

ORDINANCE NO. 211.13-06-2010

AN ORDINANCE OF THE CITY OF FRANKLIN, KENTUCKY AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION REFUNDING 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; AUTHORIZING AND DIRECTING THE FILING OF NOTICE WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE NOTE; CREATING A NOTE PAYMENT FUND; AND MAINTAINING THE HERETOFORE ESTABLISHED SINKING FUND.

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 the refinancing of a General Obligation Note of the City in the original principal amount of \$4,000,000 (the "Refunded Note"), the proceeds of which are being used in connection with the acquisition and site development of real property for an industrial building in an area bounded by World Color, LLC, 300 Brown Road, within the City (the "Project"); and

WHEREAS, the City has determined that the Project is a public project that meets the requirements of the Kentucky Revised Statutes ("KRS"), and that it is desirable for the City to issue its general obligation refunding note to pay costs of issuance, to refund the Refunded Note and to pay the costs of the Project not already funded (and intended to be funded) by the Refunded Note; and

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly Sections 158 and 159 of the Kentucky Constitution and KRS Sections 66.011 through 66.191 (the "Act") in addition to KRS Sections 103.200 through 103.285, a city may issue notes to pay all or any portion of the costs of the Project; and

WHEREAS, the City desires to refund the Refunded Note through the issuance of its General Obligation Refunding Note, Series 2010 in the original principal amount not to exceed \$4,000,000 (the "Refunding Note") to be sold on a negotiated basis to JPMorgan Chase Bank, National Association (the "Bank").

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

Section 1 -- Authorization of General Obligation Refunding Note. The City shall issue the Refunding Note for the purposes of paying the costs of issuance related to the Refunding Note, refunding the Refunded Note and paying the costs of the Project not already paid and intended to be paid from proceeds of the Refunded Note. The Refunding Note shall be dated approximately June 30, 2010, bear interest at an approximate rate of two and ninety-six hundredths percent (2.96%) per annum, payable quarterly with a principal payment payable quarterly, and shall mature no later than January 5, 2014.

Section 2 -- Necessity, Authorization and Purpose of General Obligation Note. The City hereby declares that it is necessary to issue and the City hereby authorizes the issuance of the Refunding Note for the purposes of (i) refunding the Refunding Note; (ii) paying the costs of the Project not previously funded from the Refunded Note and intended to be paid from proceeds of the Refunding Note; and (iii) paying the costs of issuance of the Refunding Note.

Section 3 -- Form. The Refunding Note shall be issued as a fully registered Refunding Note, shall be designated "General Obligation Refunding Note, Series 2010", shall refer to its issuance under the Act and shall be substantially in the form set forth in Annex A, attached hereto. The Refunding Note shall be dated its date of initial delivery to the Bank.

The Refunding Note shall be subject to optional redemption prior to its maturity on any Interest Payment Date, in whole or in part, at the election of the City at a redemption price as described in the form of Refunding Note.

The Refunding Note shall be sold to the Bank on a negotiated basis in accordance with the Act.

Section 4 -- Execution and Delivery. The Refunding 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 the City Finance Director is each deemed a

"Designated Officer"), and shall have the seal of the City or a facsimile thereof affixed thereto. Each of the Designated Officers is further authorized and directed to deliver the Refunding Note to the Bank, upon the terms and conditions provided herein or in the Refunding 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 and/or delivery of the Refunding Note.

Section 5 -- Payment. Payment of or on account of the interest on and principal and prepayment penalty, if any, of the Refunding Note shall be made directly to the Bank for the account of the City. Interest on the Refunding Note shall be payable by check, mailed or delivered to the Bank on each Interest Payment Date applicable to the Refunding Note or by other transfer of funds acceptable to the 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 Refunding Note upon delivery of the Refunding Note. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Refunding Note to the extent of the sum or sums so paid.

Section 6 -- Filing. Any of the Designated Officers is 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 City Finance Director a note payment fund in the name of the City to be known as General Obligation Refunding Note, 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 Refunding Note, the amount required to pay principal of, prepayment penalty, if any, and interest due on the

Refunding Note on such Interest Payment Date. The City Finance Director 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 Refunding Note, the amounts necessary to pay principal of, prepayment penalty, if any, and interest on, the Refunding Note to the Bank.

The City Finance Director is hereby appointed as the depository of the Note Payment Fund herein established with respect to the Refunding Note.

Section 8 -- General Obligation. The Refunding Note is a general obligation of the City and the full faith, credit and taxing power of the City are hereby irrevocably pledged to the prompt payment of the principal of and interest (and prepayment penalty, if any) on the Refunding Note when due.

As a general obligation of the City, the Refunding Note shall be and hereby is declared to be payable in accordance with the Act from all lawfully available pledged receipts (including, but not by way of limitation, any moneys attributable to the Refunding Note proceeds or the income from the temporary investment thereof and moneys held in the Note Payment Fund and the Sinking Fund). No liability shall attach to the officials or representatives of the City for the payment of principal, interest or prepayment penalty, if any, on the Refunding Note.

