

County Council of Cuyahoga County, Ohio

Resolution No. R2019-0276

<p>Sponsored by: County Executive Budish/Fiscal Officer/Office of Budget and Management</p>	<p>A Resolution authorizing the issuance and sale of County of Cuyahoga, Ohio, Economic Development Revenue Refunding Bonds, Series 2020A (Brownfield Redevelopment Fund Project), in the maximum aggregate principal amount of \$11,000,000.00, in one or more series, to refund a certain portion of the County’s Economic Development Revenue Bonds, Series 2010A, originally issued for the purpose of providing moneys to pay costs of “projects” within the meaning of Chapter 165, Ohio Revised Code; authorizing the execution and delivery of a supplemental trust indenture securing the payment of the bonds; establishing funds of the County related thereto; authorizing the execution and delivery of a purchase agreement relating to the sale of the bonds and related agreements and certificates; authorizing and approving related matters; and declaring the necessity that this Resolution become immediately effective.</p>
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WHEREAS, the County has outstanding its Economic Development Revenue Bonds, Series 2010A (Brownfield Redevelopment Fund Project) (the “Outstanding Bonds”); and

WHEREAS, this Council finds and determines that it is in the best interest of the County to refund certain of the Outstanding Bonds as set forth in the Final Terms Certificate authorized herein (the “Refunded Bonds”) and to take other actions as necessary in connection therewith; and

WHEREAS, the Series 2020A Bonds shall be issued pursuant to the Trust Indenture dated as of October 1, 1998 (the “Original Indenture”), as supplemented and amended from time to time, including by a Third Supplemental Trust Indenture (the “Third Supplemental Trust Indenture”), in form and substance consistent with the terms of this Resolution as shall be conclusively evidenced by the execution thereof by the officials authorized herein to execute such document.

WHEREAS, the County, as a county and political subdivision duly organized and validly existing under the laws of the State of Ohio, is authorized and empowered by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII, Ohio Constitution, and Chapter 165, Ohio Revised Code and specifically Section 165.07 thereof, (a) to issue its revenue bonds for the purpose of refunding revenue bonds it previously issued to provide moneys to construct, improve, furnish or equip a “project”, as defined in Section 165.01, Ohio Revised Code, located within the boundaries of the County, when the refunding bonds will bear interest at a lower rate than the bonds to be refunded, when the interest cost of the refunding bonds computed to the absolute maturity will be less than the interest cost of the bonds to be refunded, or when the average life of the refunding bonds will be greater than the remaining average life of the bonds to be refunded, and (b) to adopt this Resolution and to enter into the Third Supplemental Trust Indenture, and related agreements, all as defined and provided herein, upon the terms and conditions provided herein and therein;

WHEREAS, it is necessary that this Resolution become immediately effective in order that the usual daily operation of the County be continued and the public peace, health or safety of the County be preserved and for the further reason that funds be made available in a timely manner to achieve the benefits of refunding the Refunded Bonds.

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

Section 1. Definitions. In addition to the words and terms elsewhere defined in this Resolution or in the Indenture, the following words and terms as used in this Resolution shall have the meanings set forth below. Capitalized words and terms not defined in this Section or elsewhere in this Resolution and used herein shall have the meanings assigned to them in the Indenture.

“*Bond*” or “*Bonds*” means the Series 2020A Bonds and Additional Bonds.

“*Bond Counsel*” means McDonald Hopkins LLC.

“*Clerk*” means the Clerk of this Council.

“*Closing Date*” means the date of original delivery of, and payment of the purchase price for, the Series 2020A Bonds.

“*Commercial Redevelopment Indenture*” means the Trust Indenture dated as of September 1, 2010 between the Issuer and the Commercial Redevelopment Trustee, as amended and supplemented by the First Supplemental Trust Indenture authorized to be dated February 1, 2020, as may be further amended and supplemented from time to time.

“Commercial Redevelopment Revenues” means the Pledged Nontax Revenues as defined in the Commercial Redevelopment Indenture.

“Commercial Redevelopment Trustee” means The Huntington National Bank, as trustee under the Commercial Redevelopment Indenture.

