

# County Council of Cuyahoga County, Ohio

## Resolution No. R2012-0255

Sponsored by: **County Executive FitzGerald/Fiscal Officer/Office of Budget & Management**

**A Resolution** authorizing the execution of a Cooperative Agreement for Community Center between the County and the Village of Highland Hills regarding the joint use by the Village and the County of the Village Municipal Building as a Community Center for governmental and civic purposes and a related Escrow Agreement among the County, the Village and The Bank of New York Mellon Trust Company, N.A., relating to the County's contribution to the acquisition and equipping of that Community Center, and the renovation and construction and reconstruction of improvements thereto, including necessary appurtenances thereto; authorizing and directing the County Fiscal Officer to make payments in accordance with and in furtherance of those agreements; and declaring the necessity that this Resolution become immediately effective.

**WHEREAS**, the Village of Highland Hills, Ohio (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 (the Village Ordinance), has offered to enter into a cooperative agreement with the County with respect to the operation, maintenance and shared use of the Village's municipal building as a community center (the Community Center) for governmental and civic purposes (the Cooperative Agreement); and

**WHEREAS**, this Council finds and determines that the Community Center has the capacity to serve governmental and civic purposes of a broader community and that the sharing of the Community Center can contribute substantially to fulfilling those needs, and the purposes and functions as a "community center", as contemplated by Section 755.16 of the Revised Code; 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 (the Refinanced Village Bonds), 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 County and the Village; and

**WHEREAS**, as its contribution to the cooperative venture, the County has agreed to issue unvoted general obligation bonds (the County Bonds) and, upon and subject to the terms and conditions set forth in the Cooperative Agreement, to deliver sufficient proceeds of the County Bonds to the Village to enable the Village to defease and retire the Refinanced Village Bonds; and

**WHEREAS**, the defeasance of the Refinanced Village Bonds 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 determined accordingly that it is in the best interest of the County to (i) enter into the Cooperative Agreement with the Village, (ii) enter into a related escrow agreement with the Village and The Bank of New York Mellon Trust Company, N.A., as escrow trustee (the Escrow Trustee) to provide for the defeasance and retirement of the Refinanced Village Bonds, and (iii) authorize and direct the County Fiscal Officer to make payments from proceeds of the County Bonds in furtherance of and in accordance with the Cooperative Agreement and the Escrow Agreement; and

**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:

“*Cooperative Agreement*” means the Cooperative Agreement for Community Center between the County and the Village, 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 2.

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

“*Escrow Agreement*” means the Escrow Agreement among the County, the Village and the Escrow Trustee, 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 3.

*“Escrow Fund”* means the Village of Highland Hills Refinanced 2005 Bonds Escrow Fund established pursuant to Section 5 of the Village Ordinance and the Escrow Agreement.

*“Escrow Trustee”* means The Bank of New York Mellon Trust Company, N.A., as the initial escrow trustee with respect to the Refinanced Village Bonds under the Escrow Agreement and until a successor Escrow Trustee shall have become such pursuant to the provisions of the Escrow Agreement and, thereafter, “Escrow Trustee” shall mean the successor Escrow Trustee.

*“Original Village Bonds”* means the Village’s \$2,565,000 Building Improvement and Refunding Bonds, Series 2005, dated October 18, 2005, issued for the purpose of acquiring and equipping a Village municipal building, renovating and constructing and reconstructing improvements thereto, including necessary appurtenances thereto.

*“Refinanced Village Bonds”* means the \$1,690,000 of the Original Village Bonds now outstanding that are stated to mature on or after December 1, 2014.

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. Approval of Cooperative Agreement and Related Actions.**

Pursuant to the authority provided by Article X, Section 3 of the Ohio Constitution, Article I, Section 1.01 of the County’s Charter and Sections 307.15 and 755.16 of the Revised Code, this Council hereby approves the Cooperative Agreement in substantially the form as is now on file with the Clerk of Council, 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, County Fiscal Officer and the Director of Law, the Prosecuting Attorney or an Assistant County Prosecutor on behalf of the County, all of which shall be conclusively evidenced by the signing of the Cooperative Agreement or amendments to the Cooperative Agreement. The County Executive and County Fiscal Officer are authorized and directed to sign and deliver the Cooperative Agreement, in the name and on behalf of the County and in their official capacities, and the County Fiscal Officer authorized and directed to provide for the payment of the amounts payable by the County pursuant to the Cooperative Agreement and in carrying out its undertakings thereunder from the proceeds of the County Bonds and/or other money lawfully available and appropriated or to be appropriated for that purpose.

**SECTION 3. Approval of Escrow Agreement and Related Actions.** Pursuant to the authority provided by Article X, Section 3 of the Ohio Constitution, Article I, Section 1.01 of the County’s Charter and Sections 307.15 and 755.16 of the Revised

Code, this Council hereby approves the Escrow Agreement in substantially the form as is now on file with the Clerk of Council, 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, the County Fiscal Officer the Director of Law, the Prosecuting Attorney or an Assistant County Prosecutor on behalf of the County, all of which shall be conclusively evidenced by the signing of the Escrow Agreement or amendments to the Escrow Agreement. The County Executive and the County Fiscal Officer are authorized and directed to sign and deliver the Escrow Agreement, in the name and on behalf of the County and in their official capacities, and the County Fiscal Officer is authorized and directed to provide for the payment of the amounts payable by the County pursuant to the Escrow Agreement and in carrying out its undertakings thereunder from the proceeds of the County Bonds and/or other money lawfully available and appropriated or to be appropriated for that purpose.

If U.S. Treasury Securities -- State and Local Government Series are to be purchased for the Escrow Fund, the Escrow Trustee is hereby specifically authorized to file, on behalf of the County, subscriptions for the purchase and issuance of those U.S. Treasury Securities - State and Local Government Series. If, in the judgment of the County Fiscal Officer, an open-market purchase of obligations described in (b) in the preceding paragraph for the Escrow Fund is in the best interest of and financially advantageous to County, the County Fiscal Officer or any other officer of the County, on behalf of the County and in his official capacity, may purchase and deliver such obligations, engage the services of a financial advisor, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and any related structuring of, the Escrow Fund, execute such instruments as are deemed necessary to engage such services for such purpose, and provide further for the payment of the cost of obtaining such services, from any funds lawfully available and that are appropriated or shall be appropriated for that purpose.

**SECTION 4. Approval and Execution of Related Documents.** The County Executive, County Fiscal Officer, the Prosecuting Attorney and the Director of Law, or such other County officials as shall be designated by those officials, as appropriate, are each authorized and directed to sign any certificates or documents, and to take such other actions as are desirable, advisable, necessary or appropriate, to consummate the transactions contemplated by this Resolution, the Cooperative Agreement and the Escrow Agreement.

**SECTION 5. Prior Acts Ratified and Confirmed.** Any actions previously taken by County officials or agents in furtherance of the matters set forth in this Resolution are hereby approved, ratified and confirmed.

**SECTION 6. 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 of the Revised Code.

**SECTION 7. 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 County Bonds may proceed in a timely manner to enable the County to meet its obligations under the Cooperative Agreement and the Escrow Agreement and to enable the defeasance of the Refinanced Village Bonds and thereby 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.

On a motion by Mr. Miller, seconded by Mr. Gallagher, the foregoing Resolution was duly adopted.

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

Nays: None

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County Council President                      Date

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County Executive                                      Date

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Clerk of Council                                      Date

Journal CC008  
November 27, 2012