

**ORDINANCE NO. 211.11-04-2010**

AN ORDINANCE OF THE CITY OF FRANKLIN, KENTUCKY AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION DEBT NOTE, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000; APPROVING A FORM OF NOTE; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE NOTE(S); AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE NOTES; CREATING A NOTE PAYMENT FUND; MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND; AUTHORIZING AWARD OF THE NOTE TO REGIONS BANK; AUTHORIZING A PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT FOR THE NOTE(S); AUTHORIZING A CONTINUING DISCLOSURE AGREEMENT FOR THE NOTE(S); REPEALING INCONSISTENT ORDINANCES; AND DECLARING AN EMERGENCY TO EXIST.

WHEREAS, the City of Franklin, Kentucky (the "City") has determined and does hereby confirm that it is necessary and desirable that the City proceed with an industrial building consisting of the acquisition and site development of real property in an area bounded by World Color, LLC, 300 Brown Road, within the City (collectively, the "Project"); and

WHEREAS, the City has determined that the Project is a public project that meets the requirements of KRS 103.200 et seq., 154.50-301, et seq., and other applicable portions of the Kentucky Revised Statutes and/or common law, and that it is desirable for the City to subsequently issue its general obligation notes/bonds to finance the costs of the Project; and

WHEREAS, the City has determined that pending completion of construction of the Project it is advantageous and in the best interests of the City that the City proceed with the issuance of a general obligation note(s), in anticipation of the issuance of other general obligation bonds, notes, or other permanent financing, in order to provide interim financing for the costs of the Project; and

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly KRS 103.200 et seq. (the "Act"), a city may issue notes, subject to the requirements of the Act, to pay all or any portion of the costs of the City's Project; and

WHEREAS, the City desires to finance the Project on an interim and/or permanent basis through the issuance of the Notes to be sold and/or awarded to Regions Bank; and

WHEREAS, it is provided in KRS 83A.060(7) that publication of an Ordinance, in order to make it effective, need not be done in an emergency, upon the affirmative vote of two-thirds (2/3) of the membership of the City's legislative body, provided that the legally required publication requirement is carried out within ten (10) days of the date of enactment of the emergency ordinance; and,

WHEREAS, it is essential and in the public interest that the City issue this ordinance immediately and any postponement would be detrimental to the residents of the City due to the potential development and/or use of the property, and, therefore, an emergency exists so that it is necessary and in the public interest to issue this ordinance immediately, and the City hereby declares such emergency to exist.

NOW, THEREFORE, BE IT ORDAINED by the City of Franklin, Kentucky, as follows:

Section 1 -- Authorization of General Obligation Notes/Bonds; Renewal Notes or Alternative Permanent Financing. The City shall issue its general obligation notes/bonds (the "Notes") for the purpose of permanently financing the Project. Said Notes shall be dated approximately April 1, 2010, bear interest at an approximate rate of three and three-quarters percent (3 ¾ %) per annum, payable quarterly with a principal payment payable quarterly, and shall mature over a period not exceeding three years. In the alternative, the City reserves the right to issue renewal notes when, prior to maturity of the Notes, the City shall make a determination that by reason of construction delays, changes in plans, high long-term interest rates or uncertainties in the municipal bond market, or other causes justifying delay in the final offering of other Notes or Bonds, the Bonds should not immediately be offered, and the proceeds of the sale of such renewal notes shall be applied to the payment of the principal of the Notes. The City further reserves the right, in lieu of the issuance of the Bonds or renewal notes, to retire the

Notes from any other available revenues of the City or to secure other permanent financing for the Project.

Section 2 -- Necessity, Authorization and Purpose of General Obligation Notes/Bonds.

The City hereby declares that it is necessary to issue and the City hereby authorizes the issuance of its General Obligation Note(s), (the "Notes"), in the aggregate principal amount of \$4,000,000 for the purpose of (i) paying the costs of the Project; and (ii) paying the costs of issuance of the Notes. The specific principal amount of Notes to be issued shall be determined in a certificate of award (the "Certificate of Award") to be signed by the Mayor.

Section 3 -- Form. The Notes shall be issued as fully registered Notes, shall be designated "General Obligation Notes, Series 2010", shall express upon their faces the purpose for which they are issued, that they are issued under the Act and shall be substantially in the form set forth in Annex A. The Notes shall be dated their date of initial delivery to Regions Bank or such other date as is determined in the Certificate of Award. Interest on the Notes shall be payable each quarter (an "Interest Payment Date"), commencing June 1, 2010, at the stated interest rate or rates on the principal amount thereof. The interest rate on the Notes shall be determined in the Certificate of Award; provided that the aggregate net interest cost of the Notes shall not exceed three and three-quarters (3.75%). The Notes shall mature March 1, 2013.

The Notes shall be subject to optional redemption prior to their maturity on any date on or after April 1, 2010, in whole or in part, at the election of the City at a redemption price equal to the principal amount of the Notes to be redeemed, plus accrued interest to the date of redemption plus any prepayment penalty fees set forth in the Notes.

Section 4 -- Execution and Delivery. The Notes shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the City Clerk (which, together with any other person as may be authorized by resolution are referred to as "Designated Officers"), shall have the seal of the City or a facsimile thereof affixed

thereto, and shall bear the manual authenticating signature of an authorized representative of Regions Bank. The Designated Officers are further authorized and directed to deliver the Notes to Regions Bank, upon the terms and conditions provided herein or in the Notes, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and/or delivery of the Notes.

The City authorizes and directs the "Designated Officers" to authenticate the Notes and to deliver the Notes or copies thereof to the appropriate persons/entities.