“Continuing Disclosure Certificate” means the certificate authorized by Section 5(c) hereof which, together with the agreements of the County set forth in that Section, shall constitute the continuing disclosure agreement made by the County for the benefit of holders and beneficial owners of the Series 2020A Bonds in accordance with the Rule.

“Council” means the Council of the County.

“County Executive” means the County Executive of the County or designee for the purposes of signing documents.

“County Fiscal Officer” means the Fiscal Officer, including an acting or interim Fiscal Officer of the County or designee for purposes of signing documents.

“Depository” means The Depository Trust Company (a limited purpose trust company), New York, New York until a successor Depository shall have become such pursuant to the applicable provisions of the Second Supplemental Trust Indenture and, thereafter, Depository shall mean the successor Depository. Any Depository shall be a 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 the Series 2020A Bonds or Bond Service Charges thereon, and to effect transfers of book entry interests in the Series 2020A Bonds.

“Escrow Agreement” means the Escrow Agreement authorized by Section 11 hereof.

“Escrow Trustee” means the Escrow Trustee appointed in the Escrow Agreement.

“Final Terms Certificate” means the certificate authorized by Section 5, to be signed by the County Fiscal Officer or County Executive, setting forth and determining those terms or other matters pertaining to the Series 2020A Bonds and their issuance, sale and delivery as this Resolution requires or authorizes to be set forth or determined therein.

“Flats Indenture” means the Trust Indenture dated as of April 1, 2014 between the County and the Flats Trustees.

“Flats Revenues” means the Project Revenues as defined in the Flats Indenture.

“Flats Trustee” means The Huntington National Bank, as trustee under the Flats Indenture, and its successors and assigns.

“*Gateway Indenture*” means the Master Indenture dated as of September 15, 1992, as amended and supplemented by the First Supplemental Trust Indenture and Second Supplemental Trust Indenture, each dated as of September 15, 1992, the Third Supplemental Trust Indenture, dated as of February 1, 1994, the Fourth Supplemental Trust Indenture dated as of February 1, 2004, the Fifth Supplemental Trust Indenture dated as of September 1, 2010, and the Sixth Supplemental Trust Indenture authorized to be dated as of February 1, 2020, between the Issuer and the Gateway Trustee, as may be further amended and supplemented from time to time.

“*Gateway Revenues*” means the Revenues as defined in the Gateway Indenture.

“*Gateway Trustee*” means The Bank of New York Mellon Trust Company, N.A., as trustee under the Gateway Indenture, and its successors and assigns.

“*Indenture*” means collectively the Original Indenture as amended and supplemented by the First Supplemental Trust Indenture dated as of February 1, 2004, Second Supplemental Trust Indenture dated as of September 1, 2010, and the Third Supplemental Trust Indenture, and as may be further amended and supplemented from time to time.

“*Mandatory Sinking Fund Redemption Requirements*” means, as to the Series 2020A Bonds, the deposits required to be made in respect of the mandatory redemption requirements indicated in the Third Supplemental Trust Indenture.

“*Medical Mart/Convention Center Indenture*” means the Trust Indenture dated as of December 1, 2010 between the County and the Medical Mart/Convention Center Trustee.

“*Medical Mart/Convention Center Revenues*” means the Project Revenues as defined in the Medical Mart/Convention Center Indenture.

“*Medical Mart/Convention Center Trustee*” means U.S. Bank National Association as trustee under the Medical Mart/Convention Center Indenture, and its successors and assigns.

“*MetroHealth Payments*” means the payments received by the County pursuant to that certain Payment Agreement dated April 26, 2017 between the County and the Board of Trustees of the MetroHealth System.

“*Net Project Revenues*” means all Project Revenues except those Project Revenues which are required to be deposited in the Outside Loan Repayment Fund or the OWDA Repayment Fund pursuant to Section 5.06 of the Indenture.

