

No. 43-09-RE

## RESOLUTION

Resolution of the County of Allegheny authorizing the issuance of tax and revenue anticipation notes in the aggregate principal amount of \$50,000,000; providing for the date, interest rate, maturity date and place of payment in respect of the notes; accepting a proposal for the purchase of the notes; providing for the security of the notes; authorizing the proper officers to execute and deliver the notes; authorizing and directing the preparation, certification and filing of the proceedings with the Department of Community and Economic Development; appointing a paying agent and registrar; approving a form of note; and repealing inconsistent resolutions.

**Whereas**, the County of Allegheny, Pennsylvania (the "Issuer"), has determined to incur temporary indebtedness in anticipation of the receipt of taxes and other current revenues in accordance with the provisions of the Pennsylvania Local Government Unit Debt Act, as amended (53 Pa. C.S. §8001, *et seq.*) (the "Act"), such indebtedness to be evidenced by its Tax and Revenue Anticipation Notes, Series of 2010 (the "Notes") in the principal amount of \$50,000,000 (the "Approved Principal Amount"); and

**Whereas**, a proposal (the "Proposal") dated December 15, 2009, has been submitted by Goldman Sachs Group, Inc. (the "Purchaser"), for the purchase of the Notes in the Approved Principal Amount at a purchase price equal to the principal amount thereof and such Notes to bear interest at a rate not to exceed 6.0% per annum (the "Approved Interest Rate"), computed on the basis of a 360-day year, and to mature on April 5, 2010; and

**Whereas**, the Approved Principal Amount is not greater than the amount by which working capital expenditures will exceed available amounts for those expenditures (determined without regard to the proceeds of the Notes) during the period in which the Notes are outstanding, all as determined under the Treasury Regulations promulgated under the United States Internal Revenue Code of 1986, as amended (the "Code"); and

**Whereas**, as required by Section 8126 of the Act, the authorized officers of the Issuer have made an estimate of the moneys to be received during the period when the Notes will be outstanding from taxes then levied and assessed and revenues to be received and, by their execution of a certificate with respect thereto, dated the date of adoption of this Resolution (the "Section 8126 Certificate"), have certified the said estimate.

***The Council of the County of Allegheny hereby resolves as follows:***

***Section 1. Incorporation of Preamble.***

The provisions set forth in the preamble to this Resolution are incorporated by reference in their entity herein.

***Section 2. Authorization for Sale and Issuance of Notes***

The incurrence of temporary indebtedness in the Approved Principal Amount, and the sale and issuance of the Notes evidencing such indebtedness, pursuant to the Act, is hereby approved, and is authorized and directed to be undertaken and done.

***Section 3. Proposal.***

The Proposal is hereby approved and accepted, and the actions of a majority of the governing board of the Issuer in approving the Proposal and, pursuant thereto, awarding the Notes to the Purchaser, at the purchase price named therein, subject in all respects to compliance by the Purchaser with all the terms and conditions set forth in the Proposal, are hereby ratified and confirmed. The Notes shall be issued in the Approved Principal Amount, shall be in book-entry only with the registered owner of all of the Notes being The Depository Trust Company ("DTC"), shall be registered in the name of Cede & Co., as nominee for DTC, shall be in denominations of \$100,000 or integral multiples thereof, shall be dated as of such date, shall bear interest at the Approved Interest Rate and shall mature on April 5, 2010, all as set forth in the form of the Notes attached hereto as Exhibit "A", and otherwise shall be in accordance with the Proposal, the terms of which are incorporated herein. A copy of the Proposal shall be placed in the records of the Issuer. The obligations of the Issuer set forth in the Proposal shall survive settlement on the Notes and shall continue and be binding upon the Issuer until payment of the Notes in full.

***Section 4. Paying Agent***

Wells Fargo Bank, N.A. of Pittsburgh, Pennsylvania (the "Paying Agent"), is hereby appointed as registrar and Paying Agent for the Notes.

