

County Council of Cuyahoga County, Ohio

Resolution No. R2020-0143

Sponsored by: **County Executive Budish/Fiscal Officer/Office of Budget and Management**

A Resolution authorizing the issuance and sale of County of Cuyahoga, Ohio, Economic Development Revenue Refunding Bonds, Series 2020D, in the maximum aggregate principal amount of \$162,935,000.00, for the purpose of refunding for debt charges savings certain of the County's outstanding Recovery Zone Facility Economic Development Revenue Bonds, Series 2010F (Medical Mart/Convention Center Project), which were issued for the purpose of providing moneys to pay costs of a "project" within the meaning of Chapter 165 of the Revised Code; authorizing the execution and delivery of a First Supplemental Trust Indenture securing the payment of the Series 2020D Bonds; establishing funds of the County related thereto; authorizing the execution and delivery of a Bond Purchase Agreement relating to the sale of the Series 2020D Bonds and related agreements and certificates; authorizing and approving related matters; and declaring the necessity that this Resolution become immediately effective.

WHEREAS, pursuant to Section 13 of Article VIII of the Ohio Constitution, Chapter 165 of the Revised Code, a resolution adopted by the (then) Board of County Commissioners on October 26, 2010, and a Trust Indenture dated as of December 1, 2010, between the County and U.S. Bank National Association (the "Original Indenture"), the County issued its \$200,235,000 Recovery Zone Facility Economic Development Revenue Bonds, Series 2010F (Medical Mart/Convention Center Project), dated December 16, 2010 (the "Outstanding Bonds"); and

WHEREAS, this Council finds and determines that it is in the best interest of the County to refund for debt charges savings 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 2020D Bonds (as defined herein) shall be issued pursuant to the Original Indenture, as supplemented and amended from time to time, including by the First Supplemental Trust Indenture (the “First 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; and

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 of the Ohio Constitution, and Chapter 165 of the Revised Code and specifically Section 165.07 thereof, (i) to issue refunding bonds to refund any bonds previously issued under Chapter 165 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 (ii) to adopt this Resolution and to enter into the First Supplemental Trust Indenture, and related agreements, all as defined and provided herein, upon the terms and conditions provided herein and therein; and

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.

“**Act**” means Chapter 165 of the Revised Code, as enacted and amended pursuant to Section 13 of Article VIII of the Ohio Constitution.

“**Agreement**” means the Amended and Restated Project Funding Agreement dated as of December 27, 2013, between the County and Cuyahoga County Convention Facilities Development Corporation, as it may be amended from time to time.

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

“**Bond Counsel**” means Squire Patton Boggs (US) LLP.

“Brownfield Indenture” means the Trust Indenture dated as of October 1, 1998, as amended by the First Supplemental Trust Indenture dated as of February 1, 2004, the Second Supplemental Trust Indenture dated as of September 1, 2010, and the Third Supplemental Trust Indenture dated as of May 1, 2020, between the County and the Brownfield Trustee.

“Brownfield Revenues” means the Net Project Revenues as defined in the Brownfield Indenture.

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

“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 2020D 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.

“Commercial Redevelopment Indenture” means the Trust Indenture dated as of September 1, 2010, between the County and the Commercial Redevelopment Trustee, as amended and supplemented by the First Supplemental Trust Indenture dated as of May 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) 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 2020D 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 County 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 First 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 2020D Bonds or Bond Service Charges thereon, and to effect transfers of book entry interests in the Series 2020D Bonds.

“Developer Monthly Payments” means the monthly payments to be made pursuant to the Agreement.

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

“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 the County Executive, setting forth and determining those terms or other matters pertaining to the Series 2020D Bonds and their issuance, sale and delivery as this Resolution requires or authorizes to be set forth or determined therein.

“First Supplemental Trust Indenture” means the First Supplemental Trust Indenture between the County and the Trustee, as may be amended or supplemented from time to time.

