

1 RESOLUTION NO. 2012-440

Late Filing

2 SPONSOR Mr. Pry

3
4 DATE November 26, 2012

COMMITTEE: Finance

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7 **A Resolution authorizing the issuance and sale of bonds in the aggregate maximum**
8 **principal amount of \$19,000,000, for the purpose of refunding certain maturities of general**
9 **obligation bonds issued in 2002 and 2003, for the Executive's Department of Finance and**
10 **Budget, and declaring an emergency.**

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12 BE IT RESOLVED by the Council of the County of Summit, State of Ohio, that:

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14 **SECTION 1. Findings and Determinations.** This Council makes the following findings
15 and determinations (capitalized terms in this Resolution are used with the meanings given them in
16 Section 14):

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18 (a) This Council has previously authorized and issued the Outstanding Bonds to
19 finance the costs of various permanent improvements.
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21 (b) It is now necessary for the County to issue the Refunding Bonds in one or more
22 series for the purpose of (1) refunding all or a portion of the maturities of the
23 Outstanding Bonds, and (2) paying Financing Costs of the Refunding Bonds. The
24 issuance of the Refunding Bonds for these purposes is in the best interest of the
25 County. The authorization to issue one or more series of Refunding Bonds to
26 refund the Outstanding Bonds (the "Refunding Bonds") will continue in full force
27 and effect so long as the Outstanding Bonds remain outstanding and have not
28 been refunded. The Refunding Bonds and any additional series are authorized
29 under the authority to issue Refunding Bonds established by this Resolution.
30 Refunding
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32 (c) The Fiscal Officer has previously certified to this Council the maximum maturity
33 of each issue of Outstanding Bonds.
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35 (d) All acts and conditions necessary to be performed by the County or to have been met
36 for the issuance of the Refunding Bonds in order to make them legal, valid, and
37 binding general obligations of the County, have been performed and met, or will
38 have been performed and met, at the time of delivery of the Refunding Bonds, as
39 required by law.
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41 (e) No statutory or constitutional limitation of indebtedness or taxation will be exceeded
42 by the issuance of the Refunding Bonds.

41 **SECTION 2. Terms of the Bonds.** The Refunding Bonds will have the following
42 terms:

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44 (a) **Amount.** The Refunding Bonds will be issued in the aggregate maximum
45 Original Principal Amount of \$19,000,000 in one or more series. The principal
46 amounts of the Refunding Bonds to be issued as Current Interest Bonds, as
47 Capital Appreciation Bonds, as Capital Appreciation Bonds that convert at some

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future date to Current Interest Bonds, as Serial Bonds, and as Term Bonds will be determined by the County Executive in the Certificate of Award.

- (b) **Date.** The Current Interest Bonds will be dated the Closing Date, or any other date, not more than 31 days before the Closing Date, as determined by the County Executive in the Certificate of Award. The Capital Appreciation Bonds will be dated the Closing Date.
- (c) **Maturity.** The Refunding Bonds will mature or be payable by Mandatory Sinking Fund Redemption in the amounts and on the Principal Payment Dates as follows:

Year	Amount	Year	Amount
2013	\$1,580,000	2019	\$1,585,000
2014	1,580,000	2020	1,585,000
2015	1,580,000	2021	1,585,000
2016	1,580,000	2022	1,585,000
2017	1,585,000	2023	1,585,000
2018	1,585,000	2024	1,585,000

The County Executive may adjust the principal payment schedule shown above, by (1) increasing or decreasing the principal amounts of the Refunding Bonds maturing or payable by Mandatory Sinking Fund Redemption on any one or more of the Principal Payment Dates, (2) by shortening the schedule so that the Refunding Bonds will mature over a lesser number of years, and (3) by eliminating one or more maturity years from the schedule for a particular series. The County Executive must set forth any adjustment of the principal payment schedule in the Certificate of Award.

- (d) **Redemption Before Stated Maturity.** The Refunding Bonds will be subject to redemption before their stated maturity as described in this Section 2(d), unless otherwise determined by the County Executive in the Certificate of Award.

- (1) **Mandatory Sinking Fund Redemption.** If any of the Refunding Bonds are issued as Term Bonds, the Term Bonds will be subject to Mandatory Sinking Fund Redemption, in part, on the Mandatory Redemption Dates, at a redemption price of 100% of the principal amount being redeemed, plus interest accrued to the redemption date. The principal amounts to be paid by Mandatory Sinking Fund Redemption will be those in the principal payment schedule in Section 2(c) above, unless otherwise determined in the Certificate of Award.

The County will have the option to deliver Term Bonds in any principal amount to the Registrar for cancellation. The County will be entitled to a credit against its obligation to pay Debt Service by Mandatory Sinking Fund Redemption on any future Mandatory Redemption Date for Term Bonds that (A) are delivered by the County to the Registrar, (B) have previously been redeemed other than by Mandatory Sinking Fund Redemption, or (C) have

1 been purchased and canceled by the Registrar as provided in the Registrar
2 Agreement.

- 3 (2) **Optional Redemption.** Unless otherwise determined by the County
4 Executive in the Certificate of Award, the Refunding Bonds maturing on or
5 after December 1, 2022 will be subject to redemption, at the option of the
6 County, on or after December 1, 2021, in whole or in part on any date, in
7 whole multiples of \$1,000, at the redemption price of 100% of the principal
8 amount being redeemed, plus interest accrued to the redemption date.

9 The County Executive may determine to change the optional redemption
10 provisions relating to the Refunding Bonds set forth above by (A) changing
11 the earliest optional redemption date, which may be any date before the final
12 maturity of the Refunding Bonds, (B) changing the redemption prices for the
13 Refunding Bonds, which may not exceed 110% in any year in which the
14 Refunding Bonds are subject to optional redemption, and (C) determining
15 that the Refunding Bonds will not be subject to optional redemption. The
16 County Executive must set forth any change to the optional redemption
17 provisions in the Certificate of Award.