“*Nontax Revenues*” means all moneys of the County that are not money raised by taxation, to the extent available for deposit in the Debt Retirement Fund, the Bond Reserve Fund or the Pledge Fund as provided in the Indenture, including, but not

limited to the following: (a) charges for services and payments received in reimbursement for services; (b) payments in lieu of taxes now or hereafter authorized by State statute; (c) fines and forfeitures; (d) fees from properly imposed licenses and permits; (e) investment earnings on any funds of the County that are credited to the County's General Fund; (f) proceeds from the sale of assets; (g) rental income; (h) grants from the United States of America and the State of Ohio; (i) gifts and donations; and (j) Net Project Revenues; provided that Nontax Revenues do not include the Gateway Revenues, the Commercial Redevelopment Revenues, the Medical Mart/Convention Center Revenues, the Westin Revenues, the Steelyard Revenues, the MetroHealth Payments or the Flats Revenues, or Project Revenues which are required to be deposited in the Outside Loan Repayment Fund or the OWDA Repayment Fund pursuant to Section 5.06 of the Original Indenture.

"Original Purchaser" means such purchasers of the Series 2020A Bonds identified in the Purchase Agreement for the Series 2020A Bonds.

"Pledged Nontax Revenues" means (i) all Net Project Revenues, (ii) proceeds of any series of Bonds to be used to pay capitalized interest or otherwise to be available to pay Bond Service Charges, (iii) Nontax Revenues in the Pledge Fund, (iv) all money in the Special Funds and (v) all income and profit from the investment of the foregoing money.

"Program" means the financing of Projects with money in the Redevelopment Fund, as defined in the Indenture.

"Project" means a "project" as defined in the Act, including the acquisition and redevelopment of underused or abandoned commercial or industrial property within the County.

"Project Revenues" means the Project Revenues as defined in the Indenture.

"Purchase Agreement" means, with respect to the Series 2020A Bonds, one or more Bond Purchase Agreements between the County and the Original Purchaser.

"Refunded Bonds" means those portions of the County's outstanding Economic Development Revenue Bonds, Series 2010A as set forth in the Final Terms Certificate.

"Rule" means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934, as the same may be amended from time to time.

"SEC" means the Securities and Exchange Commission.

"Series 2020A Bonds" means the County's Taxable Economic Development Revenue Refunding Bonds, Series 2020A (Brownfield Redevelopment Fund Project), issued pursuant to this Resolution and the Indenture.

“*Steelyard Resolution*” means Resolution No. 2013-0199 adopted by the Council on September 24, 2013.

“*Steelyard Revenues*” means the Project Revenues as defined in the Steelyard Resolution.

“*Trustee*” means The Huntington National Bank, a national banking association organized and existing under the laws of the United States of America and duly qualified to exercise corporate trust powers in the State of Ohio, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter “Trustee” shall mean the successor Trustee.

“*Westin Resolution*” means the Resolution No. R2013-0224 adopted by the Council on December 10, 2013.

“*Westin Revenues*” means the Project Revenues as defined in the Westin Resolution.

The captions and headings in this Resolution are solely for convenience of reference and do not define, limit or describe the scope or intent of any provisions or Sections of this Resolution.

Section 2. Determinations by this Council. This Council finds and determines that (i) the issuance of the Series 2020A Bonds for the purpose of refunding the Refunded Bonds to achieve economic savings is consistent with the requirements of Section 165.07 of the Act; and (ii) the issuance of the Series 2020A Bonds for that purpose is in furtherance of the purposes of the Act and will benefit the people of the County and of the State. Consistent with Section 165.031, in the resolution authorizing the Refunded Bonds, the County required that all wages paid to laborers and mechanics employed on the project financed by the Refunded Bonds be paid at prevailing rates of wages for the class of work called for, determined in accordance with the requirements of Ohio Revised Code Chapter 4115.

Section 3. Authorization of Series 2020A Bonds. It is necessary and proper and in the best interest of the County to, and the County shall, issue the Series 2020A Bonds in an aggregate principal amount not to exceed \$11,000,000 for the purpose of providing funds to refund the Refunded Bonds, and to pay costs and expenses related to the issuance of the Series 2020A Bonds. The final aggregate principal amount of the Series 2020A Bonds will be determined in the Final Terms Certificate as provided in Section 5 hereof. The Series 2020A Bonds shall be payable and secured as provided herein.

The Series 2020A Bonds may be issued in one or more separate series, each bearing a distinctive designation, provided that the Series 2020A Bonds of each series satisfy the requirements of this Resolution and the Indenture. Separate series of Series 2020A Bonds may be issued at the same or different times. The Series 2020A Bonds of each series shall be designated as provided in the applicable Final Terms Certificate. A separate Final Terms Certificate may be delivered for each series. In each case there

shall be included in the costs funded the costs of issuance of the Series 2020A Bonds and any required deposits to the Special Funds.

