

NEW LEGISLATION

June 26, 2017

Temp. No.	Introduced	Committee	Description
B-47	6/26/17	Fin	An ordinance providing for the issuance and sale of Notes in the maximum principal amount of \$6,500,000, in anticipation of the issuance of Bonds, for the purpose of paying the costs of improving Front Street, Second Street, Oakwood Drive, Stow Avenue and Broad Boulevard between certain termini, including the improvement, construction and installation of sidewalks, bike lanes, curbs, pavements, waterlines, sanitary sewer lines, storm sewer lines, storm water management systems, signalization, street lighting, turn lanes, and all related improvements and appurtenances, and declaring an emergency.
B-48	6/26/17	Fin	An ordinance providing for the issuance and sale of Notes in the maximum principal amount of \$500,000, in anticipation of the issuance of Bonds, for the purpose of paying the costs of improving the City's storm and sanitary sewer systems by constructing and replacing storm and sanitary sewer lines, manholes, service connections and laterals on 18th Street between Ohio Avenue and Phelps Avenue, together with all necessary appurtenances thereto, and declaring an emergency.
B-49	6/26/17	Fin	An ordinance providing for the issuance and sale of Notes in the maximum principal amount of \$3,000,000, in anticipation of the issuance of Bonds, for the purpose of paying the costs of constructing, reconstructing, improving and rehabilitating the City's Green Parking Garage, Blue Parking Garage and Red Parking Garage by the construction, improvement and installation of concrete and masonry, the waterproofing of the existing structures, the construction of

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drainage upgrades, the acquisition and installation of electrical and lighting upgrades, and the acquisition and installation of new elevators and the modernization of existing elevators, and all related improvements and appurtenances, and declaring an emergency.

B-50 6/26/17 PA

An ordinance rescheduling the regular City Council and Council Committee meetings in July, 2017, and declaring an emergency.

CALENDAR

June 26, 2017

The following legislation will be up for passage at the Council Meeting on June 26, 2017.

Temp. No.	Introduced	Committee	Description
B-43	6/12/17	Fin	A resolution authorizing the Director of Public Service to apply for and accept financial assistance in the form of a grant or loan from the Ohio Public Works Commission for the improvement of Howe Avenue from Main Street to Buchholzer Boulevard, and declaring an emergency.
B-44	6/12/17	Fin	A resolution authorizing the Director of Public Service to apply for and accept financial assistance in the form of a grant or loan from the Ohio Public Works Commission for replacement of an 8" water main in Bailey Road, and declaring an emergency.
B-45	6/12/17	PA	An ordinance amending the Traffic Control File by providing for installation of various traffic control devices, and declaring an emergency.
B-46	6/12/17	CD	A resolution accepting the recommendations of the Tax Incentive Review Council and the Community Reinvestment Area Housing Council concerning Enterprise Zone and Community Reinvestment Area Tax Exemption Agreements within the City of Cuyahoga Falls, and declaring an emergency.

PENDING LEGISLATION

June 26, 2017

Temp. No.	Introduced	Committee	Description
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2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2017
7

8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
10 NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF \$6,500,000,
11 IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE
12 PURPOSE OF PAYING THE COSTS OF IMPROVING FRONT
13 STREET, SECOND STREET, OAKWOOD DRIVE, STOW AVENUE
14 AND BROAD BOULEVARD BETWEEN CERTAIN TERMINI,
15 INCLUDING THE IMPROVEMENT, CONSTRUCTION AND
16 INSTALLATION OF SIDEWALKS, BIKE LANES, CURBS,
17 PAVEMENTS, WATERLINES, SANITARY SEWER LINES, STORM
18 SEWER LINES, STORM WATER MANAGEMENT SYSTEMS,
19 SIGNALIZATION, STREET LIGHTING, TURN LANES, AND ALL
20 RELATED IMPROVEMENTS AND APPURTENANCES, AND
21 DECLARING AN EMERGENCY.
22

23
24 WHEREAS, this Council has requested that the Director of Finance, as fiscal officer of this
25 City, certify the estimated life or period of usefulness of the Improvement described in Section 1
26 and the estimated maximum maturity of the Bonds described in Section 1; and
27

28 WHEREAS, the Director of Finance has certified to this Council that the estimated life or
29 period of usefulness of the Improvement described in Section 1 is at least five (5) years, the
30 estimated maximum maturity of the Bonds described in Section 1 is twenty (20) years, and the
31 maximum maturity of the Notes described in Section 3, to be issued in anticipation of the
32 Bonds, is two hundred forty (240) months;
33

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

37 Section 1. It is necessary to issue bonds of this City in the maximum principal amount of
38 \$6,500,000 (the "Bonds") for the purpose of paying the costs of improving Front Street, Second
39 Street, Oakwood Drive, Stow Avenue and Broad Boulevard between certain termini, including
40 the improvement, construction and installation of sidewalks, bike lanes, curbs, pavements,
41 waterlines, sanitary sewer lines, storm sewer lines, storm water management systems,
42 signalization, street lighting, turn lanes, and all related improvements and appurtenances (the
43 "Improvement").
44

45 Section 2. The Bonds shall be dated approximately August 1, 2018, shall bear interest at
46 the now estimated rate of 5.50% per year, payable on June 1 and December 1 of each year,
47 commencing December 1, 2018, until the principal amount is paid, and are estimated to
48 mature in twenty (20) annual principal installments that are in such amounts that the total
49 principal and interest payments on the Bonds in any fiscal year in which principal is payable
50 are not more than three times the amount of those payments in any other fiscal year. The first
51 principal installment is estimated to be December 1, 2018.
52

53 Section 3. It is necessary to issue and this Council determines that notes in the maximum
54 principal amount of \$6,500,000 (the "Notes") shall be issued in anticipation of the issuance of

55 the Bonds for the purpose stated in Section 1 and to pay the costs of the Improvement and any
56 financing costs. The principal amount of Notes to be issued (not to exceed the stated
57 maximum principal amount) shall be determined by the Director of Finance in the final terms
58 certificate awarding the Notes in accordance with Section 6 of this ordinance (the "Final Terms
59 Certificate") as the amount which is necessary to pay the costs of the Improvement and any
60 financing costs. The Notes shall be dated the date of issuance and shall mature not earlier
61 than six months from that date and not later than 12 months from that date, as shall likewise
62 be fixed by the Director of Finance in the Final Terms Certificate. The Notes shall bear interest
63 at a rate or rates not to exceed 6.00% per year (computed on the basis of a 360-day year
64 consisting of twelve 30-day months), payable at maturity and until the principal amount is
65 paid or payment is provided for. The rate or rates of interest on the Notes shall be determined
66 by the Director of Finance in the Final Terms Certificate in accordance with Section 6 of this
67 ordinance.
68

69 Section 4. The debt charges on the Notes shall be payable in Federal Reserve funds of the
70 United States of America, and shall be payable, without deduction for services of the City's
71 paying agent, at the designated corporate trust office of The Huntington National Bank or at
72 the office of a bank or trust company designated by the Director of Finance in the Final Terms
73 Certificate after determining that the payment at that bank or trust company will not endanger
74 the funds or securities of the City and that proper procedures and safeguards are available for
75 that purpose or at the office of the Director of Finance if agreed to by the Director of Finance
76 and the Original Purchaser (the "Paying Agent"). The Director of Finance is authorized, to the
77 extent necessary or appropriate, to enter into an agreement with the Paying Agent in
78 connection with the services to be provided by the Paying Agent after determining that the
79 signing thereof will not endanger the funds or securities of the City.
80

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

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

106 "Depository" means any securities depository that is a clearing agency registered pursuant
107 to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and
108 maintaining, with its Participants or otherwise, a book entry system to record ownership of

109 beneficial interests in the Notes or the principal of and interest on the Notes, and to effect
110 transfers of the Notes, in book entry form, and includes and means initially The Depository
111 Trust Company (a limited purpose trust company), New York, New York.
112

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

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

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

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

144 Section 6. The Notes shall be sold at not less than 97% of the par value thereof at private
145 sale to Stifel, Nicolaus & Company, Incorporated (the “Original Purchaser”) by the Director of
146 Finance in accordance with law and the provisions of this ordinance, the Final Terms
147 Certificate and the Note Purchase Agreement (as hereinafter defined). The Director of Finance
148 shall, in accordance with his determination of the best interests of and financial advantages to
149 the City and its taxpayers and conditions then existing in the financial market, consistently
150 with the provisions of Sections 3 and 4, establish the interest rates to be borne by the Notes
151 and their maturity, sign the Final Terms Certificate referred to in Sections 3 and 4 evidencing
152 those determinations, cause the Notes to be prepared, and have the Notes signed and delivered,
153 together with a true transcript of proceedings with reference to the issuance of the Notes, if
154 requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase
155 price. The note purchase agreement (the “Note Purchase Agreement”) now on file with the
156 Clerk of Council is approved, and the Mayor and the Director of Finance are authorized to sign
157 and deliver, on behalf of the City, the Note Purchase Agreement with such changes that are not
158 inconsistent with the provisions of this ordinance, are not materially adverse to the interests of
159 the City and are approved by the Mayor and the Director of Finance. Any such changes to the
160 Note Purchase Agreement are not materially adverse to the interests of the City and are
161 approved by the Mayor and the Director of Finance shall be evidenced conclusively by the
162 signing of the Note Purchase Agreement by the Mayor and the Director of Finance. The Mayor,

