

Board of Township Trustees of the Sugarcreek Township, County of Greene, Ohio, met in Regular Session at 7:30 p.m. on the 17<sup>th</sup> day of May, 2010, at 2090 Ferry Road, Bellbrook, Ohio, with the following members present:

Nadine S. Daugherty, Michael E. Pittman and Dick King

Mr. Dick King moved the adoption of the following resolution:

**SUGARCREEK TOWNSHIP  
RESOLUTION NO. 2010.05.17.02**

**IN RE: RESOLUTION AUTHORIZING AMENDMENTS TO A GROUND LEASE AGREEMENT AND A LEASE AGREEMENT, AND RELATED DOCUMENTS, EXTENDING THE DURATION OF THE LEASE-PURCHASE FINANCING OF ROAD IMPROVEMENTS, AND MATTERS RELATED THERETO.**

WHEREAS, the Board of Township Trustees (the "Board") of Sugarcreek Township, County of Greene, Ohio (the "Township"), by a resolution adopted on June 1, 2009 (the "Prior Resolution") authorized the lease-purchase financing of the construction of road improvements (the "Project") pursuant to Ohio Revised Code Section 505.267; and

WHEREAS, pursuant to the Prior Resolution, the Township entered into a Ground Lease Agreement (the "Ground Lease") and a Lease Agreement (the "Lease Agreement") both dated as of June 23, 2009 and between the Township and PS&W Holding Company, Inc. (the "Financing Entity") in order to provide such financing for the construction of the Project in the amount of not to exceed \$650,000; and

WHEREAS, as part of such financing as contemplated by the Prior Resolutions, (a) the Financing Entity assigned all of its right, title and interest in and to the Ground Lease and the Lease Agreement to U.S. Bank National Association (together with its successors and assigns, the Trustee), as trustee under a Trust Indenture dated as of June 23, 2009 (the "Indenture") between the Financing Entity and the Trustee pursuant to a Lease Assignment Agreement dated as of June 23, 2009; (b) the Trustee issued Certificates of Participation (Sugarcreek Township Clys Road Improvement Project), dated June 23, 2009 evidencing undivided proportionate interests in the Township's payments of Base Rent (as defined in the Lease Agreement) pursuant to the Lease Agreement (the "Certificates"), which were sold to Fifth Third Securities, Inc. (the "Underwriter"); and (c) the proceeds of such sale were deposited with the Trustee and used to finance the costs of the Project; and

WHEREAS, the initial terms of the Ground Lease and the Lease Agreement ended on December 31, 2009 and the Board renewed the Ground Lease and the Lease Agreement until June 22, 2010 in accordance with their terms by appropriating an amount sufficient to pay all Base Rent and Additional Rent, as defined in the Lease Agreement, net of the amounts shown on the Original Purchaser's Renewal Certificate dated June 23, 2009; and

WHEREAS, the Board deems it necessary and appropriate to amend the Ground Lease and the Lease Agreement to extend the duration of such lease-purchase financing as described herein;

NOW, THEREFORE, BE IT RESOLVED by the Board of Township Trustees of the 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 amend the Ground Lease and the Lease Agreement to extend the duration of such lease-purchase financing as described in this Resolution.

Section 2. The Township shall continue to lease the Project Site, as defined in the Ground Lease, to the Trustee as assignee of the Financing Entity, and extend the duration of the Ground Lease, pursuant to the Ground Lease as amended by a First Amendment to Ground Lease Agreement (the "First Amendment to 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 First Amendment to 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 First Amendment to Ground Lease by such official. The Ground Lease, as amended by the First Amendment to Ground Lease, is referred to herein as the "Amended Ground Lease". The current term of the Amended Ground Lease shall be extended until December 31, 2010, provided that the Trustee or its assignee shall have the right to renew for one (1) additional renewal term beginning on January 1, 2011 and continuing to a date determined by the Township Administrator, and provided further that the Trustee or its assignee shall have the right to further amend the Ground Lease with the consent of the Township for additional renewal terms. The Amended Ground Lease shall continue to provide for the payment, in advance of rent in the amount of One Dollar (\$1.00) per year or portion thereof throughout the term of the Ground Lease.

Section 3. The Township shall continue to sublease the Project Site and the Project back from the Trustee pursuant to the Lease Agreement as amended by a First Amendment to Lease Agreement (the "First Amendment to Lease Agreement") to be dated of even date with the First Amendment to Ground Lease, 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 First Amendment to Lease Agreement 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 First Amendment to Lease Agreement by such official. The Lease Agreement, as amended by the First Amendment to Lease Agreement, is referred to herein as the "Amended Lease Agreement"