Section 4. Terms and Provisions of the Series 2020A Bonds.

(a) Generally. The Series 2020A Bonds (i) shall be issued only in fully registered form, substantially as set forth in the Third Supplemental Trust Indenture; (ii) shall be exchangeable for Series 2020A Bonds of Authorized Denominations, as provided in the Indenture; (iii) shall be numbered in such manner as determined by the Trustee in order to distinguish each Series 2020A Bond from any other Series 2020A Bond; and (iv) shall be in Authorized Denominations. The Series 2020A Bonds may be subject to both optional and mandatory redemption in the amounts, upon the conditions, and at the times and prices set forth in the Final Terms Certificate provided for in Section 5 hereof and in the Third Supplemental Trust Indenture. The Series 2020A Bonds shall be dated the Closing Date, or such earlier date, not more than 60 days prior to the Closing Date, as may be established in the Final Terms Certificate. The Series 2020A Bonds shall be designated “Taxable Economic Development Revenue Refunding Bonds, Series 2020A (Brownfield Redevelopment Fund Project)”, or such other designation as specified in the Final Terms Certificate.

(b) Principal Amount Interest Rates and Payment Dates. The actual principal amount of the Series 2020A Bonds shall be specified in the Final Terms Certificate. The Series 2020A Bonds shall bear the rate or rates of interest per year (computed on a 360-day per year basis), as shall be established, subject to subsection (d) of this Section, in the Final Terms Certificate. Interest on the Series 2020A Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Series 2020A 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.

(c) Principal Payment Schedule. The Series 2020A Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the signing officer, subject to subsection (d) of this Section, in the Final Terms Certificate, consistent with that officer’s determination of the best interest of and financial advantages to the County.

Consistent with the foregoing and in accordance with that officer’s determination of the best interest of and financial advantages to the County, the County Fiscal Officer or County Executive shall specify in the Final Terms Certificate (i) the aggregate principal amount of Series 2020A Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Series 2020A Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, and (ii) the aggregate principal amount of Series 2020A Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Series 2020A Bonds shall be stated to mature, the 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 amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(d) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The first Principal Payment Date shall occur on such date as set forth in the Final Terms Certificate determined to be necessary and advisable to the sale of the Series 2020A Bonds and in the best interests and financial advantages of the County, and the final Principal Payment Date shall occur not later than the final maturity date of the Refunded Bonds. The weighted average of the rate or rates of interest per year to be borne by the Series 2020A Bonds, determined by taking into account the respective principal amounts of the Series 2020A Bonds and terms to maturity or mandatory sinking fund redemption of those principal amounts of Series 2020A Bonds, shall not exceed 6% per year.

(e) Payment of Bond Service Charges. The Bond Service Charges on the Series 2020A Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Trustee as paying agent. Principal of and any premium on the Series 2020A Bonds shall be payable when due upon presentation and surrender of the Series 2020A Bonds at the principal corporate trust office of the Trustee. Interest on the Series 2020A Bonds shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Series 2020 Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the Regular Record Date. Notwithstanding the foregoing, if and so long as the Series 2020A Bonds are issued in a book entry system, principal of and interest and any premium on the Series 2020A Bonds shall be payable in the manner provided in any agreement entered into by the County Fiscal Officer or County Executive, in the name and on behalf of the County, in connection with the book entry system.

(f) Redemption Provisions. Except as otherwise provided in the Final Terms Certificate consistent with the determination by the signing officer of the best interest of and financial advantages to the County, the Series 2020A Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Series 2020A Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption and be redeemed pursuant to mandatory sinking fund requirements, at a redemption price of 100% of the amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the amounts payable on those Dates, as set forth in the Final Terms Certificate and the Third Supplemental Trust Indenture.

(ii) Optional Redemption. The Series 2020A Bonds shall also be subject to redemption at the option of the County in accordance with the terms and conditions set forth in the Final Terms Certificate and in the Third Supplemental Trust Indenture if and as requested by the Original Purchaser; provided that the redemption price for the earliest optional redemption date shall not be greater

than 102%; and provided further, however, that the Final Terms Certificate and the Third Supplemental Trust Indenture may provide that the Series 2020A Bonds are not optionally redeemable prior to maturity if it is determined in the Final Terms Certificate that such optional redemption would adversely affect the ability of the County to sell the Series 2020A Bonds at rates of interest acceptable to the County based on current market conditions for taxable, fixed-interest rate obligations such as the Series 2020A Bonds.

