

# County Council of Cuyahoga County, Ohio

## Resolution No. R2012-0213

<b>Sponsored by: County Executive FitzGerald/Fiscal Officer/Office of Budget &amp; Management</b>	<b>A Resolution</b> providing for the issuance and sale of bonds in a maximum aggregate principal amount of \$2,020,000.00 to provide funds for the county's contribution to the acquisition and equipping of the Village of Highland Hills municipal building, and the renovation and construction and reconstruction of improvements thereto, including necessary appurtenances thereto, which building is to be used jointly by the Village and the county as a community center for governmental and civic purposes in accordance with a cooperative agreement between the Village and the County; and declaring the necessity that this Resolution become immediately effective.
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**WHEREAS**, the County, acting under authority of Article X, Section 3 of the Ohio Constitution, Article I, Section 1.01 of the County's Charter, Sections 307.15 and 755.16 of the Revised Code, and a resolution previously adopted this Council, and the Village of Highland Hills, acting under authority of Article XVIII, Sections 3 and 7 of the Ohio Constitution, the Village's Charter, Sections 307.15 and 755.16 of the Revised Code, and an ordinance passed by the Village Council, have determined to enter into a cooperative agreement with respect to the operation, maintenance and shared use of the Village's municipal building as a community center for governmental and civic purposes (the Cooperative Agreement); and

**WHEREAS**, the Cooperative Agreement provides for the Village and the County to coordinate their efforts and to cooperate in the operation and maintenance of the Community Center and the refinancing of certain obligations previously incurred by the Village to finance or refinance the costs of the acquisition and equipping of the municipal building, and the renovation and construction and reconstruction of improvements thereto, including necessary appurtenances thereto, in order to achieve cost and other efficiencies and objectives of the County and the Village and to maximize the benefit of the

provision of such facility to all those who work and reside in the Village and the County; and

**WHEREAS**, as its contribution to the cooperative venture, the County has agreed to issue the Bonds described in Section 2 and, upon and subject to the terms and conditions set forth in the Cooperative Agreement, to deliver sufficient proceeds of those Bonds to the Village to enable the Village to defease and retire certain of the bonds issued by the Village for the purpose of acquiring and equipping the municipal building that will serve as the community center, renovating and constructing and reconstructing improvements thereto, including necessary appurtenances thereto; and

**WHEREAS**, the defeasance of those bonds of the Village will also enable the County to proceed with additional unvoted general obligation financings that it intends to undertake that will provide significant additional cost savings and other benefits to the County and its residents; and

**WHEREAS**, this Council has requested that the County Fiscal Officer, as fiscal officer of the County, certify the estimated life or period of usefulness of each class of the improvements described in Section 2 and the maximum maturity of the Bonds described in Section 2; and

**WHEREAS**, the County Fiscal Officer has certified to this Council that the estimated life or period of usefulness of each class of the improvements described in Section 2 is at least five years and the maximum maturity of the Bonds described in Section 2 is at least thirteen years;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:**

**SECTION 1. Definitions and Interpretations.** In addition to the words and terms elsewhere defined in this Resolution, unless the context or use clearly indicates another or different meaning or intent:

*“Authorized Denominations”* means the denomination of \$1,000 or any whole multiple thereof.

*“Bond proceedings”* means, collectively, this Resolution, the Certificate of Award, the Continuing Disclosure Agreement, the Registrar Agreement and the other proceedings of the County, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

“*Bond Register*” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“*Bond Registrar*” means The Bank of New York Mellon Trust Company, N.A., Cleveland, Ohio, as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Registrar Agreement and until a successor Bond Registrar shall have become such pursuant to the provisions of the Registrar Agreement and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar.

“*Book entry form*” or “*book entry system*” means a form or system under which (a) the ownership of book entry interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the County only to a Depository or its nominee as registered owner, with the Bonds deposited with and retained in the custody of the Depository or its agent. The book entry maintained by others than the County is the record that identifies the owners of book entry interests in those Bonds and that principal and interest.

“*Certificate of Award*” means the certificate authorized to be signed by the County Fiscal Officer pursuant to subsection (a) of Section 6, specifying and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Resolution requires or authorizes to be set forth or determined therein.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“*Code*” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“*Continuing Disclosure Agreement*” means the agreement authorized to be signed by the County Executive and the County Fiscal Officer pursuant to subsection (c) of Section 6, to be substantially in the form now on file in the office of the Clerk of Clerk of Council and which, together with the agreements of the County set forth in that subsection and the Bonds, shall constitute the continuing disclosure

agreement made by the County for the benefit of holders and beneficial owners of the Bonds in accordance with the Rule.

