

1 RESOLUTION NO. 682

RESOLUTION AUTHORIZING A TAX-EXEMPT LOAN PURSUANT A LOAN AGREEMENT BETWEEN THE CITY OF CLINTON, TENNESSEE, AND THE PUBLIC BUILDING AUTHORITY OF THE CITY OF CLARKSVILLE, TENNESSEE, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$10,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH LOAN AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID LOAN; APPROVING THE ISSUANCE OF A TAX-EXEMPT BOND BY SUCH PUBLIC BUILDING AUTHORITY; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF SAID LOAN AND THE PAYMENT OF SUCH INDEBTEDNESS; AND, CONSENTING TO THE ASSIGNMENT OF THE CITY'S OBLIGATION UNDER SUCH LOAN AGREEMENT

WHEREAS, the City of Clinton, Tennessee (the "Municipality"), pursuant to resolutions adopted by the City Council (the "Council") of the Municipality, has heretofore incurred indebtedness for the purpose of financing public works projects for the Municipality by the execution and delivery of Loan Agreements with The Public Building Authority of the City of Clarksville, Tennessee, as follows (i) that certain Loan Agreement, dated October 10, 1995, in the original principal amount of \$4,000,000, of which \$2,327,639 principal amount is currently outstanding, (ii) that certain Loan Agreement, dated July 20, 1999, in the original principal amount of \$1,200,000, of which \$788,000 principal amount is currently outstanding, and, (iii) that certain Loan Agreement, dated August 26, 1999, in the original principal amount of \$2,500,000, of which \$1,579,000 principal amount is currently outstanding (collectively, the "Outstanding Indebtedness");

WHEREAS, the Outstanding Indebtedness is currently outstanding in the aggregate principal amount of \$4,694,638, which principal matures pursuant to the prior Loan Agreements, May 25, 2011 through May 25, 2020, inclusive;

WHEREAS, the Loan Agreements executed in connection with the Outstanding Indebtedness provide that the Outstanding Indebtedness may be prepaid at any time upon the terms and conditions set forth in the respective Loan Agreements without prepayment penalty;

WHEREAS, the Municipality has pursuant to a resolution adopted by the Council issued that certain \$825,000 Capital Outlay Note, Series 2007, dated May 29, 2007 (the "Series 2007 Note"), which is currently outstanding in the principal amount of \$247,500, the proceeds thereof having been used by the Municipality to finance improvements to the Green McAdoo Cultural Center of the Municipality;

WHEREAS, the Municipality has pursuant to a resolution adopted by the Council issued that certain \$773,000 Capital Outlay Note, Series 2010, dated May 28, 2010 (the "Series 2010 Note"), currently outstanding in the principal amount of \$773,000, the proceeds thereof having been used to finance the acquisition of equipment and construction and improvement of a walking trail and football stadium for the Municipality;

WHEREAS, the Series 2007 Note and the Series 2010 Note are outstanding in the aggregate principal amount of \$1,020,000;

WHEREAS, the Series 2007 Note and the Series 2010 Note are prepayable upon the terms set forth in such notes;

WHEREAS, the Council of the Municipality has determined that it is in the best interests of the Municipality to prepay and refund the Outstanding Indebtedness, the Series 2007 Note, and the Series 2010 Note;

WHEREAS, the plan of refunding for prepayment of the Outstanding Indebtedness and for the conversion of the Series 2007 Note and the Series 2010 Note and a request to enter into a loan agreement with the Authority has been submitted to the Director of the Office of State and Local Finance for review as required by Section 12-10-116(b) and Section 9-21-903, respectively, Tennessee Code Annotated, as amended, and a report thereon has been issued by such Director of State and Local Finance;

WHEREAS, the Municipality has pursuant to resolutions adopted by the Council entered into that certain Master Equipment Lease/Purchase Agreement, dated as of September 27, 2007 (the "Master Lease Agreement"), pursuant to which the Municipality leased certain equipment for use by various departments of the Municipality;

WHEREAS, the equipment currently leased pursuant to the terms of the Master Lease Agreement can be purchased on April 30, 2011, for the amount of approximately \$883,844;

WHEREAS, the Council of the Municipality has determined that it is in the best interests of the Municipality to purchase such equipment as of April 30, 2011;

