

The Board of Township Trustees of Sugarcreek Township, County of Greene, Ohio, met in Regular Session at 7:00 p.m. on May 7, 2012, at 2090 Ferry Road, Sugarcreek Township, Ohio, with the following members present:

*Nadine Daugherty, Michael Pittman,
Scott Bryant.*

Absent:

Nadine Daugherty moved the adoption of the following resolution:

**SUGARCREEK TOWNSHIP
RESOLUTION NO. 2012.05.07.16**

IN RE: RESOLUTION AUTHORIZING THE LEASE-PURCHASE FINANCING AND REFINANCING OF ROAD IMPROVEMENTS, INCLUDING A GROUND LEASE AGREEMENT AND A LEASE AGREEMENT, AND MATTERS RELATED THERETO.

WHEREAS, The Board of Township Trustees (the "Board") of Sugarcreek Township, County of Greene, Ohio (the "Township"), has determined it necessary to construct road improvements to Clyo Road in the township (the "New Project"); and

WHEREAS, the Board has determined it to be in the best interest of the Township and its residents to refund its outstanding Lease Agreement between PS&W Holding Company Inc., ("PS&W") and the Township, dated June 23, 2009, as amended by a First Amendment to Lease Agreement between PS&W and the Township, dated June 22, 2010, originally entered into to pay the cost of constructing road improvements in the Township (the "Prior Project"); and

WHEREAS, in order to provide financing for the acquisition and construction of the New Project and refunding of the Prior Project and pursuant to Ohio Revised Code Section 505.267 it is determined to be necessary and appropriate to undertake a lease-purchase financing program as described herein; and

WHEREAS, the estimated cost of such improvements shall not exceed \$320,000 and the amount to be financed, including any debt service reserve fund, and costs of issuance, shall not exceed \$320,000; and

WHEREAS, the estimated cost of refinancing the Prior Project is \$240,000 and the amount to be refinanced, including any debt service reserve fund, and costs of issuance shall not exceed \$240,000;

NOW, THEREFORE, BE IT RESOLVED by the Board of Township Trustees of Sugarcreek Township, County of Greene, Ohio, that:

Section 1. It is hereby determined to be necessary and in the best interest of the inhabitants and citizens of the Township, and the Township hereby agrees, to acquire and construct, or cause to be acquired and constructed, the New Project and to refund the Prior Project, in accordance with the plan of lease financing described in this Resolution. The New Project shall be acquired and constructed on a parcel of land (referred to as the "New Site") easements to which are owned by the Township and the Township constructed the Prior Project on a parcel of land (the "Prior Site" together with the New Site the "Site") easements to which are owned by the Township, all as more particularly described on Exhibit A to the Ground Lease Agreement referred to herein.

Section 2. The Township shall sublease its interest in the Site to such entity as the Township Administrator of the Township shall designate (the "Ground Lessor") pursuant to a Ground Lease Agreement (the "Ground Lease") to be dated as determined by the Township Administrator, in substantially the form presently on file with this Board, which is hereby approved. The President of the Board, the Township Administrator or either of them, are hereby authorized to execute and deliver the Ground Lease on behalf of the Township with such changes not substantially adverse to the Township as the official executing the same may approve; the approval of such changes and that the same are not substantially adverse to the Township shall be conclusively evidenced by the execution of the Ground Lease by such official. The initial term of the Ground Lease shall be until December 31, 2012, provided that the Ground Lessor or its assignee shall have the right to renew for three (3) additional one year renewal terms beginning on January 1, 2013 and continuing to a date determined by the Township Administrator. The Ground Lease shall provide for the payment, in advance for all permitted renewal terms, of rent in the amount of One Dollar (\$1.00) per year.

Section 3. The Township shall sublease its interest in the Site and related grounds and facilities, if any, back from the Ground Lessor pursuant to a Lease Agreement (the "Lease") dated of even date with the Ground Lease, in substantially the form presently on file with this Board, which is hereby approved. The President of the Board, the Township Administrator of

the Board, or either of them, are hereby authorized to execute and deliver the Lease on behalf of the Township with such changes not substantially adverse to the Township as the official executing the same may approve; the approval of such changes and that the same are not substantially adverse to the Township shall be conclusively evidenced by the execution of the Lease by such official.

The Lease shall require the Township, as agent for the Ground Lessor or its assignee, to acquire and construct or cause to be acquired and constructed on the Site, the New Project, and shall provide, among other things, for the payment of Base Rent from the Township to the Ground Lessor or its assignee. Base Rent shall be payable in such amounts and at such times as shall be determined by the Township Administrator, provided that the actual Base Rent payment shall not exceed the amount that would be required if the applicable interest rate were five percent (5%) per annum applied on a principal amount of \$560,000. The initial term of the Lease shall be until December 31, 2012, provided that the Township shall have the right to renew for three (3) additional one year renewal terms beginning on January 1, 2013 and continuing to a date determined by the Township Administrator. The Lease shall provide for termination in the event the Township fails to appropriate funds adequate to pay rent due with respect to any renewal term.