163 the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as
164 appropriate, are each authorized and directed to sign any transcript certificates, financial
165 statements, continuing disclosure agreement and other documents and instruments, including
166 any paying agent agreement, and to take such actions as are necessary and appropriate to
167 consummate the transactions contemplated by this ordinance. The Director of Finance is
168 authorized, if it is determined to be in the best interest of the City, to combine the issue of
169 Notes with one or more other note issues of the City into a consolidated note issue pursuant to
170 Section 133.30(B) of the Ohio Revised Code.
171

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

179 If the Mayor or the Director of Finance determines it to be in the best interests of and
180 financially advantageous to the City, either or both of those officers are authorized, on behalf of
181 the City, to apply for a rating on the Notes from one or more nationally-recognized rating
182 organizations.
183

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

198 As used in this section and this ordinance:
199

200 “Note proceedings” means, collectively, this ordinance and the other proceedings of the
201 City, including the Notes, that collectively provide for, among other things, the rights of holders
202 and beneficial owners of the Notes.
203

204 “Rule” means Rule 15c2-12 prescribed by the Securities and Exchange Commission
205 pursuant to the Securities Exchange Act of 1934.
206

207 “Specified Events” means the occurrence of any of the following events, within the meaning
208 of the Rule, with respect to the Notes as applicable: principal and interest payment
209 delinquencies; non-payment related defaults; unscheduled draws on debt service reserves
210 reflecting financial difficulties; unscheduled draws on credit enhancements reflecting financial
211 difficulties; substitution of credit or liquidity providers, or their failure to perform; adverse tax
212 opinions or events affecting the tax-exempt status of the Notes; modifications to rights of
213 holders or beneficial owners of the Notes; Note calls; defeasances; release, substitution or sale
214 of property securing repayment of the Notes; and rating changes. The City has not obtained or
215 provided, and does not expect to obtain or provide, any debt service reserves, credit
216 enhancements or credit or liquidity providers for the Notes, the Notes are not subject to call for

217 redemption prior to maturity, and repayment of the Notes is not secured by a lien on any
218 property capable of release or sale or for which other property may be substituted.
219

220 If the City prepares and causes the distribution of an official statement for the Notes, for
221 the benefit of the holders and beneficial owners from time to time of the Notes, the City agrees,
222 as the only obligated person with respect to the Notes under the Rule, to provide or cause to be
223 provided such notices, in such manner, as may be required for purposes of paragraph
224 (b)(5)(i)(C) of the Rule, including specifically notice to the Municipal Securities Rulemaking
225 Board (MSRB) through its Electronic Municipal Market Access (EMMA) system, in a timely
226 manner, of the occurrence of any Specified Event, if that event is material. (The City's
227 agreement in this paragraph is herein referred to as the Continuing Disclosure Agreement).
228

229 The Director of Finance is further authorized and directed to establish procedures to ensure
230 compliance by the City with the Continuing Disclosure Agreement, including timely provision of
231 notices as described above. Prior to providing notice of the occurrence of any Specified Event
232 or of any other events, the Director of Finance shall consult with and obtain legal advice from,
233 as appropriate, the Director of Law and bond or other qualified independent special counsel
234 selected by the City. The Director of Finance, acting in the name and on behalf of the City,
235 shall be entitled to rely upon any such legal advice in determining whether a notice should be
236 provided.
237

238 The City reserves the right to amend the Continuing Disclosure Agreement, and to obtain
239 the waiver of noncompliance with any provision of that Agreement, as may be necessary or
240 appropriate to achieve its compliance with any applicable federal securities law or rule, to cure
241 any ambiguity, inconsistency or formal defect or omission, and to address any change in
242 circumstances arising from a change in legal requirements, change in law, or change in the
243 identity, nature or status of the City, or type of business conducted by the City. Any such
244 amendment or waiver will not be effective unless the Agreement (as amended or taking into
245 account such waiver) would have complied with the requirements of the Rule at the time of the
246 primary offering of the Notes, after taking into account any applicable amendments to or
247 official interpretations of the Rule, as well as any change in circumstances, and until the City
248 shall have received: either (a) a written opinion of bond or other qualified independent special
249 counsel selected by the City that the amendment or waiver would not materially impair the
250 interests of holders or beneficial owners of the Notes or (b) the written consent to the
251 amendment or waiver of the holders of at least a majority of the principal amount of the Notes
252 then outstanding.
253

254 The Continuing Disclosure Agreement shall be solely for the benefit of the holders and
255 beneficial owners from time to time of the Notes. The exclusive remedy for any breach of the
256 Agreement by the City shall be limited, to the extent permitted by law, to a right of holders and
257 beneficial owners to institute and maintain, or to cause to be instituted and maintained, such
258 proceedings as may be authorized at law or in equity to obtain the specific performance by the
259 City of its obligations under the Agreement. Any individual holder or beneficial owner may
260 institute and maintain, or cause to be instituted and maintained, such proceedings to require
261 the City to provide or cause to be provided a pertinent filing if such a filing is due and has not
262 been made. Any such proceedings to require the City to perform any other obligation under
263 the Agreement (including any proceedings that contest the sufficiency of any pertinent filing)
264 shall be instituted and maintained only (a) by a trustee appointed by the holders and beneficial
265 owners of not less than 25% in principal amount of the Notes then outstanding or (b) by
266 holders and beneficial owners of not less than 10% in principal amount of the Notes then
267 outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1) of the Ohio Revised Code, as
268 applicable (or any like or comparable successor provisions).
269

270 The performance by the City of the Continuing Disclosure Agreement shall be subject to the
271 annual appropriation of any funds that may be necessary to perform it.
272

273 The Continuing Disclosure Agreement shall remain in effect only for such period that the
274 Notes are outstanding in accordance with their terms and the City remains an obligated person
275 with respect to the Notes within the meaning of the Rule. The obligation of the City to provide
276 the notices of the Specified Events shall terminate, if and when the City no longer remains
277 such an obligated person.
278

279 Section 7. The proceeds from the sale of the Notes, except any premium and accrued
280 interest, shall be paid into the proper fund or funds and those proceeds are appropriated and
281 shall be used for the purpose for which the Notes are being issued. The Final Terms Certificate
282 may authorize the Original Purchaser to withhold certain proceeds from the sale of the Notes to
283 provide for the payment of certain financing costs on behalf of the City. Any portion of those
284 proceeds received by the City (after payment of those financing costs) representing premium or
285 accrued interest shall be paid into the Bond Retirement Fund.
286

287 Section 8. The par value to be received from the sale of the Bonds or of any renewal notes
288 and any excess funds resulting from the issuance of the Notes shall, to the extent necessary,
289 be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.
290

291 Section 9. During the year or years in which the Notes are outstanding, there shall be
292 levied on all the taxable property in the City, in addition to all other taxes, the same tax that
293 would have been levied if the Bonds had been issued without the prior issuance of the Notes.
294 The tax shall be within the eleven-mill limitation provided by the Charter of the City, shall be
295 and is ordered computed, certified, levied and extended upon the tax duplicate and collected by
296 the same officers, in the same manner, and at the same time that taxes for general purposes
297 for each of those years are certified, levied, extended and collected, and shall be placed before
298 and in preference to all other items and for the full amount thereof. The proceeds of the tax
299 levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment
300 of the debt charges on the Notes or the Bonds when and as the same fall due.
301

302 In each year to the extent net revenues from the City's electric system are available for the
303 payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose,
304 the amount of the tax shall be reduced by the amount of such net revenues so available and
305 appropriated.
306

307 In each year to the extent net revenues from the City's water system are available for the
308 payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose,
309 the amount of the tax shall be reduced by the amount of such net revenues so available and
310 appropriated.
311

312 In each year to the extent net revenues from the City's storm sewer system are available for
313 the payment of the debt charges on the Notes or the Bonds and are appropriated for that
314 purpose, the amount of the tax shall be reduced by the amount of such net revenues so
315 available and appropriated.
316

317 In each year to the extent net revenues from the City's sanitary sewer system are available
318 for the payment of the debt charges on the Notes or the Bonds and are appropriated for that
319 purpose, the amount of the tax shall be reduced by the amount of such net revenues so
320 available and appropriated.
321

322 In each year to the extent receipts from the municipal income tax are available for the
323 payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose,