The Amended Lease Agreement shall continue to provide, among other things, for the payment of Base Rent from the Township to the Trustee or its assignee. Base Rent shall be payable in installments as provided by the Amended Lease Agreement, provided that the actual Base Rent payment for the extension of the duration of the Lease Agreement provided by the First Amendment to Lease Agreement shall not exceed the amount that would be required if the applicable interest rate were six percent (6%) per annum applied on a principal amount of \$470,000. The current term of the Amended Lease Agreement shall be extended until December 31, 2010, provided that the Township shall have the right to renew for one (1) additional renewal term beginning on January 1, 2011 and continuing to a date determined by the Township Administrator, and provided further that the Township shall have the right to further amend the Amended Lease Agreement with the consent of the Trustee or its assigns for additional renewal terms. The Amended Lease Agreement shall continue to 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 Agreement to the Trustee, the execution and delivery of the Indenture (the "Indenture") and the issuance of the Certificates. The Township hereby further consents to and approves execution and delivery of a First Supplemental Trust Indenture (the "First Supplemental Indenture") and the issuance of amended Certificates (the "Amended Certificates") as provided therein and in the Indenture. The form of the First Supplemental Indenture and of the Amended Certificates in substantially the forms presently on file with this Board, and the issuance of the Amended Certificates, are hereby approved. The President of the Board, the Township Administrator, or either of them, are hereby authorized to execute and deliver the First Supplemental 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 First Supplemental Indenture by such official. The Indenture, as amended and supplemented by the First Supplemental Indenture, is referred to herein as the "Amended Indenture". The Township hereby authorizes and directs that the Amended 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 Township Administrator. The determinations of the final terms of sale of the Amended Certificates, and the resulting terms of the Amended Lease Agreement, including the interest rate, financed amount, terms, and amortization schedule, together with any other matters required by this Resolution to be determined or approved by the Township Administrator, shall be set forth by the Township Administrator in a certificate to be entitled the "2010 Certificate of Award".

Section 5. The Township agrees to execute and continue to perform the Amended Ground Lease and the Amended Lease Agreement in accordance with the terms thereof. The Township agrees to comply with the terms and conditions of the Amended 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.

Subject to the provisions in the Amended Lease requiring the periodic appropriation of moneys to pay Base Rent and other amounts due thereunder and to the extent permitted by law,

the Board hereby covenants that it will (i) use its best efforts and will take all actions necessary to provide for the authorization, execution and delivery of one or more amendments to the Lease in addition to the First Amendment to Lease and related documents in order to extend the Amended Lease for one or more additional renewal terms prior to the termination date for the then-current term of the Amended Lease and facilitate the remarketing of the Amended Certificates, and (ii) if it appears to the Board that permanent financing for the Project will not be otherwise available within five (5) years of the original date of the Lease, authorize, execute and deliver such an amendment and related documents providing for multiple renewal terms subject only to such appropriation provisions sufficient to fully amortize the cost of the Project financed by the Lease without further such amendments by the Board, and (iii) in agreeing to any such amendment, accept such interest rate or rates component of the Base Rent as necessary to permit the foregoing to be done and the Amended Certificates to be remarketed.

Section 6. The Township Administrator, the President of the Board, or either 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 Amended Ground Lease, the Amended Lease Agreement, the Amended Indenture, the Amended 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 Amended Ground Lease, the Amended Lease Agreement, the Amended Indenture, the Amended 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 Amended Lease and the Amended 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 Amended Lease and the Amended Certificates, including any expenditure requirements, investment limitations, rebate requirements or use restrictions. The Township Administrator or any other officer having responsibility with respect to the issuance of the Amended Lease or the Amended 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 Amended Lease is hereby designated a "qualified tax-exempt obligation" for the purposes set forth in Section 265(b)(3) of the Code to the extent not already deemed so designated. If the Amended Lease is not deemed already so designated, 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 Amended Lease is initially delivered 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. The appropriation of \$17,825.35 to pay the interest portion of Base Rent due June 22, 2010 is hereby approved, ratified and confirmed. The proceeds of the Amended Certificates plus \$180,000 are hereby appropriated, to the extent required by law, for the payment of the principal portion of the Certificates when due on June 22, 2010. Since no Base Rent or Additional Rent will be due under the Amended Lease during the current fiscal year, additional appropriations to pay Base Rent and Additional Rent due or coming due under the Lease Agreement for the term ending December 31, 2010 are not required at this time.

Section 10. The Board and the Township shall use their best efforts to negotiate and enter into further amendments of the Amended Ground Lease and the Amended Lease Agreement to enable the payment of all Base Rent payments when due and to enable renewal Amended Certificates to be issued and sold in such amounts and bearing such terms as may be necessary to provide sufficient moneys to pay the outstanding Amended Certificates when due after allowing for any other funds that may be lawfully available.

Section 11. 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 Amended Ground Lease, the Amended Lease Agreement, the Amended 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 12. 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.

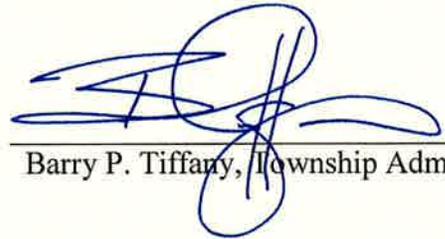
Section 13. This Resolution shall take effect immediately upon its adoption.

Mr. Pittman seconded the motion, and the roll being called upon the question of adoption of the resolution, the vote resulted as follows:

Ayes: 3

Nays: 0

ADOPTED this 17<sup>th</sup> day of May, 2010.

  
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Barry P. Tiffany, Township Administrator

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 17, 2010. 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.

  
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Theodore L. Hodson, Fiscal Officer