WHEREAS, the Council of the Municipality has determined that it is also necessary to finance the costs of certain "public works projects", as defined in Title 9, Chapter 21, Tennessee Code Annotated, as from time to time amended and supplemented, consisting of financing a portion of the costs of the construction and equipping of a new fire station for the Municipality, the acquisition of vehicles and equipment for the police department and the public works department of the Municipality, the renovation and improvement of certain parks and recreational facilities within the Municipality, the resurfacing of streets and roads within the Municipality, the acquisition of all other property real and personal appurtenant thereto and connected with such work, to pay all legal, fiscal, administrative, and engineering costs incident thereto, and reimbursement for expenditures related to the foregoing projects (collectively, the "Project");

WHEREAS, it has been determined by the Council of the Municipality to be in the best interests of the Municipality to prepay the Outstanding Indebtedness, to prepay the Series 2007 Note and the Series 2010 Note, to acquire the equipment currently leased under the Master Lease Agreement, and to finance the Project through The Tennessee Municipal Bond Fund fixed rate

loan program by obtaining a loan from The Public Building Authority of the City of Clarksville, Tennessee (the "Authority");

WHEREAS, the Authority has been established pursuant to the provisions of Title 12, Chapter 10, Tennessee Code Annotated, as amended (the "Act"), and is authorized pursuant to the provisions of the Act to issue its bonds from time to time, in one more series, and to loan the proceeds thereof to the Municipality for the above described purposes;

WHEREAS, in order to effectuate the program, the Issuer has authorized and approved by its Resolution, adopted October 14, 2009, the issuance of its Local Government Loan Program Bonds, in an aggregate principal amount not to exceed \$300,000,000;

WHEREAS, the Authority will issue its Tax-Exempt Local Government Loan Program Bond, Series 2011 (City of Clinton Loan) (the "Bond"), in the principal amount of not to exceed Ten Million Dollars (\$10,000,000), and loan the proceeds thereof to the Municipality pursuant to the provisions of a Loan Agreement, between the Municipality and the Authority, to be dated the date of issuance and delivery (the "Loan Agreement"),

WHEREAS, the Council of the Municipality has heretofore adopted an Initial Resolution authorizing the borrowing of funds and the incurring of indebtedness for the purpose of prepaying the Outstanding Indebtedness, the Series 2007 Note, and the Series 2010 Note, acquiring the equipment currently leased pursuant to the Master Lease Agreement, and financing the Project in the amount of not to exceed \$8,900,000, and the City Recorder has published such Initial Resolution together with the Notice required by Section 9-21-206 of Tennessee Code Annotated, as amended, in a local newspaper in the Municipality;

WHEREAS, the indebtedness evidenced by the Loan Agreement shall be payable from any and all funds of the Municipality legally available therefor, including, but not necessarily limited to, ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality, without limitation as to time, rate, and amount and for the punctual payment of said principal of, premium, if any, and interest on, the Loan Agreement, the full faith and credit of the Municipality will be irrevocably pledged; and,

WHEREAS, the Bond is to be secured by and contain such terms and provisions as set forth in a Bond Purchase Agreement, entered into between the Authority and the purchaser of the Bond (the "Purchaser").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLINTON, TENNESSEE:

Section 1. Approval of the Loan. (a) For the purpose of providing funds to prepay the Outstanding Indebtedness, the Series 2007 Note, and the Series 2010 Note, to acquire the equipment currently leased pursuant to the Master Lease Agreement, to finance the Project, and to pay costs incident to the issuance and sale of the Bond, the loan to the Municipality from the Authority is hereby authorized in the principal amount of not to exceed \$10,000,000 and the Municipality is hereby authorized to borrow such funds from the Authority.

(b) The Bond to be issued by the Authority shall bear interest at a fixed rate to be determined at the time of the issuance of the Bond, as provided in the Loan Agreement. The Mayor and the City Recorder are authorized to enter into the Loan Agreement, such Loan Agreement to bear interest at a fixed rate, as the Mayor and City Recorder shall determine is in the best interest of the Municipality. The Municipality shall make payments of interest and principal in the amounts and on the dates set forth in the Loan Agreement from the sources and funds described herein and in the Loan Agreement. The final rate of interest payable on the Loan Agreement shall not to exceed the maximum rate of interest permitted by applicable law. The Loan Agreement shall be for a term of not to exceed fifteen years. The final principal and interest payment dates, final interest rate payable, amortization of principal amounts of the loan evidenced by the Loan Agreement, and prepayment provisions of such Loan Agreement, may be established by the Mayor and the City Recorder, at the time of the sale of the Bond and the execution and delivery of the Loan Agreement, as shall be determined to be in the best interests of the Municipality, in accordance with the terms of this Resolution and the Loan Agreement.