***Section 5. Revenue Receipts***

The Notes shall be payable from and are equally and ratably secured by the pledge of, security interest in, and lien and charge upon, the taxes and other revenues or both of the Issuer to be received during the period in which the Notes are outstanding, as set forth in the Section 8126 Certificate (the "Revenue Receipts"). The Issuer shall cause financing statements to be filed, registered and recorded in such manner and at such places as may be required by law fully to protect the security interests of the owners of the Notes and from time to time shall perform or shall cause to be performed any other act as provided by law, and shall execute and

shall cause to be executed any and all further instruments as may be required by law, for such protection or preservation of the security interests of the owners of the Notes. This Resolution and the Act shall constitute a security agreement between the Issuer and the owners from time to time of the Notes. The Notes are not subject to redemption prior to maturity.

#### **Section 6.    "Sinking Fund"**

There is hereby established a separate sinking fund for the Issuer to be known as "Sinking Fund - Tax and Revenue Anticipation Notes, Series of 2010" (the "Fund") and into said Fund there shall be paid by the Issuer the Revenue Receipts necessary to pay the debt service on the Notes. Such moneys shall be paid into the Fund in the amount necessary to pay the principal of and interest on the Notes and in such form as will provide available funds at or prior to 10:00 A.M., prevailing time, on the maturity date of the Notes. The Paying Agent, without further authorization, shall withdraw moneys from the Sinking Fund and apply the same exclusively to payment of the principal of and interest on the Notes as the same shall become due. Moneys, if any, which may be deposited from time to time in the Fund, and which are not immediately needed for payment of the principal of and interest on the Notes, shall be invested at the order of the Issuer as permitted by law. Such investments shall mature or shall be subject to redemption without penalty, and such deposits shall be subject to withdrawal, on or before the date upon which the moneys so invested or deposited are needed to pay the principal of and the interest on the Notes. As provided in the Act, if the Notes are not paid within the fiscal year in which the same are issued, the Notes shall be deemed to be nonelectoral debt enforceable in the manner of a general obligation, and the amount thereof shall be included in the budget of the Issuer for the ensuing fiscal year and shall be payable from the taxes and revenues of such ensuing year.

#### **Section 7.    Execution of Notes**

The Notes shall be executed by the manual or facsimile signature of the Chief Executive of the Issuer and shall have the corporate seal of the Issuer or a facsimile thereof affixed thereto, duly attested by the manual or facsimile signature of the County Manager and shall be countersigned by the manual or facsimile signature of the County Controller. Any duly authorized official of the Issuer is authorized and directed to deliver or cause to be delivered the Notes to DTC against receipt of the full balance of the purchase price therefore.

#### **Section 8.    Form of Notes**

The Notes shall be in substantially the form as set forth in Exhibit "A" attached hereto and made a part hereof, and may be executed and delivered in substantially such form with such appropriate changes as may be approved by the officer or officers of the Issuer executing the same; and such execution shall constitute approval of such changes by such officer or officers on behalf of the governing body of the Issuer.

Upon original issuance, the Notes will be issued in the form of a single Note and will be delivered to DTC. The Notes will be registered on the registration books kept by the

registrar and Paying Agent, in the name of DTC or, at the option of DTC, in the name of Cede & Co., the DTC nominee, and no beneficial owners thereof will receive certificates representing their respective interest in the Notes. All payments of principal of, and interest on, the Notes shall be paid to the DTC, or its nominee in accordance with a blanket letter of representations (the "Representation Letter") of the Issuer to be executed and filed with DTC, and such payments shall satisfy the Issuer's obligations to the extent of such payments. The execution and delivery by the Issuer of the Representation Letter shall not in any way create, expand or limit any undertaking or arrangement contemplated or provided for herein, in respect of the DTC or the book-entry registration, payment and notification system or in any other way impose upon the Issuer any obligation whatsoever with respect to beneficial owners having interests in the Notes. The appropriate officers of the Issuer shall take all action necessary for all representations of the Issuer in the Representation Letter to be complied with at all times.

In the event that book-entry-only certificates through DTC or another securities depository are discontinued, Note certificates in fully registered form will be delivered to, and registered in the names of, the beneficial owners, in authorized denominations. The ownership of the Notes so delivered (and any Notes thereafter delivered upon a transfer or exchange thereof) shall be registered on the registration books to be kept by the registrar and Paying Agent at its designated corporate trust office. The Issuer and the Paying Agent shall be entitled to treat the registered owners of such Notes, as their names appear in such registration books as of the appropriate dates, as the owners thereof for all purposes described herein.