“*County Executive*” means the County Executive of the County.

“*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 Bonds or the principal of and interest on Bonds, and to effect transfers of Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“*Financial Advisor*” means PRISM Municipal Advisors, LLC.

“*Interest Payment Dates*” means June 1 and December 1 of each year during which the Bonds are outstanding, commencing June 1, 2013, or such other date not later than December 1, 2013, as may be determined by the County Fiscal Officer and specified in the Certificate of Award.

“*Original Purchasers*” means, collectively, Stifel, Nicolaus & Company, Incorporated, St. Louis, Missouri, KeyBanc Capital Markets Inc., Cleveland, Ohio, and Loop Capital Markets LLC, Chicago, Illinois.

“*Participant*” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies, and clearing corporations.

“*Principal Payment Dates*” means, unless otherwise determined by the County Fiscal Officer and specified in the Certificate of Award, December 1 in each of the years from and including 2013 to and including 2025.

“*Purchase Agreement*” means the Bond Purchase Agreement between the County and the Original Purchasers, as it may be modified from the form on file with the Clerk of Council and signed by the County Executive and the County Fiscal Officer in accordance with Section 6.

“*Registrar Agreement*” means the Bond Registrar Agreement between the County and the Bond Registrar, as it may be modified from the form on file with the Clerk of Council and signed by the County Executive and the County Fiscal Officer in accordance with Section 4.

“*Rule*” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“SEC” means the Securities and Exchange Commission.

“*Serial Bonds*” means those Bonds designated as such in the Certificate of Award, maturing on the dates set forth therein, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“*Term Bonds*” means those Bonds designated as such in the Certificate of Award, maturing on the date or dates set forth therein, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

Any reference to this Council, the County or to its members or officers, or to other public officers, boards, commissions, departments, institutions, agencies, bodies or entities, shall include those which succeed to their functions, duties or responsibilities by operation of law and also those who at the time may legally act in their place.

The captions and headings in this Resolution are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Resolution unless otherwise indicated.

**SECTION 2. Authorized Principal Amount and Purpose; Application of Proceeds.** It is necessary to issue bonds of this County in the maximum aggregate principal amount of \$2,020,000 (the Bonds) to provide funds for the County’s contribution to the acquisition and equipping of the Village of Highland Hills municipal building, and the renovation and construction and reconstruction of improvements thereto, including necessary appurtenances thereto, including the defeasance of certain bonds issued by the Village for that purpose, all in accordance with the terms of the Cooperative Agreement between the County and the Village with respect to the operation, maintenance and shared use of that municipal building as a community center for governmental and civic purposes entered into by the County, acting under authority of Article X, Section 3 of the Ohio Constitution, Article I, Section 1.01 of the County’s Charter, Sections 307.15 and 755.16 of the Revised Code, and a resolution previously adopted this Council, and the Village, acting under authority of Article XVIII, Sections 3 and 7 of the Ohio Constitution, the Village’s Charter, Sections 307.15 and 755.16 of the Revised Code, and an ordinance passed by the Village Council.

Subject to the limitations set forth in this Resolution, the aggregate principal amount of the Bonds to be issued, the principal maturities of and the principal payment schedule for the Bonds, the interest rate or rates that the Bonds shall bear and certain other terms and provisions of the Bonds identified in this Resolution

are subject to further specification or determination by the County Fiscal Officer in the Certificate of Award upon the finalization of the terms and provisions of the Bonds, taking into account costs and/or estimated costs of the improvements, estimated financing costs, and the interest rates on the Bonds.

The proceeds from the sale of the Bonds, except any premium and accrued interest, shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

**SECTION 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions.** The Bonds shall be issued in one lot and only as fully registered bonds, in the Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. Unless otherwise specified by the County Fiscal Officer in the Certificate of Award, the Bonds shall be dated as of the Closing Date.

