

Introduced by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_

CITY OF HOBOKEN  
RESOLUTION NO. \_\_\_\_\_

**RESOLUTION TO OPEN AN EMERGENCY MEETING OF THE HOBOKEN CITY COUNCIL IN ACCORDANCE WITH N.J.S.A. 10:4-9 TO DISCUSS MATTERS RELATING TO THE ISSUANCE AND SALE OF MUNICIPAL BONDS (SPECIAL EMERGENCY NOTES) AND THE ADOPTION OF AN EMERGENCY TEMPORARY APPROPRIATION TO PAY FOR CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES DUE AND PAYABLE IMMEDIATELY TO CERTAIN EMPLOYEES**

**WHEREAS**, the within meeting is required in order to deal with matters of such urgency and importance, namely the current status of the sale and issuance of special emergency notes and the adoption of an emergency temporary appropriation required to pay contractually required severance liabilities due and payable immediately to certain employees, that a delay for the purpose of providing adequate notice of this meeting would result in substantial harm to the public interest, the financial interests of the municipality and its residents and taxpayers, and the legal position of the City with regards to its contractual obligations.

**NOW, THEREFORE, BE IT RESOLVED, (3/4 of the members present voting in the affirmative)** by the City Council of the City of Hoboken as follows:

- A. The within meeting is required in order to deal with matters of such urgency and importance, namely the current status of the sale and issuance of special emergency notes and the adoption of an emergency temporary appropriation required to pay contractually required severance liabilities due and payable immediately to certain employees, that a delay for the purpose of providing adequate notice of this meeting would result in substantial harm to the public interest, the financial interests of the municipality and its residents and taxpayers, and the legal position of the City with regards to its contractual obligations; and
- B. Proper notice of the within meeting was not provided in accordance with N.J.S.A. 10:4-8 because the City Council could not reasonably have foreseen the need for such meeting at a time when adequate notice could have been provided and/or the Council nevertheless failed to properly notify the public even if the urgency could have reasonably been foreseen; and
- C. Notice of the within meet was provided as soon as possible following the calling of the meeting by posting notice of same on the City's bulletin board, and on the City's website, by notifying at least two of the City's official newspapers by facsimile and electronic mail, and by ensuring the public notice was printed in one official newspaper on April 25<sup>th</sup>, 2013; and
- D. The discussion and actions allowable under this resolution shall be limited to discussion and action of the matter of sale and issuance of special notes and the adoption of an emergency temporary appropriation to effectuate payment of contractually required severance liabilities due and payable immediately to certain employees; and,
- C. This resolution shall take effect immediately upon passage, and shall act as authority to open the Emergency Special Meeting for the purposes described in the notice of the Mayor calling the meeting.

**Meeting date: May 1, 2013**

**APPROVED:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Quentin Wiest  
Business Administrator

\_\_\_\_\_  
Mellissa Longo  
Corporation Counsel

<b>Councilperson</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>No Vote</b>
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

Sponsored by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_

City of Hoboken  
Resolution No.: \_\_\_\_\_

**RESOLUTION OF THE CITY OF HOBOKEN, IN THE COUNTY OF HUDSON, NEW JERSEY, AUTHORIZING THE ISSUANCE AND SALE OF SPECIAL EMERGENCY NOTES OF THE CITY OF HOBOKEN IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$700,000; MAKING CERTAIN COVENANTS TO EFFECT AND MAINTAIN THE EXEMPTION OF INTEREST ON SAID NOTES FROM FEDERAL INCOME TAXATION; AND AUTHORIZING SUCH FURTHER ACTIONS AND MAKING SUCH DETERMINATIONS AS MAY BE NECESSARY OR APPROPRIATE TO EFFECTUATE THE ISSUANCE AND SALE OF THE NOTES**

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**BACKGROUND**

**WHEREAS**, the City of Hoboken, County of Hudson, New Jersey ("City") has accrued contractually required severance liabilities due and payable to certain employees of the City resulting from the retirement and/or the layoff of such employees during the 2013 fiscal year of the City ("Severance Liabilities"); and

**WHEREAS**, the Local Budget Law, constituting Chapter 169 of the Laws of the State of New Jersey, as amended and supplemented ("Local Budget Law"), and, in particular, Section 53(h) thereof (N.J.S.A. 40A:3-54(h)) authorizes municipalities to adopt ordinances authorizing special emergency appropriations to cover the cost of extraordinary expenses to fund the costs of contractually required severance liabilities resulting from the layoff or retirement of employees of such municipalities, including the aforementioned Severance Liabilities; and

**WHEREAS**, in accordance with the Local Budget Law, on April 17, 2013, the City Council of the City duly and finally adopted Ordinance No. Z-237 ("Ordinance") appropriating the aggregate sum of \$700,000 to pay the costs of the Severance Liabilities; and

**WHEREAS**, Section 55 of the Local Budget Law, N.J.S.A. 40A:4-55, authorizes the City to borrow money and issue special emergency notes to finance the costs of the Severance Liabilities described above, which special emergency notes may be renewed from time to time; provided, however, at least 1/5 of all such special emergency notes, and the renewals thereof, shall mature and be paid in each year, so that all special emergency notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of this special emergency resolution.

**WHEREAS**, it is the desire of the City to issue its special emergency notes in the principal amount of up to \$700,000, the proceeds of which will be used to pay the costs of the Severance Liabilities.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOBOKEN, IN THE COUNTY OF HUDSON, NEW JERSEY, (NOT LESS THAN TWO-THIRDS OF ALL MEMBERS THEREOF AFFIRMATIVELY CONCURRING) PURSUANT TO THE LOCAL BUDGET LAW, AS FOLLOWS:**

**Section 1.** Pursuant to the Local Budget Law, the issuance of special emergency notes of the City, to be designated, substantially, "City of Hoboken, County of Hudson, New Jersey, Special Emergency Notes" ("Notes"), in an aggregate principal amount of up to \$700,000 is hereby authorized and approved.