Section 5 -- Payment. Payment of or on account of the interest on and principal of the Notes shall be made directly to Regions Bank for the account of the City. Interest on the Notes shall be payable by check, mailed or delivered to Regions Bank on the Interest Payment Date on the Notes or by other transfer of funds acceptable to Regions Bank. Principal shall be payable in such coin or currency of the United States of America as shall be legal tender for the payment of public and private debts at the time and place of payment as stated in the Notes upon delivery of the Notes. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Notes to the extent of the sum or sums so paid.

Section 6 -- Filing. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information which may be required by law to be filed by the City, including, but not limited to, the filing with the State Local Debt Officer required by law.

Section 7 -- Note Payment Fund, Payment of Notes. There is hereby established with the Chief Finance Officer of the City of Franklin a note payment fund in the name of the City to be known as General Obligation Notes, Series 2010 Note Payment Fund (the "Note Payment Fund"), into which the City covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter established), on or before the last day of each month which precedes an Interest Payment Date on the Notes, the

amount required to pay principal of and interest due on the Notes on such Interest Payment Date. There shall further be deposited to the Note Payment Fund such proceeds of the Notes/Bonds, when issued, as shall be necessary to pay the principal of and interest on the Notes/Bonds at maturity, and the City hereby pledges such proceeds of the Notes/Bonds for such purposes. The Chief Finance Officer shall, without further authorization from the City, withdraw from the Note Payment Fund, on each Interest Payment Date and on the final maturity date of the Notes, the amounts necessary to pay principal of, and interest on, the Notes to Regions Bank.

The Chief Finance Officer is hereby appointed as the depository of the Note Payment Fund herein established with respect to the Notes.

If the City shall fail or refuse to make any required deposit in the Note Payment Fund from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the City to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the Notes or its assignee, and shall disburse all funds so collected to the owners of the Notes as payment of the Notes.

Section 8 -- General Obligation. The Notes shall be full general obligations of the City and, for the payment of said Notes and the interest thereon, the full faith, credit and revenue of the City are hereby pledged for the prompt payment thereof. During the period the Notes are outstanding, there shall be and there hereby is levied on all the taxable property in the City, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Notes when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general

purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the City are available for the payment of the Notes and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such other funds so available and appropriated.

Section 9 -- Maintenance of Sinking/Note Payment Fund. Pursuant to Ordinance No. 211.11-04-2010 adopted on April 1, 2010 as set forth in Section 7 hereinabove, there has heretofore been established with the City a Note Payment Fund that will also serve as the sinking fund (the "Sinking Fund"). The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds and notes issued under the Act when and as the same fall due.

Section 10 -- Certificate of Award. The Mayor of the City is hereby authorized to execute the Certificate of Award establishing the final interest rate or rates on the Notes, the exact principal amount of Notes to be issued and delivered and the dated date of the Notes, without any further action by the Board of Commissioners.

Section 15 -- Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited as follows: (a) premium and accrued interest, if any, shall be deposited to the Note Payment Fund created in Section 7 hereof; and (b) the remainder of the proceeds shall be deposited to a special construction and acquisition account (the "City of Franklin 2010 Construction Account") to be held by the bank to be designated as the construction depository in the Certificate of Award (the "Construction Fund Depository") and used to pay the costs of the acquisition, construction, installation and equipping of the Project and the costs of issuance of

the Notes.

Section 16 -- Discharge of Note Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to Regions Bank the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Note Ordinance, then the pledges made under this Note Ordinance, and all covenants, agreements and other obligations of the City hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 17 -- Severability. If any one or more of the provisions of this Note Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

Section 18 -- Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

Section 19 -- Open Meetings Compliance. All meetings of the Board of Commissioners of the City and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Notes were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements.

Section 20 -- Declaration of an Emergency.

- a. It is hereby found, determined, and declared that the facts and recitals set forth in the preamble of this ordinance are true and correct and are hereby affirmed, and all acts described in preamble are hereby ratified. Such facts and recitals, including any terms defined therein, are adopted and incorporated as a part of this ordinance.

b. In accordance with KRS 83A.060(7), an emergency is hereby declared to exist for the reasons described in the preamble of this ordinance and the Board of Commissioners suspends the requirement of publication of the ordinance (or Summary thereof) in order for it to become effective, so that the ordinance is and shall be effective upon the adoption of this ordinance; and further, this ordinance, because of said emergency hereby declared, shall be effective upon its adoption on first reading, without publication, as provided in KRS 83A.060(7), and the Board of City Commissioners having hereby suspended the requirements of second reading and publications. The ordinance shall be published within ten (10) days of the adoption of this ordinance as provided by law.

Section 21 -- Effective Date. This Note Ordinance shall become effective immediately upon the reading of the ordinance at the meeting being specifically approved and adopted for the purposes of first and only reading and for the purposes of publication according to law.

If any section, subsection, sentence, clause, or phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.



ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF FRANKLIN, KENTUCKY, by the affirmative vote of at least two-thirds (2/3) of its membership upon one reading and upon declaration of an emergency as described above, all in accordance with and pursuant to KRS 83A.060(7) at a meeting held on Thursday, April 1, 2010, and ordered to be published according to KRS 83A.060(7) within ten (10) days from the adoption of this ordinance and declared to be in full force and effect immediately according to law. On motion made by Commissioner Mike Simpson and seconded by Commissioner Jamie Powell, the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>                    Yes                    </u>	JAMIE POWELL
<u>                    Absent                   </u>	WENDELL STEWART
<u>                    Yes                    </u>	MIKE SIMPSON
<u>                    Absent                   </u>	HENRY STONE
<u>                    Yes                    </u>	HERBERT WILLIAMS, MAYOR

CITY OF FRANKLIN, KENTUCKY

By: *Herbert S. Williams*  
Mayor

Attest:

*Kathy Stratner*  
City Clerk