324 and to the extent not paid from net revenues of the City's electric system, the City's water
325 system, the City's storm sewer system or the City's sanitary sewer system, the amount of the
326 tax shall be reduced by the amount of such receipts so available and appropriated in
327 compliance with the following covenant. To the extent necessary, the debt charges on the
328 Notes or the Bonds shall be paid from municipal income taxes lawfully available therefor under
329 the Constitution and the laws of the State of Ohio, and the Charter of the City; and the City
330 hereby covenants, subject and pursuant to such authority, including particularly
331 Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal
332 income taxes such amount as is necessary to meet such annual debt charges.
333

334 Nothing in the five preceding paragraphs in any way diminishes the irrevocable pledge of
335 the full faith and credit and general property taxing power of the City to the prompt payment of
336 the debt charges on the Notes and the Bonds.
337

338 Section 10. The City covenants that it will use, and will restrict the use and investment of,
339 the proceeds of the Notes in such manner and to such extent, as may be necessary so that (a)
340 the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under
341 Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the "Code") or
342 (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest
343 on the Notes will not be treated as an item of tax preference under Section 57 of the Code.
344

345 The City further covenants that (a) it will take or cause to be taken such actions that may
346 be required of it for the interest on the Notes to be and remain excluded from gross income for
347 federal income tax purposes, (b) it will not take or authorize to be taken any actions that would
348 adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of
349 compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing,
350 (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the
351 federal government, (iv) maintain books and records and make calculations and reports and
352 (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with
353 such proceeds, all in such manner and to the extent necessary to assure such exclusion of that
354 interest under the Code.
355

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

378 Section 11. The Clerk of Council is directed to deliver a certified copy of this ordinance to
379 the Fiscal Officer in Summit County.
380

381 Section 12. This Council determines that all acts and conditions necessary to be done or
382 performed by the City or to have been met precedent to and in the issuing of the Notes in order
383 to make them legal, valid and binding general obligations of the City have been performed and
384 have been met, or will at the time of delivery of the Notes have been performed and have been
385 met, in regular and due form as required by law; that the full faith and credit and general
386 property taxing power (as described in Section 9) of the City are pledged for the timely payment
387 of the debt charges on the Notes; and that no statutory or constitutional limitation of
388 indebtedness or taxation will have been exceeded in the issuance of the Notes.
389

390 Section 13. The Director of Finance is authorized to request a rating for the Notes from
391 Moody's Investors Service, Inc. or S&P Global Ratings Services, or both, as the Director of
392 Finance determines is in the best interest of the City. The expenditure of the amounts
393 necessary to secure any such ratings as well as to pay the other financing costs (as defined in
394 Section 133.01 of the Ohio Revised Code) in connection with the Notes is hereby authorized
395 and approved and the amounts necessary to pay those costs are hereby appropriated from the
396 proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.
397

398 Section 14. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby
399 retained. Those legal services shall be in the nature of legal advice and recommendations as to
400 the documents and the proceedings in connection with the authorization, sale and issuance of
401 the Notes and securities issued in renewal of the Notes and rendering at delivery related legal
402 opinions, all as set forth in the form of engagement letter from that firm which is now on file in
403 the office of the Clerk of Council. In providing those legal services, as an independent
404 contractor and in an attorney-client relationship, that firm shall not exercise any
405 administrative discretion on behalf of this City in the formulation of public policy, expenditure
406 of public funds, enforcement of laws, rules and regulations of the State, any county or
407 municipal corporation or of this City, or the execution of public trusts. For those legal services
408 that firm shall be paid just and reasonable compensation and shall be reimbursed for actual
409 out-of-pocket expenses incurred in providing those legal services. The Director of Finance is
410 authorized and directed to make appropriate certification as to the availability of funds for
411 those fees and any reimbursement and to issue an appropriate order for their timely payment
412 as written statements are submitted by that firm. The amounts necessary to pay those fees
413 and any reimbursement are hereby appropriated from the proceeds of the Notes, if available,
414 and otherwise from available moneys in the General Fund.
415

416 Section 15. The services of H.J. Umbaugh & Associates, Certified Public Accountants, LLP,
417 as municipal advisor, are hereby retained. The municipal advisory services shall be in the
418 nature of financial advice and recommendations in connection with the issuance and sale of
419 the Notes. In rendering those municipal advisory services, as an independent contractor, that
420 firm shall not exercise any administrative discretion on behalf of the City in the formulation of
421 public policy, expenditure of public funds, enforcement of laws, rules and regulations of the
422 State, the City or any other political subdivision, or the execution of public trusts. That firm
423 shall be paid just and reasonable compensation for those municipal advisory services and shall
424 be reimbursed for the actual out-of pocket expenses it incurs in rendering those municipal
425 advisory services. The Director of Finance is authorized and directed to make appropriate
426 certification as to the availability of funds for those fees and any reimbursement and to issue
427 an appropriate order for their timely payment as written statements are submitted by that firm.
428 The amounts necessary to pay those fees and any reimbursement are hereby appropriated from
429 the proceeds of the Notes, if available, and otherwise from available moneys in the General
430 Fund.
431

432 Section 16. This Council finds and determines that all formal actions of this Council and
433 any of its committees concerning and relating to the passage of this ordinance were taken in an
434 open meeting of this Council or any of its committees, and that all deliberations of this Council
435 and of any of its committees that resulted in those formal actions were in meetings open to the
436 public, all in compliance with Chapter 107 of the City's Codified Ordinances.
437

438 Section 17. This ordinance is declared to be an emergency measure necessary for the
439 immediate preservation of the public peace, health and safety of the City, and for the further
440 reason that this ordinance is required to be immediately effective in order to issue and sell the
441 Notes, which is necessary for the City to meet its obligations under contracts for construction
442 of the Improvement and to provide for the health and welfare of the City residents; wherefore,
443 this ordinance shall be in full force and effect immediately upon its passage and approval by
444 the Mayor.
445

446
447 Passed: _____
448 _____
449 President of Council

450
451 _____
452 Clerk of Council

453
454
455 Approved: _____
456 _____
457 Mayor

2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2017
7

8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND
10 SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT
11 OF \$500,000, IN ANTICIPATION OF THE ISSUANCE OF
12 BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF
13 IMPROVING THE CITY'S STORM AND SANITARY SEWER
14 SYSTEMS BY CONSTRUCTING AND REPLACING STORM
15 AND SANITARY SEWER LINES, MANHOLES, SERVICE
16 CONNECTIONS AND LATERALS ON 18TH STREET
17 BETWEEN OHIO AVENUE AND PHELPS AVENUE,
18 TOGETHER WITH ALL NECESSARY APPURTENANCES
19 THERETO, AND DECLARING AN EMERGENCY.
20

21
22 WHEREAS, this Council has requested that the Director of Finance, as fiscal officer
23 of this City, certify the estimated life or period of usefulness of the Improvement
24 described in Section 1 and the estimated maximum maturity of the Bonds described
25 in Section 1; and
26

27 WHEREAS, the Director of Finance has certified to this Council that the estimated
28 life or period of usefulness of the Improvement described in Section 1 is at least five (5)
29 years, the estimated maximum maturity of the Bonds described in Section 1 is forty
30 (40) years, and the maximum maturity of the Notes described in Section 3, to be
31 issued in anticipation of the Bonds, is two hundred forty (240) months;
32

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

36 Section 1. It is necessary to issue bonds of this City in the maximum principal
37 amount of \$500,000 (the "Bonds") for the purpose of paying the costs of improving the
38 City's storm and sanitary sewer systems by constructing and replacing storm and
39 sanitary sewer lines, manholes, service connections and laterals on 18th Street
40 between Ohio Avenue and Phelps Avenue, together with all necessary appurtenances
41 thereto (the "Improvement").
42

43 Section 2. The Bonds shall be dated approximately August 1, 2018, shall bear
44 interest at the now estimated rate of 5.50% per year, payable on June 1 and December
45 1 of each year, commencing December 1, 2018, until the principal amount is paid,
46 and are estimated to mature in twenty (20) annual principal installments that are in
47 such amounts that the total principal and interest payments on the Bonds in any
48 fiscal year in which principal is payable are not more than three times the amount of
49 those payments in any other fiscal year. The first principal installment is estimated to
50 be December 1, 2018.
51

52 Section 3. It is necessary to issue and this Council determines that notes in the
53 maximum principal amount of \$500,000 (the "Notes") shall be issued in anticipation of
54 the issuance of the Bonds for the purpose stated in Section 1 and to pay the costs of

55 the Improvement and any financing costs. The principal amount of Notes to be issued
56 (not to exceed the stated maximum principal amount) shall be determined by the
57 Director of Finance in the final terms certificate awarding the Notes in accordance with
58 Section 6 of this ordinance (the "Final Terms Certificate") as the amount which is
59 necessary to pay the costs of the Improvement and any financing costs. The Notes
60 shall be dated the date of issuance and shall mature not earlier than six months from
61 that date and not later than 12 months from that date, as shall likewise be fixed by
62 the Director of Finance in the Final Terms Certificate. The Notes shall bear interest at
63 a rate or rates not to exceed 6.00% per year (computed on the basis of a 360-day year
64 consisting of twelve 30-day months), payable at maturity and until the principal
65 amount is paid or payment is provided for. The rate or rates of interest on the Notes
66 shall be determined by the Director of Finance in the Final Terms Certificate in
67 accordance with Section 6 of this ordinance.