Section 2. Approval of Loan Agreement. The form, terms, and provision of the Loan Agreement, presented at this meeting, are in the best interest of the Municipality and are hereby approved and the Council hereby authorizes the Mayor and the City Recorder of the Municipality to execute and deliver such Loan Agreement, such Loan Agreement to be in substantially the form of the Loan Agreement presented to this meeting, the execution of such Loan Agreement by the Mayor and the City Recorder to evidence their approval of any and all changes to such Loan Agreement, and any related documents necessary to the consummation of the transactions contemplated by the Loan Agreement.

To the extent the Loan Agreement can be designated as a "qualified tax-exempt obligation" pursuant to Section 265 of the Internal Revenue Code of 1986, as amended (the "Code"), it shall be so designated in the Loan Agreement.

Section 3. Fulfillment of Obligations. The Council of the Municipality is authorized and directed to fulfill all obligations of the Municipality under the terms of the Loan Agreement.

Section 4. Tax Levy. There shall be levied and collected in the same manner as other ad valorem taxes of the Municipality on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount, to the extent necessary in the event funds of the Municipality legally available to pay the indebtedness evidenced by the Loan Agreement are insufficient, a tax sufficient to pay when due the amounts payable under the Loan Agreement, as and when they become due, and to pay any expenses of maintaining and operating the project financed and refinanced required to be paid by the Municipality under the terms and provisions of the Loan Agreement. For the prompt payment of the Loan Agreement, both principal and interest, as the same shall become due, the full faith and credit of the Municipality are irrevocably pledged.

Section 5. Approval of Bond. For the purpose of providing funds to make the loan to the Municipality evidenced by the Loan Agreement, as provided herein and in the Loan Agreement, and to pay legal, fiscal, and administrative costs incident thereto, including costs

incident to the issuance and sale of the Bond related to the Loan Agreement, the issuance and sale of the Bond by the Authority in connection with the Loan Agreement is hereby approved and the allocation of such Bond to the Municipality for purposes of Section 265 of the Code is hereby accepted and approved.

Section 6. Disposition of Proceeds. The proceeds of the sale of the Bond and the loan of the proceeds thereof to the Municipality together with certain other funds shall be used and applied as follows:

(a) The principal proceeds from the loan to be used to prepay the Outstanding Indebtedness shall be deposited with The Bank of New York Mellon Trust Company, N.A., as trustee for the bonds the proceeds of which were used to make the loans constituting the Outstanding Indebtedness, and shall be used to prepay the Outstanding Indebtedness, and to redeem bonds on the earliest practicable date, but in no event later than eighty-nine (89) days from the date of issuance of the loan, pursuant to the trust indentures under which the bonds were issued to fund the Outstanding Indebtedness.

(b) The principal proceeds from the loan to be used to prepay the Series 2007 Note and the Series 2010 Note shall be paid to the Municipality and used on the earliest practicable date but in no event later than eighty-nine (89) days from the date of the loan to prepay in full the outstanding balance of the Series 2007 Note and the Series 2010 Note;

(c) The principal proceeds of the loan to be used to acquire the equipment currently leased under the Master Lease Agreement shall be paid to the Municipality and used on the earliest practicable date but in no event later than eighty-nine (89) days from the date of the loan to acquire such equipment and to fully pay the purchase price pursuant to the provisions of the Master Lease Agreement; and,

(d) The proceeds of the loan to be used to finance the Project shall be paid to the official of the Municipality designated by law as the custodian of the funds thereof to be deposited in a special fund known as the "2011 Tax-Exempt Loan Project Fund" (the "2011 Tax-Exempt Project Fund"), which is hereby authorized to be created, to be kept separate and apart from all other funds of the Municipality.

The monies in the 2011 Tax-Exempt Project Fund shall be disbursed solely to finance the Project and to pay costs of issuance incurred in connection with the issuance of the Bond and the loan of the proceeds thereof to the Municipality. Monies in the 2011 Tax-Exempt Project Fund may be invested and shall be secured in the manner prescribed by applicable statutes relative to the investment and securing of public or trust funds. Any monies remaining in the 2011 Tax-Exempt Project Fund after completion of the 2011 Tax-Exempt Project shall be used to pay debt service on the Bond.