#### **Section 9. Use of the Proceeds**

The Issuer hereby covenants with the holders of the Notes that it will make no investment or other use of any part of the proceeds of the Notes or money treated as such proceeds under applicable Federal law or regulations, and will not take any other action or omit to take any action, which would cause the Notes to be "arbitrage bonds" under the Code or any other rule or regulation promulgated thereunder or which for any other reason would cause the Notes to become obligations the interest on which is not excludable from gross income for Federal income tax purposes.

#### **Section 10. Representations**

The Issuer represents that:

(i) the actual cumulative cash flow deficit equal to the excess of the Issuer's "expenditures" over the Issuer's "available amounts" will exceed 90% of the proceeds of the Notes during the six-month "deficit period"; or

(ii) the actual cumulative cash flow deficit equal to the excess of the Issuer's "expenditures" over the Issuer's "available amounts," determined by excluding from "available amounts" the lesser of (A) the "preceding year's average monthly balance" or (B) a "reasonable working capital reserve," will equal or exceed the proceeds of the Notes

during the "deficit period."

For purposes of this Section 9, the following definitions will apply: (i) "expenditures" means any current operating expenses or any capital expenditures payable only from available amounts or from the proceeds of the Notes, (ii) "available amounts" means any amounts, other than proceeds of the Notes, that are available to the Issuer for expenditures, including amounts held in accounts by the Issuer that can be expended without legislative or judicial action and which are not subject to any legislative, judicial or contractual requirement that they be replaced, (iii) "preceding year's average monthly balance" means the average of the Issuer's ending monthly balances (net of unexpended gross proceeds of any bond issue) during the one-year period preceding the issue date of the Notes, (iv) "reasonable working capital reserve" means an amount equal to 5.00% of the Issuer's actual expenditures from current revenues during the preceding fiscal year, and (v) "deficit period" means the period beginning on the date of issue of the Notes and ending on the earlier of the date of computation of the highest cumulative excess or the date six months after the date of issuance of the Notes.

### **Section 11. Authorization of Officers**

The proper officers of the Issuer are hereby authorized and directed to take such additional action in accordance with the Act and the terms of the Proposal, as may be incidental to the issuance of, and necessary for the validity of, the Notes, including the filing of a certified copy of this Resolution, the Section 8126 Certificate and a copy of the Proposal with the Pennsylvania Department of Community and Economic Development, all as required by the Act, and the execution and filing of IRS Form 8038-G, as required by the Code.

### **Section 12. Full Force and Effect**

This Resolution shall be of full force and effect only upon the filing with the Pennsylvania Department of Community and Economic Development of the documents set forth in Section 11 hereof; provided, however, with respect to the Purchaser of the Notes, that this Resolution shall be effective and enforceable as of the date of acceptance of the Proposal by the Issuer.

### **Section 13. Preliminary Official Statement**

The Preliminary Official Statement prepared with respect to the Notes is hereby approved. The proper officers of the Issuer are hereby authorized to execute and approve a Final Official Statement relating to the Notes in the form approved by the County Solicitor. The distribution of the Preliminary Official Statement is hereby ratified and the Purchaser is authorized to use the Final Official Statement in connection with any reoffering of the Notes. The Issuer shall take and all such action as the Purchaser reasonably requests in order for the Purchaser to comply with the provisions of SEC Rule 15c2-12.

**Section 14. Note Counsel**

The Issuer hereby reaffirms the appointment of R. Darryl Ponton & Associates., Pittsburgh, Pennsylvania as Note Counsel with respect to the Notes.

**Section 15. Severability.**

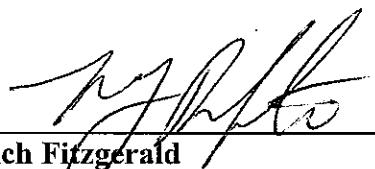
*If any provision of this Resolution shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.*

**Section 16. Repealer.**

*Any resolution or ordinance or part thereof conflicting with the provisions of this Resolution is hereby repealed so far as the same affects this Resolution.*

*Enacted in Council, this 15<sup>th</sup> day of December, 2009.*

*Council Agenda No. 5239-09.*

  
Rich Fitzgerald  
President of Council

Attest:

  
Allegheny County Council

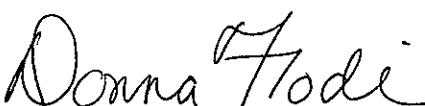
*Chief Executive Office*

  
October 17, 2009

Approved:

  
Dan Onorato  
Chief Executive

Attest:

  
Donna Fodi  
Executive Secretary

### SUMMARY OF LEGISLATION

This resolution will allow the County to issue tax and revenue anticipation notes in the aggregate principal amount of \$50,000,000 to obtain cash in advance of real estate tax collections to cover expenditures during January and February. The notes will mature on April 5, 2010.