68
69 Section 4. The debt charges on the Notes shall be payable in Federal Reserve
70 funds of the United States of America, and shall be payable, without deduction for
71 services of the City's paying agent, at the designated corporate trust office of The
72 Huntington National Bank or at the office of a bank or trust company designated by
73 the Director of Finance in the Final Terms Certificate after determining that the
74 payment at that bank or trust company will not endanger the funds or securities of
75 the City and that proper procedures and safeguards are available for that purpose or
76 at the office of the Director of Finance if agreed to by the Director of Finance and the
77 Original Purchaser (the "Paying Agent"). The Director of Finance is authorized, to the
78 extent necessary or appropriate, to enter into an agreement with the Paying Agent in
79 connection with the services to be provided by the Paying Agent after determining that
80 the signing thereof will not endanger the funds or securities of the City.

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

98
99 "Book entry form" or "book entry system" means a form or system under which (a)
100 the ownership of beneficial interests in the Notes and the principal of and interest on
101 the Notes may be transferred only through a book entry, and (b) a single physical Note
102 certificate in fully registered form is issued by the City and payable only to a
103 Depository or its nominee as registered owner, with the certificate deposited with and
104 "immobilized" in the custody of the Depository or its designated agent for that
105 purpose. The book entry maintained by others than the City is the record that
106 identifies the owners of beneficial interests in the Notes and that principal and
107 interest.
108

109 “Depository” means any securities depository that is a clearing agency registered
110 pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934,
111 operating and maintaining, with its Participants or otherwise, a book entry system to
112 record ownership of beneficial interests in the Notes or the principal of and interest on
113 the Notes, and to effect transfers of the Notes, in book entry form, and includes and
114 means initially The Depository Trust Company (a limited purpose trust company), New
115 York, New York.
116

117 “Participant” means any participant contracting with a Depository under a book
118 entry system and includes securities brokers and dealers, banks and trust companies,
119 and clearing corporations.
120

121 The Notes may be issued to a Depository for use in a book entry system and, if and
122 as long as a book entry system is utilized, (a) the Notes may be issued in the form of a
123 single Note made payable to the Depository or its nominee and immobilized in the
124 custody of the Depository or its agent for that purpose; (b) the beneficial owners in
125 book entry form shall have no right to receive the Notes in the form of physical
126 securities or certificates; (c) ownership of beneficial interests in book entry form shall
127 be shown by book entry on the system maintained and operated by the Depository and
128 its Participants, and transfers of the ownership of beneficial interests shall be made
129 only by book entry by the Depository and its Participants; and (d) the Notes as such
130 shall not be transferable or exchangeable, except for transfer to another Depository or
131 to another nominee of a Depository, without further action by the City.
132

133 If any Depository determines not to continue to act as a Depository for the Notes
134 for use in a book entry system, the Director of Finance may attempt to establish a
135 securities depository/book entry relationship with another qualified Depository. If the
136 Director of Finance does not or is unable to do so, the Director of Finance, after
137 making provision for notification of the beneficial owners by the then Depository and
138 any other arrangements deemed necessary, shall permit withdrawal of the Notes from
139 the Depository, and shall cause the Notes in bearer or payable form to be signed by
140 the officers authorized to sign the Notes and delivered to the assigns of the Depository
141 or its nominee, all at the cost and expense (including any costs of printing), if the
142 event is not the result of City action or inaction, of those persons requesting such
143 issuance.
144

145 The Director of Finance is also hereby authorized and directed, to the extent
146 necessary or required, to enter into any agreements determined necessary in
147 connection with the book entry system for the Notes, after determining that the
148 signing thereof will not endanger the funds or securities of the City.
149

150 Section 6. The Notes shall be sold at not less than 97% of the par value thereof at
151 private sale to Stifel, Nicolaus & Company, Incorporated (the “Original Purchaser”) by
152 the Director of Finance in accordance with law and the provisions of this ordinance,
153 the Final Terms Certificate and the Note Purchase Agreement (as hereinafter defined).
154 The Director of Finance shall, in accordance with his determination of the best
155 interests of and financial advantages to the City and its taxpayers and conditions then
156 existing in the financial market, consistently with the provisions of Sections 3 and 4,
157 establish the interest rates to be borne by the Notes and their maturity, sign the Final
158 Terms Certificate referred to in Sections 3 and 4 evidencing those determinations,
159 cause the Notes to be prepared, and have the Notes signed and delivered, together
160 with a true transcript of proceedings with reference to the issuance of the Notes, if
161 requested by the Original Purchaser, to the Original Purchaser upon payment of the
162 purchase price. The note purchase agreement (the “Note Purchase Agreement”) now

163 on file with the Clerk of Council is approved, and the Mayor and the Director of
164 Finance are authorized to sign and deliver, on behalf of the City, the Note Purchase
165 Agreement with such changes that are not inconsistent with the provisions of this
166 ordinance, are not materially adverse to the interests of the City and are approved by
167 the Mayor and the Director of Finance. Any such changes to the Note Purchase
168 Agreement are not materially adverse to the interests of the City and are approved by
169 the Mayor and the Director of Finance shall be evidenced conclusively by the signing
170 of the Note Purchase Agreement by the Mayor and the Director of Finance. The
171 Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other
172 City officials, as appropriate, are each authorized and directed to sign any transcript
173 certificates, financial statements, continuing disclosure agreement and other
174 documents and instruments, including any paying agent agreement, and to take such
175 actions as are necessary and appropriate to consummate the transactions
176 contemplated by this ordinance. The Director of Finance is authorized, if it is
177 determined to be in the best interest of the City, to combine the issue of Notes with
178 one or more other note issues of the City into a consolidated note issue pursuant to
179 Section 133.30(B) of the Ohio Revised Code.

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

187
188 If the Mayor or the Director of Finance determines it to be in the best interests of
189 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 more
191 nationally-recognized rating organizations.

192
193 If in the judgment of the Mayor or the Director of Finance a disclosure document in
194 the form of an official statement (including within such term, but not limited to, an
195 annual information statement) is appropriate or necessary relating to the original
196 issuance of the Notes, either or both of those officers, on behalf of the City and in their
197 official capacities, are authorized to (a) prepare or cause to be prepared, and make or
198 authorize modifications, completions or changes of or supplements to, such an official
199 statement, (b) determine, and to certify or otherwise represent, when the official
200 statement is to be "deemed final" (except for permitted omissions) by the City as of its
201 date or is a final official statement for purposes of SEC Rule 15c2-12(b)(1), (3) and (4),
202 (c) use and distribute, or authorize the use and distribution of those official
203 statements and any supplements thereto in connection with the original issuance of
204 the Notes, and (d) complete and sign those official statements as so approved together
205 with such 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 proceedings of
211 the City, including the Notes, that collectively provide for, among other things, the
212 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 the
218 meaning of the Rule, with respect to the Notes as applicable: principal and interest
219 payment delinquencies; non-payment related defaults; unscheduled draws on debt
220 service reserves reflecting financial difficulties; unscheduled draws on credit
221 enhancements reflecting financial difficulties; substitution of credit or liquidity
222 providers, or their failure to perform; adverse tax opinions or events affecting the tax-
223 exempt status of the Notes; modifications to rights of holders or beneficial owners of
224 the Notes; Note calls; defeasances; release, substitution or sale of property securing
225 repayment of the Notes; and rating changes. The City has not obtained or provided,
226 and does not expect to obtain or provide, any debt service reserves, credit
227 enhancements or credit or liquidity providers for the Notes, the Notes are not subject
228 to call for redemption prior to maturity, and repayment of the Notes is not secured by
229 a lien on any property capable of release or sale or for which other property may be
230 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 under
235 the Rule, to provide or cause to be provided such notices, in such manner, as may be
236 required for purposes of paragraph (b)(5)(i)(C) of the Rule, including specifically notice
237 to the Municipal Securities Rulemaking Board (MSRB) through its Electronic
238 Municipal Market Access (EMMA) system, in a timely manner, of the occurrence of any
239 Specified Event, if that event is material. (The City’s agreement in this paragraph is
240 herein referred to as the Continuing Disclosure Agreement).
241