18 The County's option to redeem the Refunding Bonds must be exercised by a
19 notice from the County Executive to the Registrar as provided in the
20 Registrar Agreement or, for a series of Refunding Bonds sold in a private
21 placement to a financial institution or other entity, as provided in the
22 Purchase Agreement.

- 23 (3) **Terms of Redemption.** The procedures for partial redemption, for notice of
24 redemption, and for payment of redeemed Refunding Bonds must be
25 established in the Registrar Agreement or, for a series of Refunding Bonds
26 sold in a private placement to a financial institution or other entity, as
27 provided in the Purchase Agreement.

- 28 (e) **Interest Rates.** The Refunding Bonds will bear interest at the rate or rates
29 determined in the Certificate of Award. The weighted average of the rates of
30 interest on the Refunding Bonds, determined by taking into account the principal
31 amounts of the Refunding Bonds and the terms to maturity or Mandatory
32 Redemption Dates of those principal amounts, may not exceed 6% per annum.
33 Interest will be calculated on a 360-day year of twelve, 30-day months.

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35 (1) **Current Interest Bonds.** Current Interest Bonds will bear interest from
36 the most recent date to which interest has been paid or provided for or, if
37 no interest has been paid or provided for, from their date. Interest on the
38 Current Interest Bonds will be payable on the Interest Payment Dates until
39 the principal amount has been paid or provided for.

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41 (2) **Capital Appreciation Bonds.** Any Capital Appreciation Bonds will bear
42 interest from their date. The rate of interest on a Capital Appreciation
43 Bond must be a rate that will result in a Maturity Amount for that Capital
44 Appreciation Bond, payable at maturity, as determined by the County

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Executive in the Certificate of Award. Interest on a Capital Appreciation Bond will be accrued and compounded on each Interest Payment Date, and will be payable at maturity. All Capital Appreciation Bonds with the same stated maturity must bear interest at the same compounding rate. The total interest accrued on any Capital Appreciation Bond as of any date will be an amount equal to the amount by which the Compound Accreted Amount of that Capital Appreciation Bond exceeds the Original Principal Amount of that Capital Appreciation Bond as of that date. The Compound Accreted Amounts of the Capital Appreciation Bonds as of the Interest Payment Dates must be set forth in the Certificate of Award. The Compound Accreted Amount of a Capital Appreciation Bond as of any date other than an Interest Payment Date will be calculated in the manner described in the definition of "Compound Accreted Amount" in Section 14.

- (f) **Form, Numbering, and Denominations.** The Refunding Bonds must be issued in fully registered form. They must be issued in Authorized Denominations and in such numbers as requested by the Original Purchaser and approved by the County Executive. They must be numbered as determined by the Registrar. They must express on their faces the purpose for which they are issued and that they are issued in accordance with this Resolution. Each series of Refunding Bonds will have a distinctive designation, designated by the County Executive in the applicable Certificate of Award.

SECTION 3. Payment. The Debt Service on the Refunding Bonds will be payable in lawful money of the United States of America without deduction for the services of the Paying Agent. Principal and any premium on the Refunding Bonds will be payable when due upon presentation and surrender of the Refunding Bonds at the office of the Paying Agent. Interest on the Current Interest Bonds will be paid on each Interest Payment Date by check or draft mailed on the Interest Payment Date to the Holder as shown on the Register at the close of business on the 15th day of the month preceding the Interest Payment Date. Interest on the Capital Appreciation Bonds will be payable at maturity, in accordance with Section 2(e)(2) of this Resolution. Notwithstanding the foregoing, so long as the Refunding Bonds are issued in book-entry form in a book-entry system, Debt Service on the Refunding Bonds will be payable as provided in any agreement entered into by the County in connection with the book-entry system. Payment of Debt Service on any Refunding Bond will be made only to or upon the order of the Holder. All such payments will be valid and effectual to satisfy and discharge the County's liability upon that Refunding Bond to the extent of the amount or amounts so paid.

SECTION 4. Signing and Authentication.

- (a) **Signing.** The Refunding Bonds must be signed on behalf of the County by the County Executive and the Fiscal Officer. In the absence of the County Executive, the Refunding Bonds must be signed by the Director of the Department of Finance and Budget and, in the absence of the Fiscal Officer, the Refunding Bonds must be signed by any deputy Fiscal Officer. Both signatures on the Refunding Bonds may be facsimiles.

1 (b) **Authentication.** No Refunding Bond will be valid or obligatory for any purpose
2 or will be entitled to any security or benefit under the Bond Proceedings unless
3 and until the certificate of authentication printed on the bond certificate is signed
4 by the Registrar as authenticating agent. Authentication by the Registrar will be
5 conclusive evidence that the Refunding Bond so authenticated has been duly
6 issued, signed, and delivered under, and is entitled to the security and benefit of,
7 the Bond Proceedings. The certificate of authentication may be signed by any
8 authorized officer or employee of the Registrar or by any other person acting as
9 an agent of the Registrar and approved by the County Executive on behalf of the
10 County. The same person need not sign the certificate of authentication on all of
11 the Refunding Bonds.
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13 **SECTION 5. Registration, Transfer, and Exchange; Book-Entry System.**
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15 (a) **Registration.** So long as any of the Refunding Bonds remain outstanding, the
16 County must cause the Registrar to maintain the Register. The person in whose
17 name a Refunding Bond is registered on the Register will be regarded as the absolute
18 owner of that Refunding Bond for all purposes of the Bond Proceedings. Neither the
19 County nor the Registrar will be affected by any notice to the contrary, but the
20 registration may be changed as provided in this Section and in the Registrar
21 Agreement.

22 (b) **Transfer and Exchange.** Any Refunding Bond may be exchanged for Refunding
23 Bonds of any Authorized Denomination, as provided in the Registrar Agreement.

24 All Refunding Bonds issued and authenticated upon any exchange or transfer will be
25 valid obligations of the County, evidencing the same debt, and entitled to the same
26 security and benefit under the Bond Proceedings as the Refunding Bonds
27 surrendered upon that exchange or transfer.