If so designated in the Final Terms Certificate, the Series 2020A Bonds shall also be subject to redemption at the option of the County prior to their stated maturities at any time in whole or in part on any date, at a redemption price that will make the holders of such Series 2020A Bonds whole for the early redemption; if so, then the Final Terms Certificate shall specify the method by which the “make whole” redemption price shall be determined and shall condition the future exercise of a “make whole” redemption upon approval by Council after receiving a certification of the cost of such redemption from the Fiscal Officer.

If money for the redemption of all of the Series 2020A Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, is held by the Trustee 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 provided in the Indenture, then from and after the redemption date those Series 2020A Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If that money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Series 2020A 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 money held by the Trustee for the redemption of particular Series 2020A 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 Series 2020A Bonds.

(g) Signing. The Series 2020A Bonds shall be signed by the County Executive and the County Fiscal Officer, provided that one or all of such signatures may be a facsimile.

(h) Book Entry System. The Series 2020A Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Series 2020A Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent, which may be the Trustee; (ii) the beneficial owners of Series 2020A Bonds in book entry form shall have no right to receive Series 2020A Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in Series 2020A 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 beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Series 2020A 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 Series 2020A Bonds for use in a book entry system, the County may attempt to establish a securities depository/book entry system relationship with another qualified Depository. If the County does not or is unable to do so, the County and the Trustee, after the Trustee has made provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Series 2020A Bonds from the Depository, and shall cause Bond certificates in registered form to be authenticated by the Trustee and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing) of those persons requesting such issuance.

The County Executive or 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 that officer determines to be necessary in connection with a book entry system for the Series 2020A Bonds, after determining that entering into those agreements will not endanger the funds or securities of the County.

Section 5. Sale of the Series 2020A Bonds; Official Statement; Continuing Disclosure; Ratings, Credit Enhancement.

(a) Sale of the Series 2020A Bonds. The Series 2020A Bonds are hereby awarded to the Original Purchaser. The County Executive and County Fiscal Officer shall continue to work with the Original Purchaser to determine the interest rates on and the aggregate principal amount and principal maturities and other terms of the Series 2020A Bonds in order to consummate the sale of the Series 2020A Bonds. The County Executive or County Fiscal Officer is authorized to approve the final principal amount of the Series 2020A Bonds (provided that such principal amount shall not exceed the amount authorized in Section 3 hereof) and the interest rates on the Series 2020A Bonds, the dated date of the Series 2020A Bonds and a maturity schedule, all as set forth in and subject to the limitations contained in Section 4 hereof, and to determine the amount of the proceeds of the Series 2020A Bonds to be allocated to the appropriate accounts and funds related to the Series 2020A Bonds. Such approval shall be evidenced by the signing of the Final Terms Certificate by the County Executive or County Fiscal Officer that shall set forth the principal amount of and interest rates on the Series 2020A Bonds and the maturity schedule and the dated date of the Series 2020A Bonds together with any other matters required under this Resolution. The Final Terms Certificate shall be incorporated in and form a part of this Resolution.

At the time of the signing of the Final Terms Certificate, the County Executive or County Fiscal Officer is authorized to sell the Series 2020A Bonds to the Original Purchaser at the purchase price established in the Final Terms Certificate, which

purchase price shall not be less than 97% of the aggregate original offering price to the public, plus accrued interest, and in accordance with the terms and provisions of this Resolution, including the Final Terms Certificate, and the Purchase Agreement. The County Executive or County Fiscal Officer is further authorized to sign, acknowledge and deliver, in the name of and on behalf of the County, a Purchase Agreement in form and substance consistent with the terms of this Resolution as shall be conclusively evidenced by the execution and delivery thereof. The County Executive or County Fiscal Officer is authorized to make the necessary arrangements on behalf of the County to establish the date, location, procedure and conditions for the delivery of the Series 2020A Bonds to the Original Purchaser. That officer is further authorized to take all actions necessary to effect due signing, authentication and delivery of the Series 2020A Bonds under the terms of this Resolution, the Purchase Agreement and the Indenture.