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

251 The City reserves the right to amend the Continuing Disclosure Agreement, and to
252 obtain the waiver of noncompliance with any provision of that Agreement, as may be
253 necessary or appropriate to achieve its compliance with any applicable federal
254 securities law or rule, to cure any ambiguity, inconsistency or formal defect or
255 omission, and to address any change in circumstances arising from a change in legal
256 requirements, change in law, or change in the identity, nature or status of the City, or
257 type of business conducted by the City. Any such amendment or waiver will not be
258 effective unless the Agreement (as amended or taking into account such waiver) would
259 have complied with the requirements of the Rule at the time of the primary offering of
260 the Notes, after taking into account any applicable amendments to or official
261 interpretations of the Rule, as well as any change in circumstances, and until the City
262 shall have received: either (a) a written opinion of bond or other qualified independent
263 special counsel selected by the City that the amendment or waiver would not
264 materially impair the interests of holders or beneficial owners of the Notes or (b) the
265 written consent to the amendment or waiver of the holders of at least a majority of the
266 principal amount of the Notes then outstanding.
267

268 The Continuing Disclosure Agreement shall be solely for the benefit of the holders
269 and beneficial owners from time to time of the Notes. The exclusive remedy for any
270 breach of the Agreement by the City shall be limited, to the extent permitted by law, to

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

285 The performance by the City of the Continuing Disclosure Agreement shall be
286 subject to the annual appropriation of any funds that may be necessary to perform it.
287

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

294 Section 7. The proceeds from the sale of the Notes, except any premium and
295 accrued interest, shall be paid into the proper fund or funds and those proceeds are
296 appropriated and shall be used for the purpose for which the Notes are being issued.
297 The Final Terms Certificate may authorize the Original Purchaser to withhold certain
298 proceeds from the sale of the Notes to provide for the payment of certain financing
299 costs on behalf of the City. Any portion of those proceeds received by the City (after
300 payment of those financing costs) representing premium or accrued interest shall be
301 paid into the Bond Retirement Fund.
302

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

308 Section 9. During the year or years in which the Notes are outstanding, there shall
309 be levied on all the taxable property in the City, in addition to all other taxes, the same
310 tax that would have been levied if the Bonds had been issued without the prior
311 issuance of the Notes. The tax shall be within the eleven-mill limitation provided by
312 the Charter of the City, shall be and is ordered computed, certified, levied and
313 extended upon the tax duplicate and collected by the same officers, in the same
314 manner, and at the same time that taxes for general purposes for each of those years
315 are certified, levied, extended and collected, and shall be placed before and in
316 preference to all other items and for the full amount thereof. The proceeds of the tax
317 levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the
318 payment of the debt charges on the Notes or the Bonds when and as the same fall due.
319

320 In each year to the extent net revenues from the City's storm sewer system are
321 available for the payment of the debt charges on the Notes or the Bonds and are
322 appropriated for that purpose, the amount of the tax shall be reduced by the amount
323 of such net revenues so available and appropriated.
324

325 In each year to the extent net revenues from the City's sanitary sewer system are
326 available for the payment of the debt charges on the Notes or the Bonds and are
327 appropriated for that purpose, the amount of the tax shall be reduced by the amount
328 of such net revenues so available and appropriated.
329

330 In each year to the extent receipts from the municipal income tax are available for
331 the payment of the debt charges on the Notes or the Bonds and are appropriated for
332 that purpose, and to the extent not paid from net revenues of the City's storm sewer
333 system or the City's sanitary sewer system, the amount of the tax shall be reduced by
334 the amount of such receipts so available and appropriated in compliance with the
335 following covenant. To the extent necessary, the debt charges on the Notes or the
336 Bonds shall be paid from municipal income taxes lawfully available therefor under the
337 Constitution and the laws of the State of Ohio, and the Charter of the City; and the
338 City hereby covenants, subject and pursuant to such authority, including particularly
339 Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such
340 municipal income taxes such amount as is necessary to meet such annual debt
341 charges.
342

343 Nothing in the three preceding paragraphs in any way diminishes the irrevocable
344 pledge of the full faith and credit and general property taxing power of the City to the
345 prompt payment of the debt charges on the Notes and the Bonds.
346

347 Section 10. The City covenants that it will use, and will restrict the use and
348 investment of, the proceeds of the Notes in such manner and to such extent, as may
349 be necessary so that (a) the Notes will not (i) constitute private activity bonds,
350 arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal
351 Revenue Code of 1986, as amended (the "Code") or (ii) be treated other than as bonds
352 to which Section 103 of the Code applies, and (b) the interest on the Notes will not be
353 treated as an item of tax preference under Section 57 of the Code.
354

355 The City further covenants that (a) it will take or cause to be taken such actions
356 that may be required of it for the interest on the Notes to be and remain excluded from
357 gross income for federal income tax purposes, (b) it will not take or authorize to be
358 taken any actions that would adversely affect that exclusion, and (c) it, or persons
359 acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to
360 the governmental purpose of the borrowing, (ii) restrict the yield on investment
361 property, (iii) make timely and adequate payments to the federal government, (iv)
362 maintain books and records and make calculations and reports and (v) refrain from
363 certain uses of those proceeds, and, as applicable, of property financed with such
364 proceeds, all in such manner and to the extent necessary to assure such exclusion of
365 that interest under the Code.
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
370 City with respect to the Notes as the City is permitted to or required to make or give
371 under the federal income tax laws, for the purpose of assuring, enhancing or
372 protecting favorable tax treatment or status of the Notes or interest thereon or
373 assisting compliance with requirements for that purpose, reducing the burden or
374 expense of such compliance, reducing the rebate amount or payments or penalties, or
375 making payments of special amounts in lieu of making computations to determine, or
376 paying, excess earnings as rebate, or obviating those amounts or payments, as
377 determined by that officer, which action shall be in writing and signed by the officer,
378 (b) to take any and all other actions, make or obtain calculations, make payments, and

379 make or give reports, covenants and certifications of and on behalf of the City, as may
380 be appropriate to assure the exclusion of interest from gross income and the intended
381 tax status of the Notes, and (c) to give one or more appropriate certificates of the City,
382 for inclusion in the transcript of proceedings for the Notes, setting forth the
383 reasonable expectations of the City regarding the amount and use of all the proceeds
384 of the Notes, the facts, circumstances and estimates on which they are based, and
385 other facts and circumstances relevant to the tax treatment of the interest on and the
386 tax status of the Notes. The Director of Finance or any other officer of the City having
387 responsibility for issuance of the Notes is specifically authorized to designate the Notes
388 as "qualified tax-exempt obligations" if such designation is applicable and desirable,
389 and to make any related necessary representations and covenants.
390

391 Section 11. The Clerk of Council is directed to deliver a certified copy of this
392 ordinance to the Fiscal Officer in Summit County.
393

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

404 Section 13. The Director of Finance is authorized to request a rating for the Notes
405 from Moody's Investors Service, Inc. or S&P Global Ratings Services, or both, as the
406 Director of Finance determines is in the best interest of the City. The expenditure of
407 the amounts necessary to secure any such ratings as well as to pay the other
408 financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection
409 with the Notes is hereby authorized and approved and the amounts necessary to pay
410 those costs are hereby appropriated from the proceeds of the Notes, if available, and
411 otherwise from available moneys in the General Fund.
412

413 Section 14. The legal services of the law firm of Squire Patton Boggs (US) LLP are
414 hereby retained. Those legal services shall be in the nature of legal advice and
415 recommendations as to the documents and the proceedings in connection with the
416 authorization, sale and issuance of the Notes and securities issued in renewal of the
417 Notes and rendering at delivery related legal opinions, all as set forth in the form of
418 engagement letter from that firm which is now on file in the office of the Clerk of
419 Council. In providing those legal services, as an independent contractor and in an
420 attorney-client relationship, that firm shall not exercise any administrative discretion
421 on behalf of this City in the formulation of public policy, expenditure of public funds,
422 enforcement of laws, rules and regulations of the State, any county or municipal
423 corporation or of this City, or the execution of public trusts. For those legal services
424 that firm shall be paid just and reasonable compensation and shall be reimbursed for
425 actual out-of-pocket expenses incurred in providing those legal services. The Director
426 of Finance is authorized and directed to make appropriate certification as to the
427 availability of funds for those fees and any reimbursement and to issue an appropriate
428 order for their timely payment as written statements are submitted by that firm. The
429 amounts necessary to pay those fees and any reimbursement are hereby appropriated
430 from the proceeds of the Notes, if available, and otherwise from available moneys in
431 the General Fund.
432

433 Section 15. The services of H.J. Umbaugh & Associates, Certified Public
434 Accountants, LLP, as municipal advisor, are hereby retained. The municipal advisory
435 services shall be in the nature of financial advice and recommendations in connection
436 with the issuance and sale of the Notes. In rendering those municipal advisory
437 services, as an independent contractor, that firm shall not exercise any administrative
438 discretion on behalf of the City in the formulation of public policy, expenditure of
439 public funds, enforcement of laws, rules and regulations of the State, the City or any
440 other political subdivision, or the execution of public trusts. That firm shall be paid
441 just and reasonable compensation for those municipal advisory services and shall be
442 reimbursed for the actual out-of pocket expenses it incurs in rendering those
443 municipal advisory services. The Director of Finance is authorized and directed to
444 make appropriate certification as to the availability of funds for those fees and any
445 reimbursement and to issue an appropriate order for their timely payment as written
446 statements are submitted by that firm. The amounts necessary to pay those fees and
447 any reimbursement are hereby appropriated from the proceeds of the Notes, if
448 available, and otherwise from available moneys in the General Fund.
449