28 (c) **Book-Entry System.** If a series of Refunding Bonds is issued in book-entry form,
29 they must be originally issued to a Depository, initially The Depository Trust
30 Company, for use in a book-entry system upon the terms provided in the Registrar
31 Agreement. Under the book-entry system, the Refunding Bonds will be registered
32 in the name of a Depository or its nominee, the bond certificates in fully-registered
33 form will be deposited with and retained in the custody of the Depository or its
34 agent, and the ownership of interests in the Refunding Bonds may be transferred
35 only through a book entry on the records of the Depository.

36 Subject to the provisions of this Resolution relating to the County's Continuing
37 Disclosure Agreement, the County and the Registrar must recognize and treat the
38 Depository as the Holder of the Refunding Bonds for all purposes, including
39 payment of Debt Service, redemption and other notices, and enforcement of
40 remedies.

41 If any Depository determines not to continue to act as a Depository for the
42 Refunding Bonds for use in a book-entry system or if the County determines to
43 discontinue the book-entry system, the County Executive may attempt to establish a
44 securities depository/book-entry relationship with another qualified Depository. If

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the County Executive does not do so, the County Executive must direct the Registrar to make provision for notification of the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Refunding Bonds from the book-entry system.

If the Refunding Bonds are sold in a private placement and not in book-entry form, the County, if requested by a Holder of the Refunding Bonds, will complete the necessary procedures to qualify the Refunding Bonds as book-entry bonds.

SECTION 6. Sale of Refunding Bonds.

- (a) **Private Sale.** This Council authorizes and directs the County Executive to sell the Refunding Bonds in a private sale to the Original Purchaser. The purchase price of the Refunding Bonds must not be less than 97% of the aggregate principal amount of the Refunding Bonds, plus any accrued interest on the Refunding Bonds from their date to the Closing Date. The County Executive may either sell the Refunding Bonds to an investment banker, acting as an underwriter, or to a financial institution or other entity or person in a private placement. If the County Executive sells any series of the Refunding Bonds in a private placement, this Council authorizes the County Executive to select a placement agent for that private placement. The County Executive may enter into a Purchase Agreement with the Original Purchaser in that private sale, or may sell the Refunding Bonds without a Purchase Agreement. The County Executive may sell the Refunding Bonds at the same time, in the same manner, and in the same offering with other securities of the County, whether or not those other securities have been consolidated with the Refunding Bonds in accordance with (b) below.
- (b) **Consolidation.** If the County Executive determines it to be in the best interest of the County, he may combine the Refunding Bonds with one or more other general obligation bonds of the County, payable from taxes subject to the ten-mill tax limitation.
- (c) **Certificate of Award.** The County Executive must deliver a Certificate of Award to the Original Purchaser in connection with the sale of the Refunding Bonds. The County Executive must state the following in the Certificate of Award: the principal amounts to be issued as Current Interest Bonds, Capital Appreciation Bonds, convertible Capital Appreciation Bonds, Serial Bonds, and Term Bonds; the interest rates on the Refunding Bonds; the Maturity Amounts and Compound Accreted Amounts of any Capital Appreciation Bonds; the first Interest Payment Date of the Refunding Bonds; the purchase price for the Refunding Bonds; the designated Registrar and Paying Agent; the designated Original Purchaser; whether the Refunding Bonds will be issued and designated as "qualified tax-exempt obligations" in accordance with Code Section 265(b)(3); the designation of the Refunding Bonds; and any other terms required by this Resolution. The County Executive may state the following in the Certificate of Award: any changes in the date of the Refunding Bonds, any changes in the principal payment schedule, and changes in the redemption provisions; whether the Refunding

1 Bonds are to be consolidated with other bond issues; and any other terms
2 authorized by this Resolution, subject to the limitations stated in this Resolution.
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- 4 (d) **Delivery.** The County Executive must cause the Refunding Bonds to be prepared,
5 signed, and delivered to the Original Purchaser. This Council authorizes and
6 directs the Clerk of Council to deliver a true transcript of proceedings for the
7 issuance of the Refunding Bonds to the Original Purchaser upon payment of the
8 purchase price.
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10 **SECTION 7. Disclosure.**

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12 (a) **Primary Offering Disclosure—Official Statement.** This Council authorizes
13 and directs the County Executive and the Fiscal Officer, or either of them, if they
14 determine it to be necessary in connection with the sale of the Refunding Bonds,
15 (1) to prepare or cause to be prepared, and to make or authorize modifications,
16 completions, or changes of or supplements to, a disclosure document in the form
17 of an official statement, (2) to determine, and certify or otherwise represent, when
18 the official statement is to be “deemed final” (except for permitted omissions) or
19 is a final official statement for purposes of the SEC Rule, (3) to use and distribute,
20 or authorize the use and distribution of, that official statement and any
21 supplements in connection with the original issuance of the Refunding Bonds, and
22 (4) to complete and sign the final official statement together with certificates,
23 statements, or other documents in connection with the finality, accuracy, and
24 completeness of that official statement.
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- 26 (b) **Secondary Market Disclosure—Continuing Disclosure Agreement.** For the
27 benefit of the Holders of the Refunding Bonds and the beneficial owners of
28 book-entry interests in the Refunding Bonds, the County agrees, as the only
29 obligated person with respect to the Refunding Bonds under the SEC Rule, to
30 provide financial information and operating data, financial statements, and notices,
31 in the manner required for purposes of paragraph (b)(5)(i) of the SEC Rule. The
32 covenants in the Continuing Disclosure Agreement will be effective only if the
33 County Executive determines to sell the Refunding Bonds in a sale that is not
34 exempt from the SEC Rule.