It is determined that the parameters for the purchase price for and the terms of the Series 2020A Bonds, and the sale thereof, all as provided for in this Resolution, are in the best interest of and most advantageous for the County and in compliance with all legal requirements, as advised by Bond Counsel.

(b) Official Statement. The distribution of a preliminary Official Statement of the County relating to the original issuance of the Series 2020A Bonds is authorized and approved, and the County Executive or County Fiscal Officer and any other official of the County are authorized and directed to complete and sign, on behalf of the County and in their official capacities, a final Official Statement, with such modifications, changes and supplements as are necessary or desirable for the purposes thereof as such officers shall approve. Such officers are authorized to use and distribute, or authorize the use and distribution of, the preliminary and the final Official Statement and any supplements thereto as so signed in connection with the original issuance of the Series 2020A Bonds, and are authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Official Statement and any supplements thereto for purposes of marketing or reoffering the Series 2020A Bonds as the acting officer deems necessary or appropriate to protect the interests of the County. The County Executive or County Fiscal Officer and any other official of the County are authorized to sign and deliver, on behalf of the County and in their official capacities, such certificates in connection with the accuracy of the preliminary and final Official Statement and any supplements thereto as, in their judgment, may be necessary or appropriate and to 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 SEC Rule 15c2-12(b)(1), (3) and (4).

(c) Agreement to Provide Continuing Disclosure. If deemed necessary and requested by the Original Purchaser, the County shall agree, as the only obligated person with respect to the Series 2020A Bonds under the Rule, to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of paragraph (b)(5) of the Rule. In order to describe and specify certain terms of the County’s continuing

disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the County Executive or County Fiscal Officer is authorized to sign and deliver, in the name and on behalf of the County, the Continuing Disclosure Certificate in form and substance consistent with the Resolution as shall be conclusively evidenced by the execution and delivery of thereof. The agreement formed, collectively, by this paragraph and that Certificate, shall be the County's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the County would be required to incur to perform it.

The County Executive or 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. Prior to making any filing in accordance with that agreement or providing notice of the occurrence of any other events, the responsible County officer shall consult with and obtain legal advice from, as appropriate, the Law Director and bond or other qualified independent special counsel selected by the County. That County 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.

(d) Authorization for Application for Ratings or Credit Enhancement. If, in the judgment of the County Executive or County Fiscal Officer, the filing of an application for (i) a rating on the Series 2020A Bonds by one or more nationally-recognized rating services or (ii) a policy of insurance or other credit enhancement facility from a company or companies to better assure the payment of principal of and interest on the Series 2020A Bonds is in the best interest of and financially advantageous to this County, such determination shall be set forth in the Final Terms Certificate, and the County Executive or County Fiscal Officer is authorized to prepare and submit those applications, to provide to each such service or provider, such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating, facility or policy, except to the extent paid by the Original Purchaser, from the proceeds of the Series 2020A Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Section 6. Application of Proceeds of the Series 2020A Bonds. The proceeds of sale of the Series 2020A Bonds shall be allocated and deposited in such appropriate fund or funds or accounts thereof as set forth in the Final Terms Certificate.

Section 7. Security for the Bonds. The Series 2020A Bonds are special obligations of the County, and the Bond Service Charges on the Series 2020A Bonds are payable solely from the Nontax Revenues, and such payment is secured by a pledge of and an assignment of the Nontax Revenues and the assignment of and grant of a security interest in the Pledged Nontax Revenues as provided in this Resolution and in the Indenture. The County hereby covenants and agrees that, as provided in the Indenture, it shall appropriate in its annual appropriation measure for each Year, and shall deposit in the Pledge Fund on or before January 15 of each Year, Nontax

Revenues in an amount sufficient to pay all Bond Service Charges due and payable in the then current Year, less any amounts remaining in the Pledge Fund after all Bond Service Charges for the prior Year have been paid. The County hereby further covenants and agrees that in the event the amount in the Pledge Fund is not sufficient to pay Bond Service Charges due and payable on the Bonds thirty (30) days prior to any Payment Date, the County immediately shall make a supplemental appropriation for, and shall deposit in, the Pledge Fund an amount sufficient to make up any such deficiency.

