

**Council of the City of York, Pennsylvania**

**Session 2011**

**Bill No. 39  
Ordinance No. 38**

**Introduced by: Henry Hay Nixon**

**Date: November 15, 2011**

**CITY OF YORK  
York County, Pennsylvania**

**ORDINANCE**

AN ORDINANCE OF THE CITY OF YORK, YORK COUNTY, PENNSYLVANIA AUTHORIZING THE INCURRENCE OF NONELECTORAL DEBT BY THE ISSUANCE OF A GENERAL OBLIGATION BOND, SERIES A OF 2011, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 FOR THE PURPOSE OF FINANCING (1) VARIOUS CAPITAL PROJECTS OF THE CITY, (2) THE CURRENT REFUNDING OF THE CITY OF YORK'S GENERAL OBLIGATION NOTE, SERIES B OF 2010; AND (3) PAYING ALL COSTS AND EXPENSES OF ISSUANCE OF THE SERIES A BOND; FIXING THE FORMS, NUMBER, DATE, AMOUNTS AND MATURITIES THEREOF; PROVIDING FOR THE SALE THEREOF AT A PRIVATE SALE BY NEGOTIATION; PROVIDING FOR THE PAYMENT OF DEBT SERVICE THEREON; MAKING DETERMINATION OF THE USEFUL LIFE OF THE CAPITAL PROJECTS; DESIGNATING A PAYING AGENT FOR THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED AGREEMENTS; DESIGNATING BOND COUNSEL AND A FINANCIAL ADVISOR; AND AUTHORIZING CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BOND.

WHEREAS, the City of York, York County, Pennsylvania (the “City”) is granted the power by the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, 53 Pennsylvania Consolidated Statutes, Section 8001, et seq. (the “Act”) to incur indebtedness by the issuance of general obligation Bonds; and

WHEREAS, the City has determined to undertake, as a project (the “Project” or “Projects”), (1) the planning, design and construction of, improvements and renovations to and the acquisition and installation of related equipment, machinery and furnishings for the new City Hall, and; (2) the planning, design and construction of additions, improvements, renovations and extraordinary repairs to and the acquisition and installation of related equipment, machinery and furnishings for the old City Hall, together with related architects’, engineers’, attorneys’ and consultants’ fees for the Projects; and

WHEREAS, the City by resolution adopted on December 7, 2010, authorized and directed issuance of its General Obligation Note, Series B of 2010, dated as of December 29, 2010, in the original aggregate principal amount of \$540,000 (the “2010 B Note”); and

WHEREAS, The Department of Community and Economic Development (the “Department”), of the Commonwealth approved the proceedings of this City related to the increase of bonded indebtedness evidenced in part by the 2010 B Note, which approval of the Department was evidenced by Certificate of Approval No. GON-13297, dated December 28, 2010; and

WHEREAS, the City has determined to incur general obligation debt in order to currently refund the outstanding 2010 B Note (the “Refunding Project”) thereby substituting notes for bonds; and

WHEREAS, the City has determined to issue a general obligation bond to be designated as the City of York General Obligation Bond, Series A of 2011 (the “2011 A Bond”), to be issued in the maximum principal amount of \$5,000,000, to fund the costs of the Projects and Refunding Project and to pay the

costs related to the issuance and sale of the 2011 A Bond. The City shall apply the proceeds of the 2011 A Bond towards the Projects and Refunding Projects. The City will proceed with due diligence to complete the Projects; and

WHEREAS, the City has determined that a private sale by negotiation of the 2011 A Bond is in the best interest of the City. The City has received a proposal from Fulton Bank, National Association, for the initial purchase of the Bonds; and

WHEREAS, notice of the following ordinance has been duly advertised in accordance with Section 8003 of the Act;

NOW, THEREFORE, BE AND IT HEREBY IS, Ordained that:

1. The City shall incur indebtedness pursuant to the Act, in an aggregate principal amount not to exceed \$5,000,000 by the issuance of its General Obligation Bond, Series A of 2011 for the purposes above recited, which recital of purposes is fully incorporated herein. The indebtedness authorized by this Ordinance is nonelectoral debt and the 2011 A Bond when issued will be general obligation bond of the City.

2. The Mayor, Controller and the Clerk, respectively, of the City, which shall include their duly qualified successors in office, if applicable, are authorized and directed: (a) to prepare, to certify and to file with the Department of Community and Economic Development (the "Department") of the Commonwealth the Debt Statement required by the Act; (b) to prepare and to file the application with the Department together with an accurate transcript of the proceedings relating to the incurring of debt of which debt the 2011 A Bond, upon issue, will be evidence, as required by the Act; (c) to prepare and to file, if applicable, any statements required by the Act that are necessary to qualify all or any portion

of non-electoral and/or lease rental debt of the City that is subject to exclusion as self-liquidating or subsidized debt for exclusion from the appropriate debt limit as self-liquidating or subsidized debt; (d) to pay or to cause to be paid to the Department all proper filing fees required by the Act in connection with the foregoing; and (e) to take other required necessary and/or appropriate action.