- 35 (1) **Information Filing.** The County further agrees, in particular, to provide:

36 (A) to the MSRB through the EMMA System, in an electronic format as
37 prescribed by the MSRB and containing such identifying information
38 as prescribed by the MSRB (i) Annual Information for each County
39 fiscal year, not later than the end of the ninth month following the
40 end of the fiscal year, and (ii) when and if available, audited County
41 financial statements for each of those fiscal years; and

42 (B) to the MSRB through its EMMA System, in an electronic format as
43 prescribed by the MSRB and containing such identifying information
44 as prescribed by the MSRB in a timely manner, notice of (i) any
45 Specified Event, within 10 business days after the occurrence of a
46 Specified Event, (ii) the County’s failure to provide the Annual

1 Information within the time specified above, (iii) any change in the
2 accounting principles applied in the preparation of its annual
3 financial statements, (iv) any change in its fiscal year, (v) its failure
4 to appropriate funds to meet costs to be incurred to perform the
5 Continuing Disclosure Agreement, and (vi) the termination of the
6 Continuing Disclosure Agreement.

7 (2) **Continuing Disclosure Certificate.** To further describe and specify certain
8 terms of the Continuing Disclosure Agreement, this Council authorizes and
9 directs the County Executive (A) to complete, sign, and deliver the
10 Continuing Disclosure Certificate, in the name and on behalf of the County,
11 and (B) to specify in reasonable detail the Annual Information to be
12 provided, whether the County has obtained any credit enhancement for the
13 Refunding Bonds, and the County's expectations as to whether audited
14 financial statements will be prepared, the accounting principles to be applied
15 in their preparation, and whether they will be available together with, or
16 separately from, the Annual Information.

17 (3) **Disclosure Procedures.** This Council further authorizes and directs the
18 County Executive and the Fiscal Officer to establish procedures to ensure
19 compliance by the County with the Continuing Disclosure Agreement. The
20 County Executive and the Fiscal Officer may consult with and obtain legal
21 advice from bond counsel or other qualified independent special counsel
22 selected by the County.

23 (4) **Amendments.** The County reserves the right to amend the Continuing
24 Disclosure Agreement, and to obtain the waiver of noncompliance with any
25 provision of the Continuing Disclosure Agreement for the purposes and
26 under the conditions described in the Continuing Disclosure Certificate.

27 (5) **Enforcement.** The Continuing Disclosure Agreement will be solely for the
28 benefit of the Holders of, and beneficial owners of book-entry interests in,
29 the Refunding Bonds. The remedies for any breach of the Continuing
30 Disclosure Agreement by the County will be specified in the Continuing
31 Disclosure Certificate.

32 (6) **Appropriation.** The performance by the County of the Continuing
33 Disclosure Agreement will be subject to the annual appropriation of any
34 funds that may be necessary to perform it.

35 (7) **Term.** The Continuing Disclosure Agreement will remain in effect only for
36 the period that the Refunding Bonds are outstanding in accordance with their
37 terms and the County remains an obligated person with respect to the
38 Refunding Bonds within the meaning of the SEC Rule.

39 **SECTION 8. Financing Costs.** The County retains the professional services and
40 authorizes the payment of the Financing Costs for the Refunding Bonds, as provided in this
41 Section 8.
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- (a) **Bond Counsel.** The County retains the legal services of Vorys, Sater, Seymour and Pease LLP, as bond counsel for the Refunding Bonds. The legal services will be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Refunding Bonds and rendering legal opinions upon the delivery of the Refunding Bonds. Bond Counsel will render those services to the County in an attorney-client relationship. Bond Counsel will be paid just and reasonable compensation for those legal services and will be reimbursed for actual out-of-pocket expenses it incurs in rendering those legal services. The retention of Bond Counsel will be subject to approval by the Board of Control.

- (b) **Original Purchaser.** This Council authorizes and directs the County Executive to select one or more Original Purchasers of the Refunding Bonds. If the sale of a series of Refunding Bonds is a private placement, the Original Purchaser of that series will be the financial institution or other persons or entities selected by the County Executive. If an Original Purchaser is purchasing the Refunding Bonds as an underwriter, the Original Purchaser will be PNC Capital Markets, LLC, as Senior Managing Underwriter. The Senior Managing Underwriter may designate additional co-managing underwriters and additional members of the selling group. The Original Purchaser will be paid for services in accordance with any Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal. The retention of the Senior Managing Underwriter, any additional members of the underwriting syndicate designated by the Senior Managing Underwriter, and any purchaser of a private placement of a series of Refunding Bonds, will be subject to approval by the Board of Control.

- (c) **Ratings and Insurance.** If, in the judgment of the County Executive, the filing of an application for (1) a rating on the Refunding Bonds by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance from one or more bond insurance providers to better assure the payment of Debt Service on the Refunding Bonds, is in the best interest of and financially advantageous to the County, this Council authorizes and directs the County Executive to prepare and submit those applications and to provide to those rating agencies or insurance providers the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance to be included in Financing Costs authorized under (j) below.

- (d) **Paying Agent.** This Council authorizes the County Executive to appoint a Paying Agent for the Refunding Bonds. The Paying Agent must be a bank or trust company, may be the same entity serving as Registrar, and may provide its paying agency services under the terms of its Registrar Agreement or under a separate paying agency agreement. The County retains the services of the Paying Agent for the Refunding Bonds. The Paying Agent must be compensated for those services in accordance with any paying agency agreement or Registrar Agreement. Alternately, the Fiscal Officer may serve as Paying Agent for the Refunding Notes. The Paying Agent must be designated in the Certificate of Award.