The payments due hereunder and under the Bonds are payable solely from the Nontax Revenues as defined in this Resolution, which Nontax Revenues are hereby determined by this Council to be money that is not raised by taxation. The Series 2020A Bonds do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the County, and the owners of the Series 2020A Bonds have no right to have taxes levied by the County for the payment of Bond Service Charges.

The County covenants that, so long as any of the Bonds are outstanding, it shall not issue any Parity Obligations, unless, prior to adoption of the resolution authorizing such Parity Obligations, the County shall have certified to the Trustee that the average annual Nontax Revenues during the Coverage Computation Period, adjusted to reflect, if necessary, changes in the rates or charges resulting in the Nontax Revenues, will aggregate in amount not less than the Coverage Ratio of the highest amount of (a) Bond Service Charges and (b) required payments on such proposed Parity Obligations and any outstanding Parity Obligations due in any succeeding Year.

Nothing herein shall be construed as requiring the County to use or apply to the payment of Bond Service Charges any funds or revenues from any source other than Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the County, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this Resolution or of the Series 2020A Bonds.

Section 8. Covenants of County. The County, by issuance of the Series 2020A Bonds, covenants and agrees with the Holders of the Series 2020A Bonds that:

(a) Use of Proceeds. The County will use the proceeds of the Series 2020A Bonds for the purposes stated herein.

(b) Segregation of Funds. The County will segregate, for accounting purposes, the Funds established under the Indenture from all other revenues and funds of the County.

(c) Transcript of Proceedings. The Clerk of this Council, or other appropriate officer of the County, will furnish to the Original Purchaser and to the Trustee a true transcript of proceedings, certified by the Clerk of this Council or other officer, of all proceedings had with reference to the issuance of the Series 2020A Bonds

together with such information from the County's records as is necessary to determine the regularity and validity of such issuance.

(d) Further Acts. The County will, at any and all times, cause to be done all such further acts and things and cause to be signed and delivered all such further instruments as may be necessary to carry out the purpose of the Series 2020A Bonds and any resolution authorizing the same or as may be required by the Act.

(e) Obligations of the County. The County will observe and perform all its agreements and obligations provided for by the Bonds, the Indenture or this Resolution. All of the obligations under this Resolution and the Indenture are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the County within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 9. Third Supplemental Trust Indenture. To secure the payment of the Bond Service Charges on the Bonds as the same shall become due and payable and the performance by the County of its obligations as provided in this Resolution, the Bonds and the Indenture, the County Executive or County Fiscal Officer are authorized and directed, for and in the name of the County and on its behalf, to sign and deliver to the Trustee the Third Supplemental Trust Indenture in form and substance consistent with the Resolution as shall be conclusively evidenced by the execution and delivery thereof.

Section 10. Other Documents and Actions. The County Executive, County Fiscal Officer, the Clerk of this Council, the Director of Law, the Prosecuting Attorney and other County officials, as appropriate, are further authorized to sign any notices, certifications, financing statements, agreements (including an intercreditor agreement or amendment thereto if necessary), documents, instruments and opinions, and to take such other actions, as are desirable, advisable, necessary or appropriate to perfect the assignments set forth in the Indenture and to consummate the transactions contemplated by this Resolution, the Indenture and the Purchase Agreement.

Section 11. Refunding of Refunded Bonds. This Council determines that it is in the best interest of the County to refund the Refunded Bonds and to establish an escrow fund to pay principal of and interest on the Refunded Bonds through their first optional redemption date, and to pay the redemption price of the Refunded Bonds on such redemption date. The County Fiscal Officer is authorized and directed to give to the authenticating agent, bond registrar, transfer agent and paying agent for the Refunded Bonds, on or promptly after the Closing Date, written notice of the refunding, and the Refunded Bonds shall be defeased in accordance with the provisions of this Resolution, the Indenture, the Outstanding Bonds, the bond legislation authorizing the Outstanding Bonds and the Escrow Agreement.