3. The City hereby covenants with the holder from time to time of the 2011 A Bond outstanding pursuant to this Ordinance that the City (i) shall include the amount of the debt service for each fiscal year in which such sums are payable in its budget for that year, (ii) shall appropriate such amounts from its general revenues for the payment of such debt service, and (iii) shall duly and punctually pay or cause to be paid from its sinking fund the principal of and interest on every such Bond at the dates and places and in the manner stated in the Bond, and for such budgeting, appropriation and payment in respect of the Bond, the City hereby pledges its full faith, credit and taxing power. This covenant shall be specifically enforceable.

4. It is declared that the debt to be incurred hereby, together with any other indebtedness of the City, is not in excess of any applicable limitation imposed by the Act upon the incurring of debt by the City which is evidenced by the 2011 A Bond.

5. The City accepts the proposal for the purchase of the 2011 A Bond from the Bank at par with an aggregate maximum purchase price of \$5,000,000 for the 2011 A Bond, in accordance with the purchase contract of the Bank, for the purchase of the 2011 A Bond (the "Purchase Contract"), as presented at this meeting. The 2011 A Bond shall be in fully registered form without coupons, shall be numbered 1 and be in the aggregate maximum principal amount stated in Section 1 above, shall be dated as of the date of issuance, and shall bear interest from that date, which interest is payable at the

rate, provided herein, until maturity or redemption, all as set forth in the Purchase Contract attached hereto as Exhibit "A" and made a part hereof.

The 2011 A Bond shall bear interest at a variable rate equal to 30 day LIBOR plus 250 basis points. The variable rate shall not exceed 10%. Interest on the 2011 A Bond shall be payable on the first of each month beginning on January 28, 2012 and the principal shall be payable on December 28, 2013 and December 28, 2014. The Bond shall mature on December 28, 2014 as set forth in the Purchase Contract.

The 2011 A Bond shall be subject to redemption in the manner and upon the terms and conditions set forth therein. The form of the 2011 A Bond shall be substantially as set forth in the 2011 A Bond attached hereto as Exhibit "B" and made a part hereof.

The stated principal maturities of the 2011 A Bond has been fixed in compliance with Section 8142(c) of the Act. The amortization schedule for the 2011 A Bond is attached hereto as Exhibit "C" and made a part hereof.

6. The City finds and determines on the basis of all information available, that a private sale of the 2011 A Bond by negotiation is in the best financial interest of the City and that the terms of the proposal are at least as favorable to the City as those which could be obtained upon a public sale of the 2011 A Bond.

7. The City hereby covenants to establish a Sinking Fund for the payment of the 2011 A Bond, hereby authorized, in accordance with the Act. The Sinking Funds shall be known as the "Sinking Fund, City of York, General Obligation Bond, Series A of 2011."

8. It is hereby determined and stated that the realistic estimated useful life for the Projects is not less than twenty (20) years. The realistic cost estimates for the Project have been obtained through actual bids and professional estimates from qualified experts hired by the City.

9. It is hereby determined and stated that the realistic estimated useful life for the capital projects or facilities originally financed by the 2010 B Bond have a remaining useful life of not less than twenty (20) years. The Refunding Project is authorized and permitted pursuant to Section 8241(b)(5) of the Act.

10. Fulton Bank, National Association, York, Pennsylvania, is hereby designated as the paying agent, authenticating agent, bond registrar and sinking fund depository (the "Paying Agent") for the 2011 A Bond and the proper officers of the City are hereby authorized and directed to contract with said bank for such services.

11. The 2011 A Bond may be executed by facsimile or original signature of the Mayor and Controller and a facsimile or original of the corporate seal of the City shall be imprinted thereon, attested by the facsimile or original signature of the Clerk of the City. The 2011 A Bond shall be authenticated by the Paying Agent. The Mayor or Clerk is hereby authorized and directed to deliver said 2011 A Bond to the Purchaser and to receive payment therefor on behalf of the City after sale of said 2011 A Bond in the manner required by law and this Ordinance and to take all further necessary or desirable action to effect the sale and delivery of the 2011 A Bond.