- 1 (e) **Registrar.** This Council authorizes and directs the County Executive to appoint a
2 Registrar for the Refunding Bonds. The Registrar must be a financial institution
3 able to complete transfer and exchange functions for the Refunding Bonds in
4 accordance with standards and conditions applicable to registered corporate
5 securities. The County retains the services of the Registrar for the Refunding Bonds.
6 The Registrar will perform the services as bond registrar, authenticating agent,
7 paying agent, and transfer agent for the Refunding Bonds as provided in this
8 Resolution. The Registrar will be paid for those services in accordance with the
9 Registrar Agreement. Alternative, the Fiscal Officer may serve as Registrar for the
10 Refunding Bonds. The Registrar must be designated in the Certificate of Award.
- 11 (f) **Financial Adviser.** This Council retains the services of Sudsina & Associates,
12 LLC, as financial adviser for the Refunding Bonds. The financial adviser will be
13 paid for those services in accordance with its letter of engagement. This Council
14 authorizes the fees for the financial adviser's services to be included in the Financing
15 Costs authorized under (j) below. The retention of the financial adviser will be
16 subject to approval by the Board of Control.
- 17 (g) **Escrow Agent.** This Council authorizes and directs the County Executive to
18 select an Escrow Agent for the Refunded Bonds unless the County Executive
19 determines to establish the Escrow Fund in the Bond Retirement Fund of the
20 County. The Escrow Agent must be a bank or trust company authorized to
21 exercise corporate trust powers in Ohio. The Escrow Agent must be paid for its
22 services in accordance with the Escrow Agreement or its letter of engagement.
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24 (h) **Verification Agent.** This Council authorizes and directs the County Executive to
25 select a Verification Agent unless the County Executive has determined that it is
26 unnecessary that the Refunded Bonds be no longer considered outstanding as
27 provided in Section 133.34(D), Revised Code. The Verification Agent must be an
28 independent public accounting firm. The Verification Agent must be paid for its
29 services in accordance with its letter of engagement.
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31 (i) **Limits on Authority of Service Providers.** In rendering the services described
32 above, as independent contractors, those service providers must not exercise any
33 administrative discretion on behalf of the County in the formulation of public policy;
34 expenditure of public funds; enforcement of laws, rules, and regulations of the State,
35 the County, or any other political subdivision; or the execution of public trusts.
- 36 (j) **Payment of Financing Costs.** This Council authorizes and approves the
37 expenditure of the amounts necessary to pay those Financing Costs specifically
38 authorized above and all other necessary Financing Costs in connection with the
39 issuance and sale of the Refunding Bonds. Those Financing Costs may be paid
40 by the Original Purchaser in accordance with any Purchase Agreement. To the
41 extent they are not paid by the Original Purchaser, this Council authorizes and
42 directs the Fiscal Officer to provide for the payment of those Financing Costs
43 from the proceeds of the Refunding Bonds to the extent available and, otherwise,
44 from any other funds lawfully available and appropriated for the purpose.
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1 **SECTION 9. Use of Proceeds and Refunding.** The proceeds from the sale of the
2 Refunding Bonds must be deposited and used, and the Refunded Bonds must be paid, as
3 provided in this Section 9.
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5 (a) This Council appropriates those proceeds for the following purposes, and those
6 proceeds must be used for those purposes.

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8 (1) Any accrued interest or premium received on the sale of the Refunding
9 Bonds must be deposited in the Bond Retirement Fund of the County and
10 used for the payment of interest on the Refunding Bonds on the first Interest
11 Payment Date.

12 (2) An amount necessary to pay the Financing Costs of the Refunding Bonds, to
13 the extent not paid by the Original Purchaser in accordance with any
14 Purchase Agreement and to the extent that the County Executive determines
15 to pay those Financing Costs from the proceeds of the Refunding Bonds,
16 must be deposited in a separate fund and used for the payment of those
17 Financing Costs.

18 (3) The remainder of the proceeds must be deposited into the applicable
19 Escrow Fund. If the Escrow Fund is held by the Escrow Agent under the
20 Escrow Agreement, and if the proceeds of the Refunding Bonds in the
21 Escrow Fund are not needed to pay the Debt Service on the Refunded
22 Bonds, either as determined in the Verification Report or upon payment
23 and discharge of the Refunded Bonds, those excess proceeds must be
24 transferred to the Bond Retirement Fund.
25

26 (b) This Council establishes the Escrow Fund, either as a separate account in the
27 Bond Retirement Fund or as a separate fund in the custody of the Escrow Agent,
28 as determined by the County Executive. The money in the Escrow Fund is
29 pledged for the purpose of refunding the Refunded Bonds.
30

31 (1) The money in the Escrow Fund to be invested must be invested in direct
32 obligations of or obligations guaranteed as to payment by the United
33 States. Any money not so invested must remain uninvested.
34

35 (2) The investments in the Escrow Fund must mature or be subject to
36 redemption by and at the option of the holder of those investments not
37 later than the date or dates when the money, together with interest or other
38 investment income accrued on that money, will be required for the
39 payment of Debt Service on the Refunded Bonds.
40

41 (3) If the County Executive has determined to appoint a Verification Agent to
42 deliver a Verification Report under Section 8(h), that Verification Agent
43 must deliver its Verification Report to the Escrow Agent and the County
44 on the Closing Date. The Verification Report must establish that the
45 investments in the Escrow Fund, together with the interest or other
46 investment income on those investments and any uninvested money in the

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Escrow Fund, will be sufficient, without further reinvestment, for the payment of principal of and interest on the Refunded Bonds due and payable after the Closing Date for the Refunding Bonds and before the Redemption Dates, and the payment of the remaining principal, any premium, and all accrued interest on the Refunded Bonds on the Redemption Dates. The Verification Report must also determine the yield on the investments in the Escrow Fund and the yield on the Refunding Bonds and the Refunded Bonds.

- (4) This Council authorizes and directs the County Executive to select the series and maturities of the Outstanding Bonds to be refunded, to establish the Redemption Dates of the Refunded Bonds, and to give any required notices of redemption of the Refunded Bonds. The Redemption Dates must be the earliest date on which the Refunded Bonds are subject to redemption at par, or any earlier date that will achieve greater interest cost savings to the County, or any later date that will achieve greater interest cost savings to the County and that is permitted by the Code.

SECTION 10. Security and Source of Payment. The Refunding Bonds will be general obligations of the County.