For the purpose of providing funds required to pay the interest on the Refunding Note as and when the interest becomes due and in order to create a sinking fund to pay and discharge the principal thereof (and prepayment penalty, if any) as the Refunding Note becomes due, and pursuant to and in compliance with [i] Section 159 of the Constitution of the Commonwealth of Kentucky and [ii] the Act, there shall be and there is hereby levied on all of the taxable property within the local government, beginning as of the date hereof and continuing in each year as long as the Refunding Note is outstanding, a direct annual tax sufficient, to the extent other lawfully available moneys of the City are not provided, for that purpose, which tax shall be unlimited as to rate or amount. The City hereby covenants and pledges to levy, charge, collect, deposit and

apply the proceeds of such special annual tax to the payment of such debt charges on the Refunding Note. The City acknowledges that it does not currently expect that a special tax would actually be required to be levied or collected for the City to make payments on the Refunding Note when due, the City having projected there shall be sufficient other moneys lawfully available to the City for the making of such payments.

Any and all proceeds derived from the special annual tax authorized above and levied from time to time, together with other lawfully available moneys of the City provided for the purpose, shall be deposited and carried in one or more separate and special accounts of the City held apart from all other funds of the City, and shall be applied only for the purpose of paying the principal of and interest (and prepayment penalty, if any) on the Refunding Note as provided in this Ordinance. The proceeds of the special annual tax and the balances accumulated from time to time in such separate and special accounts therein are hereby irrevocably pledged for the purpose of paying the principal of and interest (and prepayment penalty, if any) on the Refunding Note and shall never be used for any other purpose. The City hereby covenants and pledges with the Bank that the City will levy the special annual tax in each year at whatever rates may be necessary from time to time in order to produce the amounts required in each year, to the extent funds are not otherwise provided, to pay the principal of and interest (and prepayment penalty, if any) on the Refunding Note when due.

If principal or interest (or prepayment penalty, if any) on the Refunding Note should fall due in any year at a time when there are insufficient funds on hand, collected by reason of the foregoing special tax levy, such principal and interest (and prepayment penalty, if any) shall be paid from other available funds of the City and reimbursement therefor shall be made out of the special tax hereby provided, when the same shall have been collected.

This Ordinance also constitutes a continuing appropriation from such taxes and all other lawfully available pledged receipts, of the sum annually necessary to pay the principal of and

interest (and prepayment penalty, if any) on the Refunding Note when due.

Section 9 -- Maintenance of Sinking/Note Payment Fund. Pursuant to this Ordinance, there has heretofore been established with the City a Note Payment Fund under which there shall be established a separate and segregated account that will 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 and prepayment premium, if any of the Refunding Note issued under the Act when and as the same falls due.

Section 10 -- Disposition of Proceeds. The proceeds of the sale of the Refunding Note shall be deposited as follows: (a) to the Note Payment Fund for the Refunded Note created under Ordinance No. 211.11-04-2010 for the purpose of paying in full the Refunded Note, including all accrued interest thereon and prepayment penalty; 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 as the construction depository and used to pay the costs of the acquisition, construction, installation and equipping of the Project not previously paid from proceeds of the Refunding Note and the costs of issuance of the Refunding Note.

Section 11 -- Discharge of Note Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Bank the total principal, prepayment premium, if any, and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Ordinance, then the pledges made under this 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 12 -- Assignment of Interlocal Agreement. The City hereby agrees and is hereby authorized to assign to the Bank all its right, title and interest in and to the Interlocal Agreement

Regarding Industrial Development, dated March 8, 2010 by and among the County of Simpson, Kentucky, the City and the Franklin-Simpson Industrial Authority to the Bank as security for the Refunding Note and in that connection any Designated Officer of the City is hereby authorized to execute and deliver any assignment reflecting the terms of this section and to take any and all actions necessary to accomplish such assignment.

Section 13 – Assignment of Lease. The City hereby agrees and is hereby authorized to assign to the Bank all of its right, title and interest in and to an Assignment of Leases and Rents, dated March 31, 2010 from the Franklin-Simpson Industrial Authority to the City to the Bank as further security for the payment of the Refunding Note and in that connection any Designated Officer of the City is hereby authorized to execute and deliver any assignment reflecting the terms of this section and to take any and all actions necessary to accomplish such assignment.

Section 14 -- Severability. If any one or more of the provisions of this 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 15 -- Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

Section 16 -- 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 Refunding 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 17 -- Effective Date. This Ordinance shall become effective immediately upon the readings of the Ordinance at the meetings when it is specifically approved and adopted, and upon publication according to law.

INTRODUCED, SECONDED AND GIVEN FIRST-READING at a duly convened meeting of the City Commission of the City of Franklin, Kentucky, held on the 14TH day of June, 2010 and GIVEN A SECOND READING, ADOPTED AND APPROVED at a duly convened meeting of the City Commission of the City of Franklin, Kentucky, held on the 21ST day of June, 2010, signed by the Mayor as evidence of his approval, attested by the City Clerk, ordered published in summary form pursuant to KRS Chapter 424, duly enrolled and declared to be in full force and effect.

<u>YES</u>	JAMIE POWELL
<u>ABSENT</u>	WENDELL STEWART
<u>YES</u>	MIKE SIMPSON
<u>YES</u>	HENRY STONE
<u>YES</u>	HERBERT S. WILLIAMS, MAYOR

CITY OF FRANKLIN, KENTUCKY

By: Herbert S. Williams
Herbert S. Williams, Mayor

Attest:

Kathy Stradtner
Kathy Stradtner, City Clerk