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

“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 dated as of May 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 the Original Indenture, as amended and supplemented by the First 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 2020D Bonds, the deposits required to be made in respect of the mandatory redemption requirements indicated in the First Supplemental Trust Indenture.

“**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.

“**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) Project Revenues; provided that Nontax Revenues do not include the Brownfield Revenues, the Commercial Redevelopment Revenues, the Flats Revenues, the Gateway Revenues, the Series 2014C Bonds Revenues, the Steelyard Revenues, the Westin Revenues or the MetroHealth Payments.

“**Original Indenture**” means the Trust Indenture dated as of December 1, 2010, between the County and the Trustee.

“**Original Purchaser**” means such purchasers of the Series 2020D Bonds identified in the Purchase Agreement for the Series 2020D Bonds.

“**Pledged Nontax Revenues**” means (i) all 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.

“Project Revenues” means (i) the Developer Monthly Payments, (ii) all amounts payable to the Trustee with respect to the principal or redemption price of, or interest on, the Bonds (i) by the Borrower as required under the Agreement and (ii) upon deposit in the Bond Fund from the proceeds of the Bonds, (iii) any moneys and investments in the Project Fund and (iv) investment income with respect to the foregoing.

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

“Refunded Bonds” means that portion of the County’s outstanding Recovery Zone Facility Economic Development Revenue Bonds, Series 2010F (Medical Mart/Convention Center Project), dated December 16, 2010, 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 2014C Bonds” means the County’s \$20,890,000 Tax-Exempt Economic Development Refunding Revenue Bonds, Series 2014C (Medical Mart/Convention Center Project), dated December 17, 2014, issued pursuant to the Series 2014C Bonds Resolution.

“Series 2014C Bonds Revenues” means the Nontax Revenues as defined in the Series 2014C Bonds Resolution.

“Series 2014C Bonds Resolution” means Resolution No. R2014-0256, adopted by the Council on November 25, 2014.

“Series 2020D Bonds” means the County’s Economic Development Revenue Refunding Bonds, Series 2020D, issued pursuant to this Resolution and the Indenture.

“Steelyard Resolution” means Resolution No. R2013-0199, adopted by the Council on September 24, 2013.

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

“Trustee” means U.S. Bank National Association, 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 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 2020D Bonds for the purpose of refunding for debt charges savings the Refunded Bonds is consistent with the requirements of Section 165.07 of the Act and (ii) the issuance of the Series 2020D 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 of the Revised Code (since repealed), in the resolution authorizing the issuance of 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 Chapter 4115 of the Revised Code.

Section 3. Authorization of Series 2020D Bonds. It is necessary and proper and in the best interest of the County to, and the County shall, issue the Series 2020D Bonds in an aggregate principal amount not to exceed \$162,935,000 for the purpose of providing funds to refund the Refunded Bonds, and to pay costs and expenses related to the issuance of the Series 2020D Bonds. The final aggregate principal amount of the Series 2020D Bonds will be determined in the Final Terms Certificate as provided in Section 5.

The Series 2020D Bonds shall be payable and secured as provided herein. The Series 2020D Bonds may be issued in one or more separate series, each bearing a distinctive designation, provided that the Series 2020D Bonds of each series satisfy the requirements of this Resolution and the Indenture. Separate series of Series 2020D Bonds may be issued at the same or different times. The Series 2020D 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 2020D Bonds and any required deposits to the Special Funds.