(a) Interest Rates and Payment Dates. The Bonds shall bear the rate or rates of interest per year (computed on the basis of a 360 day year consisting of twelve 30-day months), not exceeding 10% per year for any stated maturity, as shall be specified by the County Fiscal Officer (subject to the provisions of subsection (c) of this Section) in the Certificate of Award. Interest on the Bonds shall be payable on each Interest Payment Date until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements (as hereinafter defined and described) on the Principal Payment Dates in the following years and principal amounts:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2013	\$ 120,000	2020	\$ 160,000
2014	125,000	2021	165,000
2015	130,000	2022	175,000
2016	135,000	2023	185,000
2017	135,000	2024	195,000
2018	145,000	2025	200,000
2019	150,000		

; provided that, subject to the limitations set forth in Sections 1 and 2 and this Section 3, the principal amount of Bonds maturing or subject to Mandatory Sinking Fund Redemption Requirements on any one or more of the Principal Payment Dates may be increased or decreased as specified by the County Fiscal Officer in the Certificate of Award, consistently with his determination of the best interest of and financial advantages to the County.

Consistently with the foregoing and in accordance with his determination of the amount needed for the purpose set forth in Section 2 and the best interest of and financial advantages to the County, the County Fiscal Officer shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued, (ii) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, and (iii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (Mandatory Redemption Dates) and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other such fiscal year. The weighted average of the rate or

rates of interest per year to be borne by the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or mandatory sinking fund redemption of those principal amounts of Bonds shall not exceed 6% per year.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the designated corporate trust office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the County in connection with the book entry system.

The County reserves the right to order the Bond Registrar to return to it any money held by the Bond Registrar for the payment of (i) checks or drafts for the payment of interest on the Bonds or (ii) principal of or premium on Bonds, which checks, drafts or Bonds have not been presented for payment within four years following the date on which payment of the interest or principal represented thereby came due. Thereafter, the registered owners shall look only to the County for payment of the interest and principal represented by those checks, drafts and Bonds.

(e) Redemption Provisions. Except as may be otherwise specified by the County Fiscal Officer in the Certificate of Award consistently with his determination of the best interest of and financial advantages to the County, the Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund requirements at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts, the Mandatory Sinking Fund Redemption Requirements).



The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on the Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The County shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the County, as specified by the County Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bear interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the County on or before the 45th day preceding any Mandatory Redemption Date with respect to which the County wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the County Fiscal Officer, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bear interest at the same rate. If the certificate is not timely furnished to the Bond Registrar, the then current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the County Fiscal Officer, also shall be received by the County for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bear interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the County Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date and bear interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds maturing on or after December 1, 2021 shall be subject to redemption, by and at the sole option of the County, either in whole or in part, in integral multiples of \$5,000, on any date on or after December 1, 2020, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date.

Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the County Fiscal Officer to the Bond Registrar, given upon the direction of this Council by adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and of each interest rate within a maturity) of Bonds to be redeemed and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity or interest rate within a maturity are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the County. If fewer than all of the Bonds of a single maturity and interest rate are to be redeemed, the selection of Bonds of that maturity and rate to be redeemed, or portions thereof in amounts of \$5,000 or any whole multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (i) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the

amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the County by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15th day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of subsection (d) of Section 3 and Section 5, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the County to the extent not required for the payment of the Bonds called for redemption..

**SECTION 4. Execution and Authentication of Bonds; Appointment of Bond Registrar.** The Bonds shall be signed by the County Executive and the County

Fiscal Officer, in the name and on behalf of the County and in their official capacities, provided that any or all of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchasers and approved by the County Fiscal Officer, shall be numbered as determined by the County Fiscal Officer in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Resolution and Chapter 133 and Sections 755.16 and 755.17 of the Revised Code.

The Bank of New York Mellon Trust Company, N.A., Cleveland, Ohio, is appointed to act as the initial Bond Registrar. The County Executive and the County Fiscal Officer shall sign and deliver, in the name and on behalf of the County and in their official capacities, the Registrar Agreement between the County and the Bond Registrar, in substantially the form as is now on file with the Clerk of this Board. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Resolution and not substantially adverse to the County and that are approved by the County Executive and the County Fiscal Officer on behalf of the County, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The County Fiscal Officer shall provide for payment of services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed by the Original Purchasers in accordance with the Purchase Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the County Fiscal Officer on behalf of the County. The same person need not sign the certificate of authentication on all of the Bonds.

**SECTION 5. Registration; Transfer And Exchange; Book Entry System.**

(a) Bond Registrar. So long as any of the Bonds remain outstanding, the County will cause the Bond Registrar to maintain and keep the Bond Register at its designated corporate trust office. Subject to the provisions of subsection (d) of Section 3 and subsection (c) of Section 6, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the County nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the County's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated corporate trust office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the County are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the County. In all cases of Bonds exchanged or transferred, the County shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the County and the Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The County or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the County, evidencing the same debt, and entitled to the same

security and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer. Neither the County nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Resolution, if the County Fiscal Officer determines and specifies in the Certificate of Award that it is in the best interest of and financially advantageous to the County, the Bonds may be issued in book entry form in accordance with the following provisions of this Section.