12. The Clerk hereby approves the plan of refunding of the 2010 B Note in the form presented by Public Financial Management, Inc. to this meeting with such changes as Bond Counsel may advise. This City does hereby exercise its option to redeem the 2010 B Note on or after December

21, 2011, in accordance with the rights and privileges reserved to this City in the 2010 B Note. The proper officers of the City are hereby authorized and directed to take all action and enter into any agreements required by the Act or this Ordinance in connection with the plan of refunding for the 2010 B Note following acceptance of the final terms and conditions of the Bonds. The Paying Agent for the 2010 B Note is hereby authorized and directed to provide the appropriate notices of redemption and take all other action in connection with the refunding of the 2010 B Note, following acceptance of the final terms and conditions of the Bonds.

13. The City hereby appoints Public Financial Management, Inc., Harrisburg, Pennsylvania as Financial Advisor and Stock and Leader, York, Pennsylvania, as Bond Counsel with respect to the Bonds.

14. The proper officers of the City are hereby authorized and directed to take all other action and enter into any additional agreements required by the Act or this Ordinance in connection with the issuance of the 2011 A Bond and to pay, on behalf of the City, the costs of issuance of the 2011 A Bond.

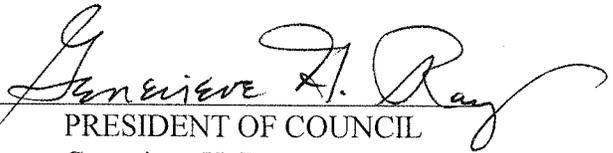
15. All ordinances or parts of ordinances insofar as they conflict with this Ordinance are hereby repealed.

PASSED FINALLY: November 30, 2011

BY THE FOLLOWING VOTE:

YEAS: Nelson, Hill-Evans, Nixon, Smith, Ray - 5

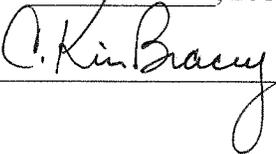
NAYS: None

  
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 PRESIDENT OF COUNCIL  
 Genevieve H. Ray

ATTEST:

  
 \_\_\_\_\_  
 CITY CLERK  
 Dianna L. Thompson

Presented to the Mayor for approval this 30 day of November, 2011.

APPROVED 11/30/2011 \_\_\_\_\_  \_\_\_\_\_  
 MAYOR

VETOED \_\_\_\_\_ \_\_\_\_\_  
 MAYOR

CITY OF YORK  
York County, Pennsylvania

November 30, 2011

Bernadette Barattini, Esquire  
Assistant Attorney General  
Office of Chief Counsel  
Department of Community and Economic Development  
Commonwealth Keystone Building  
400 North Street, 4th Floor  
Harrisburg, PA 17120-0225

**RE: City of York, York County, Pennsylvania Application for Approval of the Issuance of \$5,000,000 Aggregate Principal Amount General Obligation Bond, Series A of 2011 (the "Bond")**

Dear Ms. Barattini:

Application is hereby made pursuant to Section 8111 and Section 8201 of the Local Government Unit Debt Act (the "Act"), for approval of the proceedings taken by the City of York, York County, Pennsylvania to incur nonelectoral debt in the aggregate principal amount of \$5,000,000 and to evidence the same by the issuance of a General Obligation Bond, Series A of 2011 and in the aggregate principal amount of \$5,000,000. A check in the amount of \$206.25 representing the filing fee for the application is enclosed. It is hereby certified to the Department of Community and Economic Development that each of the two (2) counterparts of the Transcript of Proceedings

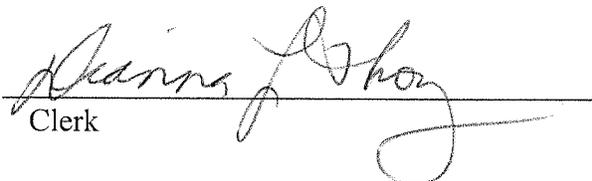
enclosed and as listed below are complete and accurate copies of the proceedings of the City of York for the incurring of said debt:

1. Certified copy of the ordinance authorizing the Bond in which is included the determination to sell the Bond at a private sale by invitation and the award of the Bond to Fulton Bank, National Association.
2. Proof of publication of a summary of the ordinance authorizing the Bond prior to its adoption and proof of publication of the notice of adoption of the ordinance.
3. A copy of the accepted commitment of Fulton Bank, National Association for the purchase of the Bond.
4. Debt Service Schedule.
5. Debt Statement of the City of York prepared pursuant to Section 8110 of the Act, to which is attached a Borrowing Base Certificate complying with the requirements of Section 8002(c).

