes. The tax shall be within the 11-mill limitation provided by the Charter of the
190 City, shall be and is ordered computed, certified, levied and extended upon the tax
191 duplicate and collected by the same officers, in the same manner, and at the same time
192 that taxes for general purposes for each of those years are certified, levied, extended and
193 collected, and shall be placed before and in preference to all other items and for the full
194 amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund,
195 which is irrevocably pledged for the payment of the principal of and interest on the Notes
196 or the Bonds when and as the same fall due. In each year to the extent money from the

197 municipal income tax, as provided below, is available for the payment of the debt charges
198 on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall
199 be reduced by the amount of the money so available and appropriated in compliance with
200 the covenant hereinafter set forth. To the extent necessary, the debt charges on the Notes
201 and Bonds shall be paid from municipal income taxes lawfully available therefor under the
202 Constitution and laws of the State of Ohio; and the City hereby covenants, subject and
203 pursuant to such authority, including particularly Section 133.05(B)(7), Revised Code, to
204 appropriate annually from such municipal income taxes such amount as is necessary to
205 meet such annual debt charges. Nothing in this paragraph in any way diminishes the
206 pledge of the full faith and credit and property taxing power of the City to the prompt
207 payment of the debt charges on the Notes.
208

209 Section 10. The City does not intend to represent that the interest on the Notes
210 will be excluded from gross income for federal income tax purposes under Section 103 of
211 the Internal Revenue Code of 1986 and the City is not obligated to take any action to
212 attempt to secure or maintain any such exclusion.
213

214 Section 11. If, in the judgment of the Director of Finance, the filing of an
215 application for (i) a rating on the Notes by one or more nationally-recognized rating
216 agencies, or (ii) a policy of insurance from a company or companies to better assure the
217 payment of principal of and interest on the Notes, is in the best interest of and financially
218 advantageous to this City, the Director of Finance is authorized to prepare and submit
219 those applications, to provide to each such agency or company such information as may
220 be required for the purpose, and to provide further for the payment of the cost of obtaining
221 each such rating or policy, except to the extent otherwise paid in accordance with the Note
222 Purchase Agreement, from the proceeds of the Notes to the extent available and otherwise
223 from any other funds lawfully available and that are appropriated or shall be appropriated
224 for that purpose. To the extent the Director of Finance has taken such actions, those
225 actions are hereby ratified and confirmed.
226

227 Section 12. The Clerk of Council is directed to deliver a certified copy of this
228 Ordinance to the Fiscal Officer of Summit County.
229

230 Section 13. This Council determines it is in the interest of the City to retain the
231 law firm of Benesch, Friedlander, Coplan & Aronoff LLP ("Benesch") to represent the
232 City as bond counsel in connection with its proposed issuance of the Notes. This
233 Council approves the form of the engagement letter from Benesch now on file with this
234 Council and authorizes the Mayor to sign and accept that engagement letter with such
235 changes as the Mayor deems necessary. This Council also recognizes that few law firms
236 actively represent public and private entities in connection with the authorization,
237 issuance, sale and purchase of obligations issued by Ohio political subdivisions and
238 that the Original Purchaser may in the future request Benesch to represent the Original
239 Purchaser in a matter or matters unrelated to the City. If such a request occurs, the
240 Mayor is further authorized, after consultation with the Law Director, to waive any
241 conflict of interest if Benesch represents the Original Purchaser in a matter or matters
242 unrelated to the City.
243

244 Section 14. This Council determines that all acts and conditions necessary to be
245 done or performed by the City or to have been met precedent to and in the issuing of the
246 Notes in order to make them legal, valid and binding general obligations of the City have

247 been performed and have been met, or will at the time of delivery of the Notes have been
248 performed and have been met, in regular and due form as required by law; that the full
249 faith and credit and general property taxing power (as described in Section 9) of the City
250 are pledged for the timely payment of the principal of and interest on the Notes; and that
251 no statutory or constitutional limitation of indebtedness or taxation will have been
252 exceeded in the issuance of the Notes.

253
254 Section 15. This Council finds and determines that all formal actions of this
255 Council concerning and relating to the passage of this Ordinance, and that all deliberations
256 of this Council and of any committees that resulted in those formal actions, were taken in
257 meetings open to the public, in compliance with the law.

258
259 Section 16. This Ordinance is declared to be an emergency measure necessary for
260 the immediate preservation of the public peace, health and safety of the City and for the
261 further reason that this Ordinance is required to be immediately effective in order to issue
262 and sell the Notes, which is necessary to enable the City to timely retire the Outstanding
263 Note and thereby preserve its credit; wherefore, this Ordinance shall be in full force and
264 effect immediately upon its passage and approval by the Mayor.

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267 Passed: 7/14/2014

Mary Ellen Pyke
President of Council

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273 Approved: 7-15-2014

Dan R. Quinn
Clerk of Council
[Signature]
Mayor