450 Section 16. This Council finds and determines that all formal actions of this
451 Council and any of its committees concerning and relating to the passage of this
452 ordinance were taken in an open meeting of this Council or any of its committees, and
453 that all deliberations of this Council and of any of its committees that resulted in
454 those formal actions were in meetings open to the public, all in compliance with
455 Chapter 107 of the City's Codified Ordinances.
456

457 Section 17. This ordinance is declared to be an emergency measure necessary for
458 the immediate preservation of the public peace, health and safety of the City, and for
459 the further reason that this ordinance is required to be immediately effective in order
460 to issue and sell the Notes, which is necessary for the City to meet its obligations
461 under contracts for construction of the Improvement and to provide for the health and
462 welfare of the City residents; wherefore, this ordinance shall be in full force and effect
463 immediately upon its passage and approval by the Mayor.
464

465
466 Passed: _____
467 _____
468 President of Council

469 _____
470 Clerk of Council

471
472 Approved: _____
473 _____
474 Mayor

474 6/26/17
475 O:\2017ords\Note Ordinance (Sewer Lines).doc

2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. -2017
7

8
9 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND
10 SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT
11 OF \$3,000,000, IN ANTICIPATION OF THE ISSUANCE OF
12 BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF
13 CONSTRUCTING, RECONSTRUCTING, IMPROVING AND
14 REHABILITATING THE CITY’S GREEN PARKING GARAGE,
15 BLUE PARKING GARAGE AND RED PARKING GARAGE BY
16 THE CONSTRUCTION, IMPROVEMENT AND
17 INSTALLATION OF CONCRETE AND MASONRY, THE
18 WATERPROOFING OF THE EXISTING STRUCTURES, THE
19 CONSTRUCTION OF DRAINAGE UPGRADES, THE
20 ACQUISITION AND INSTALLATION OF ELECTRICAL AND
21 LIGHTING UPGRADES, AND THE ACQUISITION AND
22 INSTALLATION OF NEW ELEVATORS AND THE
23 MODERNIZATION OF EXISTING ELEVATORS, AND ALL
24 RELATED IMPROVEMENTS AND APPURTENANCES, AND
25 DECLARING AN EMERGENCY.
26

27
28 WHEREAS, this Council has requested that the Director of Finance, as fiscal officer
29 of this City, certify the estimated life or period of usefulness of the Improvement
30 described in Section 1 and the estimated maximum maturity of the Bonds described
31 in Section 1; and
32

33 WHEREAS, the Director of Finance has certified to this Council that the estimated
34 life or period of usefulness of the Improvement described in Section 1 is at least five (5)
35 years, the estimated maximum maturity of the Bonds described in Section 1 is twenty
36 (20) years, and the maximum maturity of the Notes described in Section 3, to be
37 issued in anticipation of the Bonds, is two hundred forty (240) months;
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 maximum principal
43 amount of \$3,000,000 (the “Bonds”) for the purpose of paying the costs of
44 constructing, reconstructing, improving and rehabilitating the City’s Green Parking
45 Garage, Blue Parking Garage and Red Parking Garage by the construction,
46 improvement and installation of concrete and masonry, the waterproofing of the
47 existing structures, the construction of drainage upgrades, the acquisition and
48 installation of electrical and lighting upgrades, and the acquisition and installation of
49 new elevators and the modernization of existing elevators, and all related
50 improvements and appurtenances (the “Improvement”).
51

52 Section 2. The Bonds shall be dated approximately August 1, 2018, shall bear
53 interest at the now estimated rate of 5.50% per year, payable on June 1 and December
54 1 of each year, commencing December 1, 2018, until the principal amount is paid,

55 and are estimated to mature in twenty (20) annual principal installments that are in
56 such amounts that the total principal and interest payments on the Bonds in any
57 fiscal year in which principal is payable are not more than three times the amount of
58 those payments in any other fiscal year. The first principal installment is estimated to
59 be December 1, 2018.
60

61 Section 3. It is necessary to issue and this Council determines that notes in the
62 maximum principal amount of \$3,000,000 (the "Notes") shall be issued in anticipation
63 of the issuance of the Bonds for the purpose stated in Section 1 and to pay the costs of
64 the Improvement and any financing costs. The principal amount of Notes to be issued
65 (not to exceed the stated maximum principal amount) shall be determined by the
66 Director of Finance in the final terms certificate awarding the Notes in accordance with
67 Section 6 of this ordinance (the "Final Terms Certificate") as the amount which is
68 necessary to pay the costs of the Improvement and any financing costs. The Notes
69 shall be dated the date of issuance and shall mature not earlier than six months from
70 that date and not later than 12 months from that date, as shall likewise be fixed by
71 the Director of Finance in the Final Terms Certificate. The Notes shall bear interest at
72 a rate or rates not to exceed 6.00% per year (computed on the basis of a 360-day year
73 consisting of twelve 30-day months), payable at maturity and until the principal
74 amount is paid or payment is provided for. The rate or rates of interest on the Notes
75 shall be determined by the Director of Finance in the Final Terms Certificate in
76 accordance with Section 6 of this ordinance.
77

78 Section 4. The debt charges on the Notes shall be payable in Federal Reserve
79 funds of the United States of America, and shall be payable, without deduction for
80 services of the City's paying agent, at the designated corporate trust office of The
81 Huntington National Bank or at the office of a bank or trust company designated by
82 the Director of Finance in the Final Terms Certificate after determining that the
83 payment at that bank or trust company will not endanger the funds or securities of
84 the City and that proper procedures and safeguards are available for that purpose or
85 at the office of the Director of Finance if agreed to by the Director of Finance and the
86 Original Purchaser (the "Paying Agent"). The Director of Finance is authorized, to the
87 extent necessary or appropriate, to enter into an agreement with the Paying Agent in
88 connection with the services to be provided by the Paying Agent after determining that
89 the signing thereof will not endanger the funds or securities of the City.
90

91 Section 5. The Notes shall be signed by the Mayor and Director of Finance, in the
92 name of the City and in their official capacities, provided that one of those signatures
93 may be a facsimile. The Notes shall be issued in the denominations and numbers as
94 requested by the Original Purchaser, as described in Section 6 hereof, and approved
95 by the Director of Finance, provided that unless the City distributes an official
96 statement, as described in Section 6 hereof, no Note shall be issued in a denomination
97 less than \$100,000 and in multiples of \$100 in excess thereof. The entire principal
98 amount may be represented by a single note and may be issued as fully registered
99 securities (for which the Director of Finance will serve as note registrar) and in book
100 entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of
101 the Ohio Revised Code if it is determined by the Director of Finance that issuance of
102 fully registered securities in that form will facilitate the sale and delivery of the Notes.
103 The Notes shall not have coupons attached, shall be numbered as determined by the
104 Director of Finance and shall express upon their faces the purpose, in summary
105 terms, for which they are issued and that they are issued pursuant to this ordinance.
106 As used in this section and this ordinance:
107

108 “Book entry form” or “book entry system” means a form or system under which (a)
109 the ownership of beneficial interests in the Notes and the principal of and interest on
110 the Notes may be transferred only through a book entry, and (b) a single physical Note
111 certificate in fully registered form is issued by the City and payable only to a
112 Depository or its nominee as registered owner, with the certificate deposited with and
113 “immobilized” in the custody of the Depository or its designated agent for that
114 purpose. The book entry maintained by others than the City is the record that
115 identifies the owners of beneficial interests in the Notes and that principal and
116 interest.

117
118 “Depository” means any securities depository that is a clearing agency registered
119 pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934,
120 operating and maintaining, with its Participants or otherwise, a book entry system to
121 record ownership of beneficial interests in the Notes or the principal of and interest on
122 the Notes, and to effect transfers of the Notes, in book entry form, and includes and
123 means initially The Depository Trust Company (a limited purpose trust company), New
124 York, New York.

125
126 “Participant” means any participant contracting with a Depository under a book
127 entry system and includes securities brokers and dealers, banks and trust companies,
128 and clearing corporations.

129
130 The Notes may be issued to a Depository for use in a book entry system and, if and
131 as long as a book entry system is utilized, (a) the Notes may be issued in the form of a
132 single Note made payable to the Depository or its nominee and immobilized in the
133 custody of the Depository or its agent for that purpose; (b) the beneficial owners in
134 book entry form shall have no right to receive the Notes in the form of physical
135 securities or certificates; (c) ownership of beneficial interests in book entry form shall
136 be shown by book entry on the system maintained and operated by the Depository and
137 its Participants, and transfers of the ownership of beneficial interests shall be made
138 only by book entry by the Depository and its Participants; and (d) the Notes as such
139 shall not be transferable or exchangeable, except for transfer to another Depository or
140 to another nominee of a Depository, without further action by the City.