- (a) This Council pledges to the payment of Debt Service on the Refunding Bonds the full faith and credit of the County including, without limitation:
 - (1) The general taxing power of the County, including the power to levy taxes within the ten-mill limitation, as defined in Section 5705.02, Revised Code.
 - (2) Any money remaining from the sale of the Refunding Bonds after the payment of accrued interest or premium and the Financing Costs of the Refunding Bonds and not required to refund the Refunded Bonds.
- (b) The Debt Service on the Refunding Bonds must be paid at their maturity from any of the amounts set forth above pledged to their payment, or any funds of the County otherwise available for their payment.
- (c) During the years while the Refunding Bonds are outstanding, there will be levied on all the taxable property in the County, in addition to all other taxes, a direct tax annually, in an amount sufficient to pay Debt Service on the Refunding Bonds when due. The tax will be not less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax must be and is ordered to be computed, certified, levied, and extended upon the tax list and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are computed, certified, levied, extended, and collected. The tax must be placed before and in preference to all other items and for its full amount. The money derived from that tax levy must be placed in the Bond Retirement Fund of the County and is irrevocably pledged for

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the payment of the Debt Service on the Refunding Bonds, when and as that Debt Service falls due.

(d) The tax provided in (c) above will be reduced in each year the Refunding Bonds are outstanding by the sum of the following items, if available to pay Debt Service on the Refunding Bonds and appropriated for that purpose:

- (1) Any surplus in the Bond Retirement Fund.
- (2) Proceeds received from the sale of any bonds issued to refund the Refunding Bonds.
- (3) Any other money lawfully available to the County.

SECTION 11. Federal Tax Matters. The County covenants that it will take those actions required to maintain the Federal Tax Status of the Refunding Bonds and that it will not take or permit to be taken any actions that would adversely affect that Federal Tax Status. Without limiting these covenants, the County specifically covenants as follows:

(a) **Private Activity Bonds.** The County will apply the proceeds received from the sale of the Refunding Bonds to the uses described in Section 9. The County will not permit the use of the Projects by any person, will not secure or derive the money for payment of Debt Service on the Refunding Bonds by any property or payments, and will not loan the proceeds of the Refunding Bonds to any person, all in a manner as to cause the Refunding Bonds to be "private activity bonds" within the meaning of Code Section 141(a).

(b) **Arbitrage.** The County will restrict the use of proceeds of the Refunding Bonds in the manner and to the extent as may be necessary, after taking into account reasonable expectations on the Closing Date, so that the Refunding Bonds will not constitute "arbitrage bonds" within the meaning of Code Section 148. The County Executive or any other official having responsibility for issuing the Refunding Bonds, is authorized and directed, alone or in conjunction with any other official, employee, or consultant of the County, to sign and deliver a certificate of the County, for inclusion in the transcript of proceedings for the Refunding Bonds. That certificate must set forth the reasonable expectations of the County on the Closing Date, regarding the amount and use of the proceeds of the Refunding Bonds in accordance with Code Section 148. If required, the County will limit the yield on any "investment property" (as defined in Code Section 148(b)(2)) acquired with the proceeds of the Refunding Bonds.

(c) **Arbitrage Rebate.** Unless the gross proceeds of the Refunding Bonds are expended in accordance with one of the spending period exceptions set forth in Treas. Reg. §1.148-7, the County will pay the amounts required by Code Section 148(f)(2) to the United States at the times required by Code Section 148(f)(3). The County will maintain the books and records and make calculations and reports as required to comply with the Code's arbitrage rebate requirements.

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- (d) **Federal Guarantee.** The County will not permit the use of the Projects, or make loans of the proceeds of the Refunding Bonds, or invest the proceeds of the Refunding Bonds in a manner as to cause the Refunding Bonds to be “federally guaranteed” within the meaning of Code Section 149(b).
- (e) **Information Reporting.** This Council authorizes and directs the County Executive or any other official of the County having responsibility for issuing the Refunding Bonds to sign and file Form 8038-G for the Refunding Bonds with the Internal Revenue Service.
- (f) **Bank-Qualified Obligations.** This Council authorizes and directs the County Executive to designate the Refunding Bonds as “qualified tax-exempt obligations” in the Certificate of Award for purposes of Code Section 265(b)(3) if the County Executive determines in the Certificate of Award that the Refunding Bonds qualify to be issued as qualified tax-exempt obligations.

SECTION 12. Signing and Delivery of Refunding Bonds and Documents. This Council authorizes and directs the County Executive and the Fiscal Officer, or the persons designated to sign in their absence, to sign and deliver the Refunding Bonds in accordance with Section 4 of this Resolution. This Council authorizes and directs the County Executive and the Fiscal Officer, or either of them, to sign and approve a preliminary official statement, a final official statement, and supplements and amendments to both in accordance with Section 7 of this Resolution.

- (a) This Council authorizes and directs the County Executive to sign and deliver, on behalf of the County:
 - (1) The Certificate of Award.
 - (2) Any Purchase Agreement.
 - (3) The Registrar Agreement.
 - (4) The Continuing Disclosure Certificate.
 - (5) Any Escrow Agreement.
 - (6) Any agreements or letters of representation in connection with a book-entry system for the Refunding Bonds.
 - (7) Applications for and agreements in connection with obtaining a policy of municipal bond insurance for the Refunding Bonds.
 - (8) Applications for and agreements in connection with obtaining one or more ratings for the Refunding Bonds.
 - (9) Any agreements with one or more financial institutions, including agreements to enable the County to more efficiently structure the Escrow

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Fund to both maximize Debt Service savings and minimize negative arbitrage in connection with the refunding of the Refunded Bonds.

In the absence of the County Executive, this Council authorizes and directs the Director of Finance and Budget to sign and deliver any of those documents and certificates.

(b) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the County, in her capacity as fiscal officer of the County:

(1) Any certificates in accordance with Section 5705.41, Revised Code, for any of the agreements in connection with the Refunding Bonds.

(2) Any statements of indebtedness required by Section 133.33(B), Revised Code.

In the absence of the Fiscal Officer, this Council authorizes and directs any deputy Fiscal Officer to sign and deliver any of those documents and certificates.

