

ORDINANCE No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING AND AUTHORIZING A LOAN GUARANTEE CONTRACT, A NOTE, AND RELATED DOCUMENTS UNDER SECTION 108 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1974, AS AMENDED, TO PROVIDE FUNDS FOR THE DOWNTOWN SAFETY IMPROVEMENTS PROJECT; AND AUTHORIZING THE CITY MANAGER OR THE ADMINISTRATIVE SERVICES DIRECTOR TO EXECUTE AND DELIVER THE NOTE AND CONTRACT AND RELATED DOCUMENTS.

WHEREAS, the best interests of the inhabitants of the City of Olympia, Washington (the "City") require that the City undertake the Downtown Safety Improvements Project (hereinafter described as the "Project"); and

WHEREAS, RCW 35.21.735(2) and RCW 39.69.020 authorize cities to enter into agreements, including loan agreements, with the United States or any agency or department thereof for any lawful public purpose; and

WHEREAS, the City has applied for and received loan guarantee assistance through the U.S. Department of Housing and Development ("HUD") for the Project; and

WHEREAS, the City has been provided with a form of variable/fixed rate note to be executed in the amount of not to exceed \$325,000 (the "Note"); and

WHEREAS, HUD's guarantee of the Note will be governed by a Contract for Loan Guarantee Assistance under Section 108 between the City and HUD (the "Contract"), in which the City pledges Community Development Block Grants pursuant to 24 CFR 570.705(b)(2) and its full faith and credit for the repayment thereof;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA ORDAINS AS FOLLOWS:

Section 1. Authorization of Note and Contract. For the purpose of paying the costs of the Project, the City shall borrow money on the credit of the City and enter into a Variable/Fixed Rate Note, referred to as Number B-11-MC-53-0012, in the Maximum Commitment Amount of \$325,000 (the "Note"), to be guaranteed by the Secretary of the United States Department of Housing and Urban Development ("HUD") under Section 108 of the Housing and Urban Development Act of 1974, as amended, 42 U.S.C. 5308 ("Section 108"). The Note will initially be issued to an interim lender designated by HUD, which will make advances to the City under the Note. HUD's guarantee of the Note will be governed by the Contract for Loan Guarantee Assistance under Section 108 between the City and HUD (the "Contract"), in which the City pledges Community Development Block Grants pursuant to 24 CFR 570.705(b)(2), as well as its full faith and credit as provided therein and herein, as security for HUD's guarantee.

Section 2. Form of and Execution of Note and Contract. The City Council hereby authorizes the City Manager or the Administrative Services Director (Authorized Signators) to execute and deliver the Note and the Contract on behalf of the City in substantially the forms attached as Exhibit 1 and 2 to this Ordinance, with such changes as shall have been approved by the Authorized Signatores that are consistent with the provisions of this Ordinance. The Authorized Signators are further authorized to execute on behalf of the City all other documents necessary or desirable to accomplish the transactions contemplated by the Note and the Contract. The Authorized Signators and other appropriate officers of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable for the prompt delivery of the Note, for the application and use of the Note proceeds, and to otherwise carry out the terms and provisions of, and complete the transactions contemplated by this Ordinance. All actions taken prior to the effective date of this Ordinance in furtherance of the purposes described in this Ordinance and not inconsistent with the terms of this Ordinance are ratified and confirmed in all respects.

Section 3. Pledge of Taxes. The Note constitutes a general indebtedness of the City and is payable from tax revenues of the City and such other money as is lawfully available and pledged by the City for the payment of principal of and interest on the Note. For as long as the Note is outstanding, the City irrevocably pledges that it shall, in the manner provided by law within the constitutional and statutory limitations provided by law without the assent of the voters, include in its annual property tax levy amounts sufficient, together with other money that is lawfully available, to pay principal of and interest on the Note as the same become due. The full faith, credit and resources of the City are pledged irrevocably for the prompt payment of the principal of and interest on the Note and such pledge shall be enforceable in mandamus against the City.

No later than the date each payment of principal of and/or interest on the Note matures or becomes due and payable, the City shall transmit sufficient funds, from legally available sources for the payment of such principal and/or interest.

Section 4. Severability. The provisions of this Ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this Ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this Ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 5. Effective Date of Ordinance. This Ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council of the City of Olympia, Washington, at a regular open public meeting thereof, this ____ day of _____, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

CERTIFICATE

I, the undersigned City Clerk of the City of Olympia, Washington (the "City") and keeper of the records of the City Council (the "City Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. _____ of the City Council (the "Ordinance"), duly passed at a regular meeting thereof held on the ____ day of _____, 2014.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the City Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2014.

Jane Kirkemo, City Clerk