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

153
154 The Director of Finance is also hereby authorized and directed, to the extent
155 necessary or required, to enter into any agreements determined necessary in
156 connection with the book entry system for the Notes, after determining that the
157 signing thereof will not endanger the funds or securities of the City.

158
159 Section 6. The Notes shall be sold at not less than 97% of the par value thereof at
160 private sale to Stifel, Nicolaus & Company, Incorporated (the “Original Purchaser”) by
161 the Director of Finance in accordance with law and the provisions of this ordinance,

162 the Final Terms Certificate and the Note Purchase Agreement (as hereinafter defined).
163 The Director of Finance shall, in accordance with his determination of the best
164 interests of and financial advantages to the City and its taxpayers and conditions then
165 existing in the financial market, consistently with the provisions of Sections 3 and 4,
166 establish the interest rates to be borne by the Notes and their maturity, sign the Final
167 Terms Certificate referred to in Sections 3 and 4 evidencing those determinations,
168 cause the Notes to be prepared, and have the Notes signed and delivered, together
169 with a true transcript of proceedings with reference to the issuance of the Notes, if
170 requested by the Original Purchaser, to the Original Purchaser upon payment of the
171 purchase price. The note purchase agreement (the "Note Purchase Agreement") now
172 on file with the Clerk of Council is approved, and the Mayor and the Director of
173 Finance are authorized to sign and deliver, on behalf of the City, the Note Purchase
174 Agreement with such changes that are not inconsistent with the provisions of this
175 ordinance, are not materially adverse to the interests of the City and are approved by
176 the Mayor and the Director of Finance. Any such changes to the Note Purchase
177 Agreement are not materially adverse to the interests of the City and are approved by
178 the Mayor and the Director of Finance shall be evidenced conclusively by the signing
179 of the Note Purchase Agreement by the Mayor and the Director of Finance. The
180 Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other
181 City officials, as appropriate, are each authorized and directed to sign any transcript
182 certificates, financial statements, continuing disclosure agreement and other
183 documents and instruments, including any paying agent agreement, and to take such
184 actions as are necessary and appropriate to consummate the transactions
185 contemplated by this ordinance. The Director of Finance is authorized, if it is
186 determined to be in the best interest of the City, to combine the issue of Notes with
187 one or more other note issues of the City into a consolidated note issue pursuant to
188 Section 133.30(B) of the Ohio Revised Code.
189

190 The Director of Finance is hereby authorized to offer all or part of the Notes at par
191 and any accrued interest to the Treasury Investment Board of the City for investment
192 under Section 731.56 of the Ohio Revised Code, in accordance with law and the
193 provisions of this ordinance if, as a result of the conditions then existing in the
194 financial markets, the Director of Finance determines it is in the best financial interest
195 of the City in lieu of the private sale authorized in the preceding paragraph.
196

197 If the Mayor or the Director of Finance determines it to be in the best interests of
198 and financially advantageous to the City, either or both of those officers are
199 authorized, on behalf of the City, to apply for a rating on the Notes from one or more
200 nationally-recognized rating organizations.
201

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

216
217 As used in this section and this ordinance:
218

219 “Note proceedings” means, collectively, this ordinance and the other proceedings of
220 the City, including the Notes, that collectively provide for, among other things, the
221 rights of holders and beneficial owners of the Notes.
222

223 “Rule” means Rule 15c2-12 prescribed by the Securities and Exchange
224 Commission pursuant to the Securities Exchange Act of 1934.
225

226 “Specified Events” means the occurrence of any of the following events, within the
227 meaning of the Rule, with respect to the Notes as applicable: principal and interest
228 payment delinquencies; non-payment related defaults; unscheduled draws on debt
229 service reserves reflecting financial difficulties; unscheduled draws on credit
230 enhancements reflecting financial difficulties; substitution of credit or liquidity
231 providers, or their failure to perform; adverse tax opinions or events affecting the tax-
232 exempt status of the Notes; modifications to rights of holders or beneficial owners of
233 the Notes; Note calls; defeasances; release, substitution or sale of property securing
234 repayment of the Notes; and rating changes. The City has not obtained or provided,
235 and does not expect to obtain or provide, any debt service reserves, credit
236 enhancements or credit or liquidity providers for the Notes, the Notes are not subject
237 to call for redemption prior to maturity, and repayment of the Notes is not secured by
238 a lien on any property capable of release or sale or for which other property may be
239 substituted.
240

241 If the City prepares and causes the distribution of an official statement for the
242 Notes, for the benefit of the holders and beneficial owners from time to time of the
243 Notes, the City agrees, as the only obligated person with respect to the Notes under
244 the Rule, to provide or cause to be provided such notices, in such manner, as may be
245 required for purposes of paragraph (b)(5)(i)(C) of the Rule, including specifically notice
246 to the Municipal Securities Rulemaking Board (MSRB) through its Electronic
247 Municipal Market Access (EMMA) system, in a timely manner, of the occurrence of any
248 Specified Event, if that event is material. (The City’s agreement in this paragraph is
249 herein referred to as the Continuing Disclosure Agreement).
250

251 The Director of Finance is further authorized and directed to establish procedures
252 to ensure compliance by the City with the Continuing Disclosure Agreement, including
253 timely provision of notices as described above. Prior to providing notice of the
254 occurrence of any Specified Event or of any other events, the Director of Finance shall
255 consult with and obtain legal advice from, as appropriate, the Director of Law and
256 bond or other qualified independent special counsel selected by the City. The Director
257 of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon
258 any such legal advice in determining whether a notice should be provided.
259

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

270 interpretations of the Rule, as well as any change in circumstances, and until the City
271 shall have received: either (a) a written opinion of bond or other qualified independent
272 special counsel selected by the City that the amendment or waiver would not
273 materially impair the interests of holders or beneficial owners of the Notes or (b) the
274 written consent to the amendment or waiver of the holders of at least a majority of the
275 principal amount of the Notes then outstanding.
276

277 The Continuing Disclosure Agreement shall be solely for the benefit of the holders
278 and beneficial owners from time to time of the Notes. The exclusive remedy for any
279 breach of the Agreement by the City shall be limited, to the extent permitted by law, to
280 a right of holders and beneficial owners to institute and maintain, or to cause to be
281 instituted and maintained, such proceedings as may be authorized at law or in equity
282 to obtain the specific performance by the City of its obligations under the Agreement.
283 Any individual holder or beneficial owner may institute and maintain, or cause to be
284 instituted and maintained, such proceedings to require the City to provide or cause to
285 be provided a pertinent filing if such a filing is due and has not been made. Any such
286 proceedings to require the City to perform any other obligation under the Agreement
287 (including any proceedings that contest the sufficiency of any pertinent filing) shall be
288 instituted and maintained only (a) by a trustee appointed by the holders and beneficial
289 owners of not less than 25% in principal amount of the Notes then outstanding or (b)
290 by holders and beneficial owners of not less than 10% in principal amount of the
291 Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1) of the
292 Ohio Revised Code, as applicable (or any like or comparable successor provisions).
293

294 The performance by the City of the Continuing Disclosure Agreement shall be
295 subject to the annual appropriation of any funds that may be necessary to perform it.
296

297 The Continuing Disclosure Agreement shall remain in effect only for such period
298 that the Notes are outstanding in accordance with their terms and the City remains an
299 obligated person with respect to the Notes within the meaning of the Rule. The
300 obligation of the City to provide the notices of the Specified Events shall terminate, if
301 and when the City no longer remains such an obligated person.
302

303 Section 7. The proceeds from the sale of the Notes, except any premium and
304 accrued interest, shall be paid into the proper fund or funds and those proceeds are
305 appropriated and shall be used for the purpose for which the Notes are being issued.
306 The Final Terms Certificate may authorize the Original Purchaser to withhold certain
307 proceeds from the sale of the Notes to provide for the payment of certain financing
308 costs on behalf of the City. Any portion of those proceeds received by the City (after
309 payment of those financing costs) representing premium or accrued interest shall be
310 paid into the Bond Retirement Fund.
311

312 Section 8. The par value to be received from the sale of the Bonds or of any
313 renewal notes and any excess funds resulting from the issuance of the Notes shall, to
314 the extent necessary, be used to pay the debt charges on the Notes at maturity and
315 are pledged for that purpose.
316

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

324 are certified, levied, extended and collected, and shall be placed before and in
325 preference to all other items and for the full amount thereof. The proceeds of the tax
326 levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the
327 payment of the debt charges on the Notes or the Bonds when and as the same fall due.
328

329 In each year to the extent receipts from the municipal income tax are available for
330 the payment of the debt charges on the Notes or the Bonds and are appropriated for
331 that purpose, the amount of the tax shall be reduced by the amount of such receipts
332 so available and appropriated in compliance with the following covenant. To the
333 extent necessary, the debt charges on the Notes or the Bonds shall be paid from
334 municipal income taxes lawfully available therefor under the Constitution and the
335 laws of the State of Ohio, and the Charter of the City; and the City hereby covenants,
336 subject and pursuant to such authority, including particularly Section 133.05(B)(7) of
337 the Ohio Revised Code, to appropriate annually from such municipal income taxes
338 such amount as is necessary to meet such annual debt charges.
339