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

(a) Generally. The Series 2020D Bonds (i) shall be issued only in fully registered form, substantially as set forth in the First Supplemental Trust Indenture; (ii) shall be exchangeable for Series 2020D 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 2020D Bond from any other Series 2020D Bond; and (iv) shall be in Authorized Denominations. The Series 2020D 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 and in the First Supplemental Trust Indenture. The Series 2020D 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 2020D Bonds shall be designated “Economic Development Revenue Refunding Bonds, Series 2020D”, 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 2020D Bonds shall be specified in the Final Terms Certificate. The Series 2020D Bonds shall bear the rate or rates of interest per year (computed on the basis of a 360-day year consisting of 12 30-day months), as shall be established, subject to subsection (d) of this Section, in the Final Terms Certificate. Interest on the Series 2020D 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 2020D 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 2020D 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 2020D Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Series 2020D 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 2020D Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Series 2020D 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 2020D 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 2020D Bonds, determined by taking into account the respective principal amounts of the Series 2020D Bonds and terms to maturity or mandatory sinking fund redemption of those principal amounts of Series 2020D Bonds, shall be such that (i) the Series 2020D Bonds will bear interest at a lower rate than the Refunding Bonds, (ii) the interest cost of the Series 2020D Bonds computed to the absolute maturity will be less than the interest cost of the Refunded Bonds or (iii) the average life of the Series 2020D Bonds will be greater than the remaining average life of the Refunded Bonds.

(e) Payment of Bond Service Charges. The Bond Service Charges on the Series 2020D 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 2020D Bonds shall be payable when due upon presentation and surrender of the Series 2020D Bonds at the designated corporate trust office of the Trustee in accordance with the Indenture. Interest on the Series 2020D 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 2020D Bonds are issued in a book entry system, principal of and interest and any premium on the Series 2020D Bonds shall be payable in the manner provided in any agreement entered into by the County Fiscal Officer or the 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 2020D 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 2020D 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 First Supplemental Trust Indenture.

(ii) Optional Redemption. The Series 2020D 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 First 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 103%; and provided further, however, that the Final Terms Certificate and the First Supplemental Trust Indenture may provide that the Series 2020D 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 2020D Bonds at rates of interest acceptable to the County based on current market conditions for tax-exempt, fixed interest rate obligations such as the Series 2020D Bonds.

If money for the redemption of all of the Series 2020D 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 2020D 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 2020D 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 2020D 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 2020D Bonds.

(g) Signing. The Series 2020D 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 2020D 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 2020D 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 deposited and maintained in the custody of the Depository or its designated agent, which may be the Trustee; (ii) the beneficial owners of Series 2020D Bonds in book entry form shall have no right to receive Series 2020D Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in Series 2020D 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 2020D 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 2020D 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 2020D 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 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 that officer determines to be necessary in connection with a book entry system for the Series 2020D Bonds, after determining that entering into those agreements will not endanger the funds or securities of the County.

Section 5. Sale of the Series 2020D Bonds; Official Statement; Continuing Disclosure; Ratings and/or Credit Enhancement.

(a) Sale of the Series 2020D Bonds. The Series 2020D Bonds shall be awarded to the Original Purchaser. The County Executive and the County Fiscal Officer are hereby authorized 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 2020D Bonds in order to consummate the sale of the Series 2020D Bonds. The County Executive or the County Fiscal Officer is authorized to approve the final principal amount of the Series 2020D Bonds (provided that such principal amount shall not exceed the amount authorized in Section 3) and the interest rates on the Series 2020D Bonds, the dated date of the Series 2020D Bonds and a maturity schedule, all as set forth in and subject to the limitations contained in Section 4, and to determine the amount of the proceeds of the Series 2020D Bonds to be allocated to the appropriate accounts and funds related to the Series 2020D Bonds. Such approval shall be evidenced by the signing of the Final Terms Certificate by the County Executive or the County Fiscal Officer that shall set forth the principal amount of and interest rates on the Series 2020D Bonds and the maturity schedule and the dated date of the Series 2020D 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 the County Fiscal Officer is authorized to sell the Series 2020D 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 the County Fiscal Officer is further authorized to sign, acknowledge and deliver, in the name of and on behalf of the County, a Purchase Agreement substantially in the form now on file with the Clerk. The form of Purchase Agreement is approved with such changes therein that are not materially inconsistent with this Resolution and not adverse to the County and that are permitted by the Constitution of Ohio and shall be approved by the official signing the Purchase Agreement. The approval of such changes, and the determination that such changes are not materially inconsistent with this Resolution and not adverse to the County, shall be conclusively evidenced by the signing and delivery of the Purchase Agreement by that official. The County Executive or the 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 2020D 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 2020D 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 2020D 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 2020D Bonds is authorized and approved, and the County Executive or the 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 2020D 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 2020D Bonds as the acting officer deems necessary or appropriate to protect the interests of the County. The County Executive or the 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 2020D 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 the County Fiscal Officer is authorized to sign and deliver, in the name and on behalf of the County, the Continuing Disclosure Certificate substantially in the form now on file with the Clerk, with any changes or amendments that are not inconsistent with this Resolution and not adverse to the County and that are approved by that official on behalf of the County, all of which shall be conclusively evidenced by the signing and delivery of that Certificate or amendments to it. 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 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. 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 Director of Law 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 the County Fiscal Officer, the filing of an application for (i) a rating on the Series 2020D 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 2020D 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 the 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 2020D 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 2020D Bonds. The proceeds of sale of the Series 2020D 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 2020D Bonds are special obligations of the County, and the Bond Service Charges on the Series 2020D 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 2020D 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 2020D 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 the issuance of 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 (i) Bond Service Charges and (ii) 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 2020D Bonds.