Section 7. Prepayment of the Outstanding Indebtedness, the Series 2007 Note, and the Series 2010 Note. Upon the issuance of the Bond and the loan of the proceeds thereof to the Municipality, (i) the Outstanding Indebtedness maturing on and after May 25, 2011, is hereby

authorized to be prepaid and notice of such intent to prepay the Outstanding Indebtedness shall be given by the Municipality as provided in the respective Loan Agreements executed in connection with the Outstanding Indebtedness, (ii) the Series 2007 Note maturing May 24, 2011 and thereafter is hereby authorized to be paid and notice of such intent shall be given by the Municipality as provided in the resolution authorizing the issuance of the Series 2007 Note, and (iii) the Series 2010 Note maturing May 28, 2011 and thereafter is hereby authorized to be paid and notice of such intent shall be given by the Municipality as provided in the resolution authorizing the issuance of the Series 2010 Note. The Mayor and City Recorder are authorized upon the adoption of this resolution to give notice of such intent to prepay the Outstanding Indebtedness as may be necessary to prepay and retire the Outstanding Indebtedness on May 1, 2011.

Section 8. Consent to Assignment. The Municipality hereby consents to the assignment of all of the Authority's right, title, and interest in and to the Loan Agreement as security for the Bond to which such Loan Agreement relates, except for certain reserved rights of the Authority, to the Purchaser.

Section 9. Reimbursement Provisions. The Municipality may have made or may hereafter make expenditures with respect to the Project from a source of funds other than proceeds of the loan from the Authority under the Loan Agreement, such expenditures occurring prior to the execution and delivery of the Loan Agreement. The Municipality reasonably expects that it will reimburse such original expenditures with proceeds of the loan from the Municipality made pursuant to the Loan Agreement to the extent permissible under Treasury Regulation 1.150-2.

Section 10. Arbitrage Certification. The Municipality recognizes that the purchaser and owner of the Bond will have accepted it on, and paid therefor a price, that reflects the understanding that interest thereon is excludable from gross income for purposes of federal income taxation under laws in force on the date of delivery of the Bond. In this connection, the Municipality agrees that it shall take no action which may cause the interest on said Bond to be included in gross income for federal income taxation. It is the reasonable expectation of the Council of the Municipality that the proceeds of the Bond will not be used in a manner which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, and to this end the said proceeds of the Bond and other related funds established for the purposes herein set out shall be used and spent expeditiously for the purposes described herein. The Council further covenants and represents that in the event it shall be required by Section 148(f) of the Code to pay any investment proceeds of the Bond to the United States government, it will make such payments as and when required by said Section 148(f) and will take such other actions as shall be necessary or permitted to prevent the interest on the Bond from becoming taxable. The Mayor and City Recorder, or either of them, are authorized and directed to make such certifications in this regard in connection with the sale of the Bond as either or both shall deem appropriate, and such certifications shall constitute a representation and certification of the Municipality.

Section 11. Miscellaneous Acts. The Mayor, the City Recorder, the City Attorney, City Manager, and all other appropriate officials of the Municipality are hereby authorized,

empowered, and directed to do any and all such acts and things, and to execute, acknowledge, and deliver all such documents, instruments, and certifications, in connection with the execution of the Loan Agreement and the issuance of the Bond by the Authority, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution; or any of the documents herein authorized and approved.

Section 12. Captions. The captions or headings in this Resolution are for convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

Section 13. Severability. Should any provision or provisions of this Resolution be declared invalid or unenforceable in any respect by final decree of any court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, ordinance, or provisions shall not affect the remaining provisions of such Resolution.

Section 14. Repeal of Conflicting Resolutions. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 15. Effective Date. This Resolution shall take effect upon its adoption, the welfare of the Municipality requiring it.

Adopted this 28th day of March, 2011.

Mayor

ATTEST:

City Recorder

STATE OF TENNESSEE)
COUNTY OF ANDERSON)

I, Regina Ridenour, hereby certify that I am the duly qualified and acting City Recorder of the City of Clinton, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the City Council (the "Council") of said Municipality held on March 28, 2011; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the incurring of tax-exempt indebtedness in the amount of not to exceed \$10,000,000, by said Municipality; (4) that the actions by said Council including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purpose; and, (5) that a quorum of the members of said Council was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 28th day of March, 2011.

CITY RECORDER

(SEAL)