Exhibit "A"

COUNTY OF ALLEGHENY, PENNSYLVANIA  
TAX AND REVENUE ANTICIPATION NOTE, SERIES OF 2010

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>	<u>CUSIP</u>
1.0%	April 5, 2010	January 4, 2010	

The COUNTY OF ALLEGHENY, Pennsylvania (the "County") for value received and intending to be legally bound, hereby acknowledges itself to be indebted and promises to pay to CEDE & CO. (the "Registered Owner") or registered assigns, the principal sum of Fifty Million Dollars (\$50,000,000.00), on the Maturity Date specified above, together with interest on said principal sum from the date hereof until the Maturity Date, at the Interest Rate specified above (computed on the basis of an assumed 360-day year consisting of twelve (12) thirty (30) day months. The principal of, and interest on, this Note shall be payable upon presentation and surrender hereof in lawful money of the United States of America at the designated corporate trust office of Wells Fargo Bank, N.A., Pittsburgh, Pennsylvania, as sinking fund depository and paying agent (the "Sinking Fund Depository"), without deduction for any tax or taxes, except inheritance and estate taxes or any other taxes now or hereafter levied or assessed hereon under any present or future laws of the Commonwealth of Pennsylvania, all of which taxes, except as above provided, the County assumes and agrees to pay.

**This Note may not be redeemed prior to maturity.**

This Note is issued under and in accordance with the provisions of the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, 53 Pa. Cons. Stat. § 8001 et seq., as amended, and by virtue of a Resolution (the "Resolution") of the County duly filed, together with other required documents in respect of this Note, with the Pennsylvania Department of Community and Economic Development, for the purpose of providing funds for current expenses and debt service payable on the current fiscal year in anticipation of taxes, state subsidies and reimbursements and other current revenues of the County. This Note is secured by a pledge of, security interest in and lien and charge on, the taxes and/or other revenues of the County, as the case may be, received during the period when this Note is outstanding; and for such purpose, and to secure the payment of the indebtedness evidenced hereby and the interest hereon, the County hereby pledges to the Registered Owner hereof and grants to said Registered Owner a security interest in, and lien and charge on, its taxes and other revenues to be received during the period when this Note is outstanding.



In the event of a default hereunder, the County will pay the Registered Owner's reasonable costs and expenses incurred in collection of the amounts due hereunder.

The County and the Sinking Fund Depository may treat the registered owner of this Note as the absolute owner hereof for all purposes and shall not be affected by any notice to the contrary. The amount of this Note, together with all other notes, if any, issued by the County under the Resolution does not exceed 85% of the sum of the taxes levied for the current fiscal year and the current revenues for such year not yet received and remaining to be collected or received during the period when the Note will be outstanding.

The County covenants that it will not make any use of the proceeds of this Note or do or suffer any other action which would cause this Note to be an "arbitrage bond" as such term is defined in section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations thereunder.

No recourse shall be had for the payment of the principal of, or interest on, this Note, or for any claim based hereon or on the Resolution, against any member, officer or employee, past, present or future, of the County or of any successor body, either directly or through the County or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, and all such liability of such members, officers or employees is released as a condition of and as consideration for the execution and issuance of this Note.

The Notes are issuable only as fully registered notes, without coupons, in the denominations of \$100,000 or integral multiples thereof and shall only be originally issued to a Depository (as hereinafter defined) to be held in a book-entry system and: (i) the Notes shall be registered in the name of the Depository or its nominee, as Holder (as hereinafter defined), and immobilized in the custody of the Depository; (ii) unless otherwise requested by the Depository, there shall be a single note certificate; and (iii) the Notes shall not be transferable or exchangeable, except for transfer to another Depository or another nominee of a Depository, without further action by the County. The owners of beneficial interests in the Notes shall not have any right to receive Notes in the form of physical certificates. If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the County may attempt to have established a securities depository/book-entry system relationship with another qualified Depository under the Resolution. If the County does not or is not able to do so, the County and the Paying Agent, after the Paying Agent has made provision for notification to the owners of book-entry interests by the then Depository, shall permit withdrawal of the Notes from the Depository, and authenticate and deliver note certificates in fully registered form (in denominations of \$100,000 or any integral multiple thereof) to the assignees of the Depository or its nominee.