Section 4. The Township hereby consents to and approves the assignment of the Ground Lease and the Lease from the Ground Lessor to U.S. Bank National Association, a national banking corporation, or its nominee, as Trustee and the execution of a Trust Indenture (the "Indenture") relating to the collection and distribution of rental payments and the issuance of Certificates of Participation (Sugar creek Township – Clys Road Improvements Project) (the "Certificates") evidencing proportionate interests in the Base Rent to be paid by the Township under the Lease. The form of the Indenture and of the Certificates in substantially the forms presently on file with this Board, and the issuance of the Certificates, are hereby approved. The President of the Board, the Township Administrator or either of them, are hereby authorized to execute and deliver the Indenture on behalf of the Township with such changes not substantially adverse to the Township as the official executing the same may approve; the approval of such changes and that the same are not substantially adverse to the Township shall be conclusively evidenced by the execution of the Indenture by such official. The Township hereby authorizes

and directs that the Certificates shall be sold to Fifth Third Securities, Inc., Cincinnati, Ohio, at a price not less than 100% of the par value thereof, and resold at a price or prices approved by the Fiscal Officer. The determinations of the final terms of sale of the Certificates, and the resulting Lease terms, including the interest rate, financed amount, term, and amortization schedule, together with any other matters required by this Resolution to be determined or approved by the Fiscal Officer, shall be set forth by the Fiscal Officer in a certificate to be entitled the "Certificate of Award".

Section 5. The Township agrees to execute and perform the Ground Lease and the Lease in accordance with the terms thereof. The Township agrees to comply with the terms and conditions of the Indenture insofar as they relate to the Township, and further agrees to comply with the terms and conditions of such additional documents and agreements relating thereto as shall be deemed, by the Township Administrator, the President of the Board or either of them, in their discretion, necessary or appropriate in connection with the financing herein described.

Section 6. The Township Administrator, the President of the Board and the Fiscal Officer, or any of them, are hereby authorized and directed to execute and deliver, on behalf of the Township, such additional instruments, documents, agreements, certificates, and other papers as may be in their discretion necessary or appropriate in order to carry out the intent of this Resolution in such forms as the official executing the same may approve.

Section 7. Nothing in the Ground Lease, the Lease, the Indenture, the Certificates, or any agreements or documents relating thereto shall constitute or be construed or deemed to constitute a debt or bonded indebtedness or a general obligation of this Board, the Township or any agency of the Township. Neither the taxing power nor the full faith and credit of this Board or the Township are pledged or shall be pledged for the payment or security of the Ground Lease, the Lease, the Indenture, the Certificates, or any other related agreement or document.

Section 8. The Township hereby covenants that it will restrict the use of the proceeds of the Lease and the Certificates hereby authorized in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of

the Internal Revenue Code of 1986, as amended (the "Code") and the regulations prescribed thereunder and will, to the extent possible, comply with all other applicable provisions of the Code and the regulations thereunder to retain the Federal income tax exemption for interest on the Lease and the Certificates, including any expenditure requirements, investment limitations, rebate requirements or use restrictions. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the Certificates is authorized and directed to give an appropriate certificate on behalf of the Township, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and the Regulations.

The Lease is hereby designated a "qualified tax-exempt obligation" for the purposes set forth in Section 265(b)(3) of the Code. This Board finds and determines that the reasonable anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by the Township during the calendar year in which the Lease is initially delivered (2009) does not and the Board hereby covenants that, during such year, the amount of tax-exempt obligations issued by the Township and designated as "qualified tax-exempt obligations" for such purpose will not exceed \$10,000,000.

Section 9. There is hereby appropriated from the net proceeds of the Certificates, to the extent the same are available for the payment of costs of the Project, a sum not to exceed \$560,000, to be used for the payment of such costs and related costs, as outlined herein, and funding a reserve fund for the Lease and the Certificates if determined by the Township Administrator of the Board to be necessary for the marketing of the Certificates. There is further appropriated, from unappropriated funds currently on deposit in the Road and Bridge Fund of the Township, the sum of \$0 to pay the cost of lease payments due or coming due under the Lease for the initial term ending December 31, 2012.

Section 10. The law firm of Peck, Shaffer & Williams LLP be and is hereby retained as special counsel to the Township to prepare the necessary authorization and related closing documents for the issuance, sale and delivery of the Ground Lease, the Lease Agreement, the Certificates and, if appropriate, rendering its approving legal opinion in connection therewith in accordance with the written agreement presently on file with the Township which the President

of the Board, the Township Administrator, or either of them, are hereby authorized to execute and deliver on behalf of the Township, with such changes thereto not substantially adverse to the Township as may be approved by such officers. The approval of such changes by such officers, and that the same are not substantially adverse to the Township, shall be conclusively evidenced by the execution of such agreement by such officers. Such law firm shall be compensated by the Township for the above services in accordance with such written agreement.

Section 11. It is hereby found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 12. This Resolution shall take effect immediately upon its adoption.

Mr. Scott Bryant seconded the motion, and the roll being called upon the question of passage, the vote resulted as follows:

ADOPTED May 7, 2012.

Nadine S. Daugherty
Nadine S. Daugherty, Chairperson

Michael E. Pittman
Michael E. Pittman, Vice Chairperson

Scott W. Bryant
Scott W. Bryant, Trustee

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and compared copy of a resolution duly passed by said Board.

Theodore L. Hodson
Theodore L. Hodson, Fiscal Officer
Sugarcreek Township, Greene County, Ohio

CERTIFICATE

The undersigned hereby certifies that the text of the foregoing resolution is taken and copied from the record of proceedings of a meeting of said board of township trustees held on May 7, 2012. The undersigned further certifies that the same has been compared by me with said record and it is a true and correct copy thereof, together with a true and correct copy of excerpts from the minutes of said meeting to the extent pertinent to the consideration and adoption of said resolution.



Theodore L. Hodson, Fiscal Officer