340 Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of
341 the full faith and credit and general property taxing power of the City to the prompt
342 payment of the debt charges on the Notes and the Bonds.
343

344 Section 10. The City covenants that it will use, and will restrict the use and
345 investment of, the proceeds of the Notes in such manner and to such extent, as may
346 be necessary so that (a) the Notes will not (i) constitute private activity bonds,
347 arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal
348 Revenue Code of 1986, as amended (the "Code") or (ii) be treated other than as bonds
349 to which Section 103 of the Code applies, and (b) the interest on the Notes will not be
350 treated as an item of tax preference under Section 57 of the Code.
351

352 The City further covenants that (a) it will take or cause to be taken such actions
353 that may be required of it for the interest on the Notes to be and remain excluded from
354 gross income for federal income tax purposes, (b) it will not take or authorize to be
355 taken any actions that would adversely affect that exclusion, and (c) it, or persons
356 acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to
357 the governmental purpose of the borrowing, (ii) restrict the yield on investment
358 property, (iii) make timely and adequate payments to the federal government, (iv)
359 maintain books and records and make calculations and reports and (v) refrain from
360 certain uses of those proceeds, and, as applicable, of property financed with such
361 proceeds, all in such manner and to the extent necessary to assure such exclusion of
362 that interest under the Code.
363

364 The Director of Finance, as the fiscal officer, or any other officer of the City having
365 responsibility for issuance of the Notes is hereby authorized (a) to make or effect any
366 election, selection, designation, choice, consent, approval, or waiver on behalf of the
367 City with respect to the Notes as the City is permitted to or required to make or give
368 under the federal income tax laws, for the purpose of assuring, enhancing or
369 protecting favorable tax treatment or status of the Notes or interest thereon or
370 assisting compliance with requirements for that purpose, reducing the burden or
371 expense of such compliance, reducing the rebate amount or payments or penalties, or
372 making payments of special amounts in lieu of making computations to determine, or
373 paying, excess earnings as rebate, or obviating those amounts or payments, as
374 determined by that officer, which action shall be in writing and signed by the officer,
375 (b) to take any and all other actions, make or obtain calculations, make payments, and
376 make or give reports, covenants and certifications of and on behalf of the City, as may
377 be appropriate to assure the exclusion of interest from gross income and the intended

378 tax status of the Notes, and (c) to give one or more appropriate certificates of the City,
379 for inclusion in the transcript of proceedings for the Notes, setting forth the
380 reasonable expectations of the City regarding the amount and use of all the proceeds
381 of the Notes, the facts, circumstances and estimates on which they are based, and
382 other facts and circumstances relevant to the tax treatment of the interest on and the
383 tax status of the Notes. The Director of Finance or any other officer of the City having
384 responsibility for issuance of the Notes is specifically authorized to designate the Notes
385 as "qualified tax-exempt obligations" if such designation is applicable and desirable,
386 and to make any related necessary representations and covenants.
387

388 Section 11. The Clerk of Council is directed to deliver a certified copy of this
389 ordinance to the Fiscal Officer in Summit County.
390

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

401 Section 13. The Director of Finance is authorized to request a rating for the Notes
402 from Moody's Investors Service, Inc. or S&P Global Ratings Services, or both, as the
403 Director of Finance determines is in the best interest of the City. The expenditure of
404 the amounts necessary to secure any such ratings as well as to pay the other
405 financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection
406 with the Notes is hereby authorized and approved and the amounts necessary to pay
407 those costs are hereby appropriated from the proceeds of the Notes, if available, and
408 otherwise from available moneys in the General Fund.
409

410 Section 14. The legal services of the law firm of Squire Patton Boggs (US) LLP are
411 hereby retained. Those legal services shall be in the nature of legal advice and
412 recommendations as to the documents and the proceedings in connection with the
413 authorization, sale and issuance of the Notes and securities issued in renewal of the
414 Notes and rendering at delivery related legal opinions, all as set forth in the form of
415 engagement letter from that firm which is now on file in the office of the Clerk of
416 Council. In providing those legal services, as an independent contractor and in an
417 attorney-client relationship, that firm shall not exercise any administrative discretion
418 on behalf of this City in the formulation of public policy, expenditure of public funds,
419 enforcement of laws, rules and regulations of the State, any county or municipal
420 corporation or of this City, or the execution of public trusts. For those legal services
421 that firm shall be paid just and reasonable compensation and shall be reimbursed for
422 actual out-of-pocket expenses incurred in providing those legal services. The Director
423 of Finance is authorized and directed to make appropriate certification as to the
424 availability of funds for those fees and any reimbursement and to issue an appropriate
425 order for their timely payment as written statements are submitted by that firm. The
426 amounts necessary to pay those fees and any reimbursement are hereby appropriated
427 from the proceeds of the Notes, if available, and otherwise from available moneys in
428 the General Fund.
429

430 Section 15. The services of H.J. Umbaugh & Associates, Certified Public
431 Accountants, LLP, as municipal advisor, are hereby retained. The municipal advisory

432 services shall be in the nature of financial advice and recommendations in connection
433 with the issuance and sale of the Notes. In rendering those municipal advisory
434 services, as an independent contractor, that firm shall not exercise any administrative
435 discretion on behalf of the City in the formulation of public policy, expenditure of
436 public funds, enforcement of laws, rules and regulations of the State, the City or any
437 other political subdivision, or the execution of public trusts. That firm shall be paid
438 just and reasonable compensation for those municipal advisory services and shall be
439 reimbursed for the actual out-of pocket expenses it incurs in rendering those
440 municipal advisory services. The Director of Finance is authorized and directed to
441 make appropriate certification as to the availability of funds for those fees and any
442 reimbursement and to issue an appropriate order for their timely payment as written
443 statements are submitted by that firm. The amounts necessary to pay those fees and
444 any reimbursement are hereby appropriated from the proceeds of the Notes, if
445 available, and otherwise from available moneys in the General Fund.
446

447 Section 16. This Council finds and determines that all formal actions of this
448 Council and any of its committees concerning and relating to the passage of this
449 ordinance were taken in an open meeting of this Council or any of its committees, and
450 that all deliberations of this Council and of any of its committees that resulted in
451 those formal actions were in meetings open to the public, all in compliance with
452 Chapter 107 of the City's Codified Ordinances.
453

454 Section 17. This ordinance is declared to be an emergency measure necessary for
455 the immediate preservation of the public peace, health and safety of the City, and for
456 the further reason that this ordinance is required to be immediately effective in order
457 to issue and sell the Notes, which is necessary for the City to meet its obligations
458 under contracts for construction of the Improvement and to provide for the health and
459 welfare of the City residents; wherefore, this ordinance shall be in full force and effect
460 immediately upon its passage and approval by the Mayor.
461

462
463 Passed: _____
464 _____
465 President of Council

466
467 _____
468 Clerk of Council

469
470
471 Approved: _____
472 _____
473 Mayor

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. - 2017

6
7 AN ORDINANCE RESCHEDULING THE REGULAR CITY
8 COUNCIL AND COUNCIL COMMITTEE MEETINGS IN JULY,
9 2017, AND DECLARING AN EMERGENCY.

10
11
12 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit, and State
13 of Ohio, that:

14
15 Section 1. Notwithstanding and as an exception to Section 111.03 of the Codified
16 Ordinances, the following schedule for regular City Council and Council Committee meetings
17 shall apply during July, 2017:

- 18
- 19 July 3: (no meetings)
- 20 July 10: Regular Committee Meetings
- 21 July 17: Regular City Council Meeting
- 22 July 24: Regular Committee Meetings
- 23 July 31: Regular City Council Meeting
- 24

25 Section 2. The Clerk of Council is instructed to give notice to the public of these schedule
26 changes in accordance with Section 111.03(f) of the Codified Ordinances.

27
28 Section 3. Any ordinances or resolutions or portions of ordinances and resolutions
29 inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent
30 herewith and which have not previously been repealed are hereby ratified and confirmed.

31
32 Section 4. It is found and determined that all formal actions of this Council concerning and
33 relating to the passage of this ordinance were taken in an open meeting of this Council and that
34 all deliberations of this Council and of any committees that resulted in those formal actions were
35 in meetings open to the public, in compliance with all requirements including Chapter 107 of the
36 Codified Ordinances.

37
38 Section 5. This ordinance is hereby declared to be an emergency measure necessary for the
39 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
40 Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-thirds of the
41 members elected or appointed to Council, it shall take effect and be in force immediately upon its
42 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
43 period allowed by law.

44
45
46 Passed: _____
47 _____
48 President of Council

49
50 _____
51 Clerk of Council

52
53
54 Approved _____
55 _____
56 Mayor

57 6/26/17