Your attention is directed to the Debt Statement in which the City of York does not claim any credits or exclusions from its gross indebtedness. In accordance with the Act, the City of York reserves the right to file a further Debt Statement claiming further credits and exclusions as it may be entitled to with respect to the gross indebtedness presently outstanding and the debt presently to be incurred.

Please return one (1) copy with your approval attached as soon as possible to Steven M. Hovis, Esquire, Stock and Leader, Susquehanna Commerce Center East, 221 W. Philadelphia Street, 6<sup>th</sup> Floor, York, Pennsylvania 17401, Bond Counsel to the City of York. Thank you very much for your cooperation.

CITY OF YORK

BY:   
Clerk

(SEAL)

**CERTIFICATE OF SECRETARY**

The undersigned, Clerk of the City of York, York County, Pennsylvania, HEREBY CERTIFY THAT:

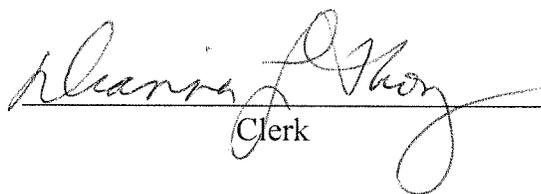
The foregoing Ordinance authorizing the City of York Application for Approval of the Issuance up to \$5,000,000 of General Obligation Bond, Series A of 2011 (the "Bond") of the City was duly moved and seconded and adopted by a majority roll call vote of all the City Council of said City at a duly called and convened public meeting of said Council held on November 30, 2011, beginning at 4:30 o'clock p.m.; that public notice of said meeting was given as required by law; and that the roll of the Council was called and such members voted or were absent as follows:

<u>Name</u>	<u>Vote</u>
Genevieve H. Ray	Yes
Carol Hill-Evans	Yes
Toni Smith	Yes
Henry Hay Nixon	Yes
Renee S. Nelson	Yes

and that such Ordinance and the votes thereon have been duly recorded in the minutes.

I further certify that such Ordinance has not been altered, amended, modified, suspended or repealed and is still in full force and effect as of the date of the delivery of this Certificate.

WITNESS my hand and seal of the City this 30<sup>th</sup> day of November 2011.

  
\_\_\_\_\_  
Clerk

(SEAL)

# Fulton Bank

LISTENING IS JUST THE BEGINNING.™

Fulton Bank, N.A.

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## City Of York

### TERM SHEET November 14, 2011

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This Term Sheet, made by Fulton Bank, to the City of York is for discussion purposes only. This information is a basis for discussing financing needs and Fulton Bank's willingness to consider providing financing to meet those needs. The following is only a basis for negotiating potential loan terms, conditions, and covenants. It does not include a comprehensive list of all terms and conditions of the proposed loan.

**Proposed Loan:** A \$5,000,000 non-revolving commitment. Note proceeds will be used for renovating the existing City Hall building and paying related financing costs.

**Terms:** Loan will have the ability to be drawn down as needed over the thirty-month term with final maturity of December 28, 2014. Principal paydown of \$2,500,000 required by 12/28/2013 and the remaining \$2,500,000 to be due at 12/28/2014. Payments will be interest monthly, with principal repaid within three business days of the City's receipt of the RACP Grant reimbursements.

**Rates:** Taxable rate of 30 day LIBOR + 250 basis points to float (no floor) (currently 2.74%) with an interest rate cap of 10.0%.

**Collateral:** Loan will be secured with an assignment of the proceeds of the RACP Grant, as well as a pledge of the full faith credit and taxing power of the City of York, as permitted by law.

**Commitment Fee:** \$10,000

**Legal Review Fee:** Borrower to provide for the cost of the Bank's outside legal counsel to review the documentation.

# Fulton Bank

LISTENING IS JUST THE BEGINNING.™

Fulton Bank, N.A.

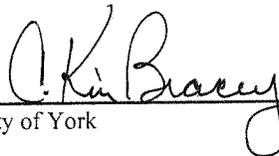
## Additional Terms:

- a) Settlement of this credit facility, will be done in conjunction with the payoff of the existing City of York and General Authority credit facilities with Fulton Bank.
- b) Loan will not settle until a State and City approved fully executed RACP Contract is received and satisfactorily reviewed by Fulton Bank.
- c) All documents to be prepared by Counsel acceptable to the Bank.
- d) Final CPA 2010 financial statement to be received and satisfactorily reviewed by the Bank Prior to Settlement. (received)
- e) Annual Budget.
- f) Annual CPA Statement of the City of York.
- g) Any other terms and conditions as contained in the final loan documents.

Submitted by:

\_\_\_\_\_  
Tammy L. Snyder  
Vice President, Commercial Lending  
Fulton Bank, NA

Accepted by:

  
\_\_\_\_\_  
City of York