

**ORDINANCE NO. 211.12-04-2010**

AN ORDINANCE OF THE CITY OF FRANKLIN, KENTUCKY AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION DEBT NOTE TO THE FRANKLIN-SIMPSON INDUSTRIAL AUTHORITY, 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; PROVIDING FOR THE PAYMENT AND SECURITY OF THE NOTE; 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, by and through the Franklin-Simpson Industrial Authority (the "Authority"), proceed with the construction of an industrial building consisting of the acquisition, site development, an construction of an industrial building on certain 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 a note, with the City, as Holder, and the Authority, as Maker, to finance the costs of the Project; 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 Note. The City, as Holder, shall issue its general obligation note (the "Note") to the Authority for the purpose of financing the Project. Said Notes shall be dated approximately April 1, 2010, bear interest at an approximate rate of seven and ninety-five hundredths percent (7.95%) per annum, payable monthly in accordance with the terms of the Note attached hereto as Annex A and incorporated herein by reference.

Section 2 -- Necessity, Authorization and Purpose of Note. The City hereby declares that it is necessary to issue and the City hereby authorizes the issuance of its General Obligation Note, (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 associated with the project and/or of issuance of the Notes.

Section 3 -- Form of Note; Additional Documents. The Note shall be substantially in the form set forth in Annex A. The Note 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 Note to be redeemed, plus accrued interest to the date of redemption plus any prepayment penalty fees set forth in the Note. The Note will be secured by a Mortgage on the real property upon which the Project will be constructed and, in addition, there will be other documents necessary and appropriate for consummation of the transaction including, but not limited to a Fixture Filing (UCC Form1), an Assignment of Leases and Rents, and a Subordination, Non-Disturbance and Attornment Agreement.

Section 4 -- Execution and Delivery. The Note 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 the Authority. The Designated Officers are further authorized and directed to deliver the Note to the City, upon the terms and conditions provided herein or in the Note, 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, security and/or delivery of the Note.

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 the City or the Authority for the account of the City and shall be payable by check, mailed or delivered to City to be received by or before the Payment Date on the Note or by other transfer of funds acceptable to City. 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 Note upon delivery of the Note. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note 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, documents or information which may be required by law to be filed by the City or the Authority required by law.

Section 7 -- Disposition of Proceeds. The proceeds from the Note shall be deposited as follows: (a) premium and accrued interest, if any, shall be paid to City; 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 City to be designated as the construction

depository and used to pay the costs of the acquisition, construction, installation and equipping of the Project and the costs of issuance of the Note.

Section 8 -- Discharge of Note Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to City 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 Authority and/or City hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 9 -- 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 10 -- Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

Section 11 -- Open Meetings Compliance. All meetings of the Board of the Authority, 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 Note 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 12 -- 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 13 -- 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 Jamie Powell and seconded by Commissioner Mike Simpson, the foregoing ordinance was adopted, after full discussion, by the following vote:

YES JAMIE POWELL  
YES WENDELL STEWART  
YES MIKE SIMPSON  
ABSENT HENRY STONE  
YES HERBERT WILLIAMS, MAYOR

CITY OF FRANKLIN, KENTUCKY

By: Herbert B. Williams  
Mayor

Attest:

Kathy Strachan  
City Clerk