(c) This Council authorizes and directs the County Executive, the Fiscal Officer, the Prosecuting Attorney, the President of Council, the Clerk of Council, and any other County officials:

(1) to sign and deliver any agreements, certificates, instruments, and other documents that the official considers necessary or appropriate in connection with the issuance and sale of the Refunding Bonds, and that are not inconsistent with this Resolution; and

(2) to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Resolution.

SECTION 13. Certification to Fiscal Officer. This Council directs the Clerk of Council to forward a certified copy of this Resolution to the Fiscal Officer and directs the County Executive to forward a copy of the Certificate of Award to the Fiscal Officer.

SECTION 14. Definitions. The following terms are defined terms in this Resolution:

“Annual Information” means the annual financial information and operating data of the type to be specified in the Continuing Disclosure Certificate in accordance with the SEC Rule.

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

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

1 "Capital Appreciation Bonds" means those Refunding Bonds designated as Capital
2 Appreciation Bonds in the Certificate of Award and bearing interest compounded on each
3 Interest Payment Date and payable at maturity.
4

5 "Certificate of Award" means one or more certificates authorized by Section 6 of this
6 Resolution, setting forth the terms and other provisions of each series of the Refunding Bonds
7 required or authorized by this Resolution.
8

9 "Closing Date" means the date of delivery of and payment for a series of the Refunding
10 Bonds.
11

12 "Code" means the Internal Revenue Code of 1986, as amended. References to the Code
13 and sections of the Code include applicable regulations (whether temporary or final) under the
14 Code, and any amendments of, or successor provisions to, those sections or regulations.
15

16 "Compound Accreted Amount" means, for a Capital Appreciation Bond, the Original
17 Principal Amount of the Capital Appreciation Bond, plus interest accrued and compounded on
18 each Interest Payment Date or other date of determination. The Compound Accreted Amount of
19 a Capital Appreciation Bond as of any date other than an Interest Payment Date is the sum of:
20

- 21 (a) the Compound Accreted Amount for the most recent Interest Payment Date,
22 plus
23
- 24 (b) the product of (1) times (2) where
25
- 26 (1) is the difference between
27
- 28 (A) the Compound Accreted Amount of that Capital Appreciation Bond
29 on the most recent Interest Payment Date, and
30
- 31 (B) the Compound Accreted Amount of that Capital Appreciation Bond
32 on the next Interest Payment Date, and
33
- 34 (2) is the ratio of
35
- 36 (A) the number of days from the most recent Interest Payment Date to
37 the date of calculation, to
38
- 39 (B) the total number of days from the most recent Interest Payment Date
40 to the next Interest Payment Date.
41

42 In determining the Compound Accreted Amount of a Capital Appreciation Bond as of a
43 determination date before the first Interest Payment Date, the Closing Date is treated as the most
44 recent Interest Payment Date and the Original Principal Amount of that Capital Appreciation
45 Bond is treated as the Compound Accreted Amount as of the Closing Date.
46

47 "Continuing Disclosure Agreement" means the continuing disclosure agreement made by
48 the County for the benefit of Holders and beneficial owners of the Refunding Bonds in

1 accordance with the SEC Rule. It consists of the covenants in Section 7(b) of this Resolution
2 and the Continuing Disclosure Certificate.

3
4 “Continuing Disclosure Certificate” means the certificate authorized by Section 7(b).

5
6 “Current Interest Bonds” means those Refunding Bonds designated as Current Interest
7 Bonds in the Certificate of Award and bearing interest payable on each Interest Payment Date.

8
9 “Debt Service” means all amounts due as principal, interest, and any premium on an issue
10 of securities.

11
12 “Depository” means any securities depository that is a clearing agency under federal law
13 operating and maintaining, with its participants or otherwise, a book-entry system to record
14 ownership of book-entry interests in securities or the principal of and interest on securities, and
15 to effect transfers of securities in book-entry form, and means initially The Depository Trust
16 Company, New York, New York, a limited purpose trust company.

17
18 “EMMA System” means the MSRB’s Electronic Municipal Market Access system.

19
20 “Escrow Agent” means any escrow agent selected by the County Executive under Section
21 8(g).

22
23 “Escrow Agreement” means one or more agreements between the County and the Escrow
24 Agent providing for the deposit of proceeds of the Refunding Bonds to refund the Refunded
25 Bonds.

26
27 “Escrow Fund” means one or more escrow funds established under the Escrow
28 Agreement, or one or more escrow funds established as a separate account in the Bond
29 Retirement Fund of the County.

30
31 “Federal Tax Status” means the status of the interest on the Refunding Bonds as excluded
32 from gross income for federal income tax purposes and not treated as an item of tax preference
33 for purposes of the alternative minimum tax.

34
35 “Financing Costs” means any financing costs authorized to be paid by Section 133.01(K),
36 Revised Code.

37
38 “Holder” means, as to any Refunding Bond, the person in whose name the Refunding
39 Bond is registered on the Register.

40
41 “Interest Payment Dates” means June 1 and December 1 of each year, beginning on the
42 first Interest Payment Date designated by the County Executive in the Certificate of Award.