The Bonds may be issued to a Depository for use in a book entry system and, if and so long as a book entry system is utilized, (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and interest rate within a maturity and registered in the name of the Depository or its nominee, as registered owner, and deposited with and retained in the custody of the Depository or its designated agent which may be the Bond Registrar; (ii) the book entry interest owners of Bonds in book entry form shall not have any right to receive Bonds in the form of physical securities or certificates; (iii) ownership of book entry interests in Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the County.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the County Fiscal Officer may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the County Fiscal Officer does not or is unable to do so, the County Fiscal Officer, after making provision for notification of the book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of County action or inaction, of those persons requesting such issuance.

The County Fiscal Officer is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the County, that he determines to be necessary in connection with a book entry system for the Bonds.

**SECTION 6. Sale of the Bonds.**

(a) To the Original Purchasers. The Bonds shall be awarded and sold by the County Fiscal Officer to the Original Purchasers at private sale at a purchase price not less than 97% of the aggregate principal amount thereof plus accrued interest on the Bonds from their date to the Closing Date, as shall be determined by the County Fiscal Officer and specified in the Certificate of Award, and with and upon such other terms as are required or authorized by this Resolution to be specified in the Certificate of Award, in accordance with law, the provisions of this Resolution and the Purchase Agreement. The County Fiscal Officer is authorized, if it is determined to be in the best interest of the County, to combine the issue of Bonds with one or more other unvoted general obligation bond issues of the County into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated issue if appropriate and consistent with the terms of this Resolution.

The County Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and, following their sale, shall have the Bonds signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchasers upon payment of the purchase price. The County Executive, the County Fiscal Officer, the Prosecuting Attorney, the Assistant Prosecuting Attorney/Chief of the Civil Division, the Clerk of Council and other County officials, as appropriate, each are authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Resolution.

The County Executive and the County Fiscal Officer shall sign and deliver, in the name and on behalf of the County and in their official capacities, the Purchase Agreement between the County and the Original Purchasers, in substantially the form as is now on file with the Clerk of Council, providing for the sale of the Bonds to, and the purchase of the Bonds by, the Original Purchasers. The Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Resolution and not substantially adverse to the County and that are approved by the County Executive and the County Fiscal

Officer on behalf of the County, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

(b) Primary Offering Disclosure; Official Statement. The County Executive and the County Fiscal Officer, in the name and on behalf of the County and in their official capacities, are authorized and directed to (i) prepare or cause to be prepared, and to make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of an official statement in connection with the original issuance of the Bonds, (ii) determine, and to certify or otherwise represent, when the official statement is to be “deemed final” (except for permitted omissions) by the County as of its date or is a final official statement for purposes of the Rule, (iii) use and distribute, or authorize the use and distribution of, the “deemed final” and final official statements and any supplements thereto in connection with the original issuance of the Bonds, and (iv) complete and sign the final official statement as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of the “deemed final” and final official statements as they deem necessary and appropriate.

(c) Agreement to Provide Continuing Disclosure. For the benefit of the holders and beneficial owners from time to time of the Bonds, the County agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The County Executive and the County Fiscal Officer are authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the County, in substantially the form as is now on file with the Clerk of Council. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with this Resolution and not substantially adverse to the County and that are approved by the County Executive and the County Fiscal Officer on behalf of the County, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement.

The County Fiscal Officer is further authorized and directed to establish procedures in order to ensure compliance by the County with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the County Fiscal Officer shall consult with and obtain legal advice from, as appropriate, the bond counsel or other qualified independent special counsel selected by the County. The County Fiscal Officer, acting in the name and on behalf of the County, shall be entitled to rely upon any such legal advice in determining



whether a filing should be made. The performance by the County of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

(d) Application for Ratings or Bond Insurance and Retention of Financial Advisor. If, in the judgment of the County Executive or the County Fiscal Officer, the filing of an application for (i) a rating on the Bonds by one or more nationally recognized rating agencies and/or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds is in the best interest of and financially advantageous to this County, the County Executive and the County Fiscal Officer are each authorized to prepare and submit those applications, or to cause them to be prepared and submitted. The County Executive and the County Fiscal Officer are each also authorized to provide, or cause to be provided, to each such agency or company such information as may be required for the purpose and, if it is, in their judgment, in the best interest of and financially advantageous to the County, to accept a commitment for insurance issued by a nationally recognized municipal bond insurance company insuring the payment when due of the principal of and interest on all or any portion of the Bonds. The County Executive and the County Fiscal Officer are further authorized to enter into any agreements, on behalf of and in the name of the County, that they determine to be necessary or required to obtain such ratings or insurance and take such other actions as may be required for the purpose.