**Section 2.** Payment of the Notes shall be provided for by the inclusion of an annual appropriation of at least 1/5 of the total amount appropriated by the Ordinance. Said appropriation shall be paid annually from the City's budget.

**Section 3.** The Chief Financial Officer, with the assistance of Parker McCay P.A. ("Bond Counsel"), is hereby authorized and directed to award and sell the Notes, at public or private sale, in such amount as may be determined, at a price not less than par, plus accrued interest, and to deliver the same to the purchaser thereof, upon receipt of the purchase price for the Notes.

**Section 4.** The Notes shall be executed in the name of the City by the manual signatures of the Mayor and Chief Financial Officer, and shall be under the corporate seal of the City affixed, imprinted, or reproduced thereon, and attested by the manual signatures of the City Clerk or Deputy City Clerk.

**Section 5.** The Notes shall be dated their date of delivery, may be renewed from time to time, but shall be paid and mature in accordance with the provisions of Section 55(b) of the Local Budget Law, N.J.S.A. 40A:4-55(b).

**Section 6.** The Notes shall not be subject to redemption prior to maturity, shall be issued in registered or bearer form, shall be in the denomination of \$50,000 or greater, and shall be in the form permitted by the Local Budget Law and as Bond Counsel shall approve.

**Section 7.** At the next meeting of the City Council after the sale of the Notes, the Chief Financial Officer is hereby authorized and directed to report, in writing, to the City Council, the principal amount, rate of interest and the name of the purchaser of the Notes.

**Section 8.** The Notes are ultimately payable from ad valorem taxes that shall be levied upon all taxable real property in the City without limitation as to rate or amount.

**Section 9.** The City hereby covenants that it will not make any use of the proceeds of the Notes or do or suffer any other action that would cause: (i) the Notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Internal Revenue Code of 1986, as amended ("Code"), and the Regulations promulgated thereunder; (ii) the interest on the Notes to be included

in the gross income of the owners thereof for federal income taxation purposes; or (iii) the interest on the Notes to be treated as an item of tax preference under Section 57(a)(5) of the Code.

**Section 10.** The City hereby covenants as follows: (i) it shall timely file, or cause to be filed, with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and (ii) it shall take no action that would cause the Notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

**Section 11.** The City hereby covenants that it shall make, or cause to be made, the rebate required by Section 148(f) of the Code in the manner described in Treasury Regulation Sections 1.148-1 through 1.148-11, 1.149(b)-1, 1.149(d)-1, 1.149(g)-1, 1.150-1 and 1.150-2, as such regulations and statutory provisions may be modified insofar as they apply to the Notes.

**Section 12.** All actions heretofore taken and documents prepared or executed by or on behalf of the City by the Mayor, Business Administrator, Director of Finance, Chief Financial Officer, City Clerk, Deputy City Clerk, other City officials or by the City's professional advisors, in connection with the issuance and sale of the Notes are hereby ratified, confirmed, approved and adopted.

**Section 13.** The Mayor, Business Administrator, Director of Finance, Chief Financial Officer, City Clerk and Deputy City Clerk are each hereby authorized and directed to determine all matters and execute all documents and instruments in connection with the Notes not determined or otherwise directed to be executed by the Local Budget Law or by this or any subsequent resolution, and the signatures of the Mayor, Business Administrator, Director of Finance, Chief Financial Officer, City Clerk or Deputy City Clerk on such documents or instruments shall be conclusive as to such determinations.

**Section 14.** All other resolutions, or parts thereof, inconsistent herewith are hereby rescinded and repealed to the extent of any such inconsistency.

**Section 15.** This Resolution shall take effect immediately upon final approval of the Ordinance by the Mayor.

**SPECIAL MEETING: April 25, 2013**

**REVIEWED:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Quentin Wiest  
Business Administrator

\_\_\_\_\_  
Mellissa L. Longo, Esq.  
Corporation Counsel

<b>Councilperson</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>No Vote</b>
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

**Sponsored by:** \_\_\_\_\_  
**Seconded by:** \_\_\_\_\_

**Resolution No.**

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**RESOLUTION AUTHORIZING EMERGENCY TEMPORARY  
APPROPRIATIONS FOR THE CY2013 BUDGET**

**WHEREAS**, an emergent condition has arisen in that the City of Hoboken is expected to enter into contracts, commitments or payments prior to the adoption of the CY2013 budget and no adequate provision has been made in the CY2013 temporary appropriation for the aforesaid purposes; and

**WHEREAS**, N.J.S.A. 40A:4-20 provides for the creation of an emergency temporary appropriation for said purpose; and

**WHEREAS**, the total emergency temporary appropriation resolutions adopted in CY2013 pursuant to the provisions of N.J.S.A. 40A:4-20 including this resolution total \$740,000.00 for Current Expenses and \$-0- for the Parking Utility.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Hoboken, County of Hudson, State of New Jersey (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. Emergency temporary appropriations be and the same are hereby made as follows:

Anticipated Terminal Leave Appropriation	\$700,000.00
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2. Said emergency temporary appropriations will be provided for in the CY2013 budget
3. That one copy of this resolution be filed with the Director, Division of Local Government Services.

**MEETING: April 25, 2013**

<b>Councilperson</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>No Vote</b>
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

**REVEIWED BY:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Quentin Wiest**  
**Business Administrator**

\_\_\_\_\_  
**Mellissa Longo**  
**Corporation Counsel**