Notwithstanding anything herein to the contrary, when this Note is registered in the name of a Depository or its nominee, the principal and interest on this Note shall be payable in same-day funds delivered or transmitted to the Depository or its nominee.

In addition to the words and terms defined elsewhere in this Note, the following terms shall have the following meanings:

"Book-entry form" or "book entry system" means, with respect to the Notes, a form or system, as applicable, under which (i) the ownership of beneficial interests in notes may be transferred only through a book-entry and (ii) physical note certificates in fully registered form are registered only in the name of a Depository or its nominee as Holder, with a single physical note certificate held by the Depository. The book-entry system is maintained by and is the responsibility of the Depository and is not maintained by or the responsibility of the County or the Paying Agent but is the record that identifies, and records the transfer of the interest of, the owners of beneficial (book entry) interests in the Notes.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in notes, and to effect transfers of book-entry interests in notes, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Holder" or "Holder of the Notes" or "Noteholder" means the person or entity in whose name a Note is registered on the books kept and maintained by the Registrar for registration and transfer of Notes.

Unless this Note is presented by an authorized representative of the Depository to the County or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of the Depository (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of the Depository), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the Registered Owner hereof, Cede & Co., has an interest herein.

It is hereby certified that all acts, conditions and things required to be done, occur or be performed precedent to, and in the issuance of, this Note, or in the creation of the debt of which this Note is evidenced, have been done, occurred and been performed in regular and due form and manner as required by law, and that the debt represented by this Note, together with all other debt of the County is not in excess of any constitutional or statutory limitation.

IN WITNESS WHEREOF, the County has caused this Note to be duly executed as of  
the Dated Date.

ATTEST:

COUNTY OF ALLEGHENY

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County Manager

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Chief Executive

COUNTERSIGNED:

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County Controller

PAYING AGENT'S CERTIFICATE OF AUTHENTICATION

This Note is one of the County of Allegheny, Pennsylvania Tax and Revenue Anticipation Notes, Series of 2010, described in the within-mentioned Resolution. The Text of Opinion attached hereto is the text of the opinion of R. Darryl Ponton & Associates, Pittsburgh, Pennsylvania, Note Counsel, an executed counterpart of which, dated and delivered on the date of original delivery of and payment for said Notes, is on file with the undersigned.

WELLS FARGO BANK, N.A.  
Paying Agent

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2010

## ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto  
\_\_\_\_\_  
(the "Transferee")

Please Insert Social Security or  
other identifying number of Transferee  
\_\_\_\_\_  
\_\_\_\_\_

Please print or typewrite name and address  
including postal zip code of Transferee.

he within Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, Agent to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

NOTICE: The signature(s) to this assignment must correspond with the name(s) as written upon the face of the Note, in every particular, without alteration or enlargement, or any change whatever and the Social Security or Federal Employer Identification Number of the Transferee is supplied. If the Transferee is a trust, the names and Social Security or Federal Employer Identification Numbers of the settlor and beneficiaries of the trust and the name of the trustee should be supplied. Signature(s) must be guaranteed by an approved eligible guarantor institution which is a participant in a Securities Transfer Association recognized signature guarantee program. Notarized or witnessed signatures are not acceptable.

**MEMORANDUM**  
**OFFICE OF THE COUNTY MANAGER**

TO: Allegheny County Council

FROM: James M. Flynn, Jr.   
County Manager

DATE: November 25, 2009

RE: Proposed Resolution

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Attached is a Resolution authorizing the issuance of tax and revenue anticipation notes in the aggregate principal amount of \$50,000,000; providing for the date, interest rate, maturity date and place of payment in respect of the notes; accepting a proposal for the purchase of the notes; providing for the security of the notes; authorizing the proper officers to execute and deliver the notes; authorizing and directing the preparation, certification and filing of the proceedings with the Department of Community and Economic Development; appointing a paying agent and registrar; approving a form of note; and repealing inconsistent resolutions.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.