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 Escrow Agreement, in form and substance consistent with the Resolution as shall be conclusively evidenced by the execution and delivery thereof. The County Fiscal Officer shall provide for the payment of the services rendered and for reimbursement

of expenses incurred pursuant to the Escrow Agreement, except to the extent paid by the Original Purchasers in accordance with the Purchase Agreement, from the proceeds of the Bonds to the extent available and otherwise from other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

There is created under the Escrow Agreement a trust fund designated the "County of Cuyahoga Refunded 2010A Bonds Escrow Fund" that shall be held and maintained by the Escrow Trustee in trust for the registered owners of the Refunded Bonds and is pledged for the payment of principal of and interest on the Refunded Bonds, all in accordance with the provisions of the Escrow Agreement. The County Fiscal Officer is hereby authorized and directed to pay to the Escrow Trustee for deposit in the Escrow Fund (i) any available funds on deposit in the Bond Retirement Fund for the payment of debt charges on the Refunded Bonds determined by the County Fiscal Officer to be applied for that purpose, (ii) any funds available for such payment in the Bond Reserve Fund or other funds or accounts established in connection with the issuance of the Refunded Bonds pursuant to the Indenture, and (iii) proceeds from the sale of the Series 2020A Bonds, except any accrued interest and any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Series 2020A Bonds as determined by the County Fiscal Officer, in the amount required, together with the funds referred to in (i) to provide for the defeasance of the Refunded Bonds. The funds and proceeds so paid to the Escrow Trustee are appropriated and shall be applied to pay principal of and interest on the Refunded Bonds, as provided in the Escrow Agreement.

The funds so deposited in the Escrow Fund shall be (a) held in cash to the extent that they are not needed to make the investments hereinafter described and (b) invested in direct obligations of, or obligations guaranteed as to payment by, the United States of America (within the meaning of Section 133.34(D) of the Revised Code) that mature or are subject to redemption by and at the option of the holder, in amounts sufficient, together with any uninvested cash in the Escrow Fund but without further investment or reinvestment, for the payment of (i) interest when due on the Refunded Bonds following the date of issuance of the Series 2020A Bonds through and including their call for redemption, and (ii) the principal of the Refunded Bonds upon their redemption by optional redemption as provided in the Escrow Agreement.

If U.S. Treasury Securities -- State and Local Government Securities are to be purchased for the Escrow Fund, the County Fiscal Officer, the Escrow Trustee and the Financial Advisor, or any of them individually, are 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 Securities. 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 this 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, except to the extent paid by the Original Purchasers in accordance with the Purchase Agreement, from the proceeds of the Series 2020A Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. Any actions heretofore taken by any of those officers in connection with the foregoing are hereby ratified and approved.

This Council further authorizes and directs the County Fiscal Officer to retain, on behalf of the County, the services of an independent public accounting firm to perform a verification of the sufficiency of amounts in the Escrow Fund to cause the Refunded Bonds to be deemed defeased as described in the Indenture.

Section 12. Bond Counsel. This Council hereby retains the legal services of McDonald Hopkins LLC, as Bond Counsel to the County, in connection with the authorization, sale, issuance and delivery of the Series 2020A Bonds, pursuant to the authority in Ohio Revised Code Section 165.02. In providing those legal services, as an independent contractor and in an attorney-client relationship, Bond Counsel 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, or of the County, or of any other political subdivision of the State, or the execution of public trusts.

Section 13. Council Determination. 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 Series 2020A Bonds in order to make them legal, valid and binding special obligations of the County have been performed and have been met, or will at the time of delivery of the Series 2020A Bonds have been performed and have been met, in regular and due form as required by law, as advised by Bond Counsel; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Series 2020A Bonds.

Section 14. Severability. Each section of this Resolution and each subdivision or paragraph of any section thereof is declared to be independent and the finding or holding of any section or any subdivision or paragraph of any section thereof to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this Resolution.

Section 15. Compliance with Open Meeting Law. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with the law.

Section 16. Effective Date. It is necessary that this Resolution become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Resolution receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (i) its approval by the County Executive through signature, (ii) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Charter, or (iii) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

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

Yeas: Stephens, Simon, Baker, Miller, Tuma, Gallagher, Schron, Conwell, Jones, Brown and Brady

Nays: None

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: November 26, 2019

Committee(s) Assigned: Finance & Budgeting

Bond Counsel: McDonald Hopkins LLC

Legislation Substituted in Committee: December 9, 2019

Journal CC036

December 10, 2019