PRISM Municipal Advisors, LLC is hereby retained as financial advisor to the County to provide financial advice and otherwise assist the County in connection with the original issuance of the Bonds in accordance with the terms set forth in its proposal to provide those services, and the County Executive is authorized to enter into any agreement, on behalf of and in the name of the County, that he determines to be necessary or appropriate in connection with that retention.

The expenditure of the amounts necessary to secure those ratings and services and any such policy and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds, to the extent not paid by the Original Purchasers in accordance with the Purchase Agreement, is authorized and approved, and the County Fiscal Officer is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**SECTION 7. Provisions for Tax Levy.** There shall be levied on all the taxable property in the County, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

**SECTION 8. Federal Tax Considerations.** The County covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The County further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, and (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The County Fiscal Officer, as fiscal officer, or any other officer of the County having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the County with respect to the Bonds as the County is permitted or required to make or give under the federal income tax laws, including, without limitation, any of the elections available under Section 148 of

the Code, for the purpose of assuring, enhancing or protecting the favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the County, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the County, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the County regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment or status of the Bonds and interest thereon.

**SECTION 9. Certification and Delivery of Resolution and Certificate of Award.** The Clerk of Council is directed to deliver a certified copy of this Resolution and a signed copy of the Certificate of Award to the County Fiscal Officer as soon as both are available.

**SECTION 10. Satisfaction of Conditions for Bond Issuance.** This Council determines that all acts and conditions necessary to be performed by the County or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the County of Cuyahoga have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the County are pledged for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

**SECTION 11. Retention of Bond Counsel.** The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative

discretion on behalf of the County in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the County or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services and in paying other financing costs in connection with the Bonds at the direction of the County.

The Clerk of Council is authorized and directed to transmit a certified copy of this Resolution to the Prosecuting Attorney of the County, and this Council joins and shall join with the Prosecuting Attorney in any further required application or proceedings in connection with the retention of such legal services. The County Fiscal Officer is authorized, on behalf of the County and in his official capacity, to enter into a contract with that firm in a form approved by the Prosecuting Attorney (or on behalf of the Prosecuting Attorney by the Assistant Prosecuting Attorney, Chief of the Civil Division) upon the completion of any further required proceedings. The amount necessary to make those payments, to the extent not paid by the Original Purchasers pursuant to the Purchase Agreement, is hereby appropriated from the improvement fund, and the County Fiscal Officer is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue appropriate orders for their timely payment as written statements are submitted by the firm.

**SECTION 12. Open Meeting.** This Council hereby finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the adoption of this Resolution were taken, and that all deliberations of this Council and of any of its committees that resulted in such formal action were held, in meetings open to the public, in compliance with all legal requirements including Section 121.22, Ohio Revised Code.

**SECTION 13. Effective Date.** This Resolution shall be in full force and effect immediately upon the signature of the County Executive, provided this Resolution receives the affirmative vote of eight members elected to Council. It is hereby determined to be necessary that this Resolution become immediately effective in order that issuance of the Bonds may proceed in a timely manner to enable the County to take advantage of current favorable market interest rates for the financing of the improvements described in Section 2 and other County improvements and to enter into and meet its obligations under the Cooperative Agreement.

On a motion by Mr. Rogers, seconded by Ms. Simon, the foregoing Resolution was duly adopted.

Yeas: Germana, Gallagher, Schron, Conwell, Jones, Rogers, Simon, Greenspan, Miller, Brady and Connally

Nays: None

_____	_____
County Council President	Date
_____	_____
County Executive	Date
_____	_____
Clerk of Council	Date

In accordance with Rule 6B of the Rules of Council, legislation was added to the agenda by parliamentary motion: September 25, 2012

First Reading/Referred to Committee: September 25, 2012

Committee(s) Assigned: Finance & Budgeting

Committee Report/Second Reading: October 9, 2012

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