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

(a) Use of Proceeds. The County will use the proceeds of the Series 2020D 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, 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 or other officer, of all proceedings had with reference to the issuance of the Series 2020D 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 2020D 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 Revised Code.

Section 9. 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 the Bonds will not (a) constitute arbitrage bonds under Section 148 of the Code, or (b) be treated other than as bonds the interest on which is excluded from gross income under Section 103 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, (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 purposes 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 the fiscal officer, or any other officer of the County having responsibility for 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 to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting 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 of the interest on and the tax status of the Bonds.

Section 10. First 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 the 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 First Supplemental Trust Indenture substantially in the form now on file with the Clerk. The form of First Supplemental Trust Indenture is approved with such changes therein that are not materially inconsistent with this Resolution and not adverse to the County and that are permitted by the Constitution of Ohio and shall be approved by the official signing the First Supplemental Trust Indenture. The approval of such changes, and the determination that such changes are not materially inconsistent with this Resolution and not adverse to the County, shall be conclusively evidenced by the signing and delivery of the First Supplemental Trust Indenture by that official.

Section 11. Other Documents and Actions. The County Executive, the County Fiscal Officer, the Clerk, 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 12. 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 resolution authorizing the issuance of 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, substantially in the form now on file with the Clerk. The form of Escrow Agreement is approved with such changes therein that are not materially inconsistent with this Resolution and not adverse to the County and that are permitted by the Constitution of Ohio and shall be approved by the official signing the Escrow Agreement. The approval of such changes, and the determination that such changes are not materially inconsistent with this Resolution and not adverse to the County, shall be conclusively evidenced by the signing and delivery of the Escrow Agreement by that official. 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 Purchaser 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 Series 2010F 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 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 2020D 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 2020D 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 (as defined in the Indenture) 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 2020D 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 and the Escrow Trustee, or either 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 municipal 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 Purchaser in accordance with the Purchase Agreement, from the proceeds of the Series 2020D Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

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 13. Bond Counsel. This Council hereby retains the legal services of Squire Patton Boggs (US) LLP, as Bond Counsel to the County, in connection with the authorization, sale, issuance and delivery of the Series 2020D Bonds, pursuant to the authority in Section 165.02 of the Revised Code. 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 14. Council Determinations. 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 2020D 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 2020D 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 2020D Bonds.

Section 15. 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 16. 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 17. 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.

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

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

Nays: None

	7/21/2020
_____ County Council President	_____ Date
	7/24/2020
_____ County Executive	_____ Date
	7/21/2020
_____ Clerk of Council	_____ Date

First Reading/Referred to Committee: July 7, 2020
Committee(s) Assigned: Finance & Budgeting

Bond Counsel: Squire Patton Boggs (US) LLP

Journal CC039
July 21, 2020

[Clerk's Note: Electronic signatures affixed in accordance with Cuyahoga County Code Chapter 110]