43
44 “Mandatory Redemption Dates” means December 1 in each of the years designated in the
45 Certificate of Award as Mandatory Redemption Dates.
46

1 "Mandatory Sinking Fund Redemption" means redemption in accordance with the
2 mandatory redemption requirements, if any, for the Refunding Bonds as determined in the
3 Certificate of Award and as described in Section 2(d).
4

5 "Maturity Amount" means, as to a Capital Appreciation Bond, the principal and interest
6 due at stated maturity on that Capital Appreciation Bond.
7

8 "MSRB" means the Municipal Securities Rulemaking Board.
9

10 "Original Principal Amount" means (a) as to a Current Interest Bond, the face amount,
11 and (b) as to a Capital Appreciation Bond, the principal amount that, when added to the interest
12 on that principal amount accrued and compounded to the Principal Payment Date for that Capital
13 Appreciation Bond, results in the Maturity Amount for that Capital Appreciation Bond.
14

15 "Original Purchaser" means any original purchaser of the Refunding Bonds designated in
16 the Certificate of Award, in accordance with Section 8(b).
17

18 "Outstanding Bonds" means the County's: (1) Various Purpose Bonds, Series 2002,
19 issued in the original principal amount of \$30,005,000; and (2) Various Purpose Bonds, Series
20 2003, issued in the original principal amount of \$25,100,000.
21

22 "Paying Agent" means (a) the entity designated as the Paying Agent by the County
23 Executive in the Certificate of Award in accordance with Section 9(d), or (b) the Fiscal Officer,
24 if she determines to serve in that capacity.
25

26 "Principal Payment Dates" means December 1 of the years set forth in the table in
27 Section 2(c) of this Resolution or in the Certificate of Award.
28

29 "Projects" means the projects financed or refinanced by the Outstanding Bonds,
30 including:
31

- 32 (a) Constructing, equipping, and improving parking deck improvements, including
33 expanding the County's Ohio Building parking deck and skywalk.
34
- 35 (b) Constructing, reconstructing, rehabilitating, and otherwise improving sanitary
36 sewer system facilities and improvements in the Summit County Metropolitan
37 Sewer District.
38
- 39 (c) Constructing, furnishing, equipping, and otherwise improving juvenile justice
40 system facilities including an addition to the juvenile court and the expansion and
41 remodeling of the juvenile detention center.
42
- 43 (d) Acquiring, constructing, and installing a County-wide 800 MHz communication
44 system.
45
- 46 (e) Constructing, equipping, and furnishing a County Courthouse facility for the
47 Clerk of Courts and the Domestic Relations Division of the Court of Common
48 Pleas of the County.

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2 (f) Constructing, improving, equipping, and furnishing facilities for the Juvenile
3 Division of the Common Pleas Court of the County.
4
5 (g) Renovating and improving the Ohio Building owned by the County which houses
6 County offices.
7
8 (h) Renovating and improving a County building known as Summit Center to provide
9 facilities for County offices and for an arts center.
10

11 “Purchase Agreement” means any Bond Purchase Agreement, Bondholder Agreement, or
12 similar purchase agreement between the County and an Original Purchaser, either as an
13 underwriter or a purchaser in a private placement, entered into in accordance with Section 6.
14

15 “Refunded Bonds” means the maturities of the Outstanding Bonds being refunded by the
16 Refunding Bonds, as selected by the County Executive under Section 9(b)(4).
17

18 “Redemption Dates” means the redemption dates for the Refunded Bonds, established by
19 the County Executive under Section 9(b)(4).
20

21 “Register” means all books and records necessary for the registration, exchange, and
22 transfer of the Refunding Bonds.
23

24 “Registrar” means (a) the entity designated as the Registrar by the County Executive in
25 the Certificate of Award in accordance with Section 8(e), or (b) the Fiscal Officer, if she
26 determines to serve in that capacity.
27

28 “Registrar Agreement” means any Bond Registrar Agreement between the County and
29 the Registrar.
30

31 “SEC Rule” means SEC Rule 15c2-12.
32

33 “Serial Bonds” means Refunding Bonds designated as Serial Bonds in the Certificate of
34 Award and maturing on the dates set forth in the Certificate of Award, and not subject to
35 Mandatory Sinking Fund Redemption.
36

37 “Refunding Bonds” means each issue of bonds authorized in Section 2.
38

39 “Specified Events” means any of the events specified in SEC Rule Section (b)(5)(i)(C),
40 as in effect and applicable to the Refunding Bonds at the time of the primary offering of the
41 Refunding Bonds.
42

43 “Term Bonds” means the Refunding Bonds designated as Term Bonds in the Certificate
44 of Award and maturing on the dates set forth in the Certificate of Award, and subject to
45 Mandatory Sinking Fund Redemption.
46

47 “Verification Agent” means a verification agent selected by the County Executive under
48 Section 8(h).

1
2 "Verification Report" means one or more reports delivered by the Verification Agent in
3 accordance with Section 9(b)(3).
4

5 **SECTION 15. No Personal Liability.** The agreements and obligations of the County
6 under the Bond Proceedings are not agreements or obligations of any present or future member of
7 the Council or any present or future official, agent, or employee of the County, in that person's
8 individual capacity. The members of the Council and any official signing or delivering the
9 Refunding Bonds are not personally liable on the Refunding Bonds, and will not be subject to any
10 personal liability or accountability by reason of the issuance of the Refunding Bonds.
11

12 **SECTION 16. Statement of Emergency.** This Resolution is hereby declared an
13 emergency measure necessary for the immediate preservation of the public peace, health, and safety
14 of the County, and for the further reason that the prompt issuance of the Refunding Bonds is
15 necessary to take advantage of present favorable market conditions to achieve maximum interest
16 cost savings.
17

18 **SECTION 17. Effective Date.** Provided this Resolution receives the affirmative vote of
19 eight members, it shall take effect immediately upon its passage and approval by the County
20 Executive; otherwise it must take effect and be in force at the earliest time provided by law.
21

22 **SECTION 18. Open Meetings.** This Council finds and determines that all formal actions
23 of this Council concerning the enactment of this Resolution were taken in an open meeting of this
24 Council, and all deliberations of this Council and any of its committees that resulted in those formal
25 actions, were in meetings open to the public, in compliance with all legal requirements, including
26 Section 121.22 of the Ohio Revised Code.
27

28 INTRODUCED: November 5, 2012

29 ADOPTED: November 26, 2012

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35 CLERK OF COUNCIL


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45 PRESIDENT OF COUNCIL

APPROVED November 27, 2012


EXECUTIVE

ENACTED EFFECTIVE: November 27, 2012

Voice Vote: 10-0. YES: Comunale, Crawford, Feeman, Kostandaras, Kurt Prentice, Rodgers, Roemer, Schmidt, Shapiro. Absent: Lee