



AGENDA
CUYAHOGA COUNTY PUBLIC WORKS, PROCUREMENT & CONTRACTING COMMITTEE
MEETING
THURSDAY, NOVEMBER 8, 2012
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
2:00 PM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT RELATED TO THE AGENDA**
- 4. APPROVAL OF MINUTES FROM THE OCTOBER 18, 2012 MEETING**
- 5. MATTERS REFERRED TO COMMITTEE**
 - a) R2012-0215: A Resolution approving The MetroHealth System's policies and procedures to participate in one or more group purchasing associations for the purpose of acquiring supplies, equipment and services provided through joint purchasing arrangements in order to achieve beneficial purchasing arrangements for the year 2013, in accordance with Ohio Revised Code Section 339.05; and declaring the necessity that this Resolution become immediately effective.
 - b) R2012-0227: A Resolution authorizing an assignment of leases from Cuyahoga County to the Cuyahoga County Board of Developmental Disabilities, effective 10/1/2012, in connection with various contracts with North Coast Community Homes, Inc. for the lease/purchase of various properties for use as group homes for persons with developmental disabilities; authorizing the County Executive to execute the assignment of leases and all other documents consistent with this Resolution, and declaring the necessity that this Resolution become immediately effective:

- 1) No. CE03551 with Center Ridge House, located at 28700 Center Ridge Road, Westlake, for the period 4/8/1988 - 4/7/2013;
- 2) No. CE04031 with Richmond House, located at 1435 Richmond Road, Lyndhurst, for the period 12/15/1987 - 12/14/2012;
- 3) No. CE04227 with Bellbrook House, located at 5936 West 130th Street, Brook Park, for the period 9/22/1988 - 8/21/2013;
- 4) No. CE04224 with Lee House, located at 5041 Lee Road, Maple Heights, for the period 6/15/1988 - 6/14/2013;
- 5) No. CE04226 with South Bend House, located at 1653 and 1655 South Bend Drive, Rocky River, for the period 2/11/1988 - 2/10/2013;
- 6) No. CE04225 with Lander House, located at 1455 Lander Road, Mayfield Heights, for the period 6/20/1988 - 6/19/2013;
- 7) No. CE04223 with Nottingham House, located at 17702 Nottingham Road, Cleveland, for the period 6/20/1988 - 6/19/2013;
- 8) No. CE04459 with Bagley House, located at 19080 Bagley Road, Middleburg Heights, for the period 1/4/1989 - 1/3/2014;
- 9) No. CE04541 with Euclid House, located at 23050 Euclid Avenue, Euclid, for the period 10/18/1989 - 10/17/2014;
- 10) No. CE04592 with Highland House, located at 427 Richmond Road, Richmond Heights, for the period 9/25/1989 - 9/24/2014;
- 11) No. CE04591 with Ridge House, located at 7009 West Sprague Road, Parma, for the period 9/19/1989 - 9/18/2014;
- 12) No. CE04593 with Sprague House, located at 7001 West Sprague Road, Parma, for the period 9/19/1989 - 9/18/2014;
- 13) No. CE05008 with Albion House, located at 11607 Pearl Road, Strongsville, for the period 1/25/1990 - 1/24/2015;
- 14) No. CE05035 with Lamson House fka Granger House, located at 7325 Lamson Road, Oakwood Village, for the period 4/11/1990 - 4/10/2015;
- 15) No. CE05209 with Cedar House, located at 29400 Cedar Road, Pepper Pike, for the period 8/8/1990 - 8/7/2015;
- 16) No. CE05270 with Beachwood House, located at 24212 Cedar Road, Beachwood, for the period 8/8/1990 - 8/7/2015;
- 17) No. CE05370 with Bedford House, located at 5526 Richmond Road, Bedford Heights, for the period 11/1/1990 - 10/31/2015;
- 18) No. CE05509 with Southwest House, located at 211 East Schaaf Road, Brooklyn Heights, for the period 12/13/1990 - 12/12/2015;
- 19) No. CE05520 with Dover House, located at 263 Dover Center Road, Bay Village, for the period 10/30/1990 - 10/29/2015;
- 20) No. CE05555 with Van Aken House, located at 2980 Van Aken Boulevard, Cleveland, for the period 3/18/1991 - 3/17/2016;
- 21) No. CE05638 with Columbia House, located at 2855 Columbia Road, Westlake, for the period 12/13/1990 - 12/12/2015;

- 22) No. CE05639 with Edendale House, located at 1374 Edendale Road, Cleveland Heights, for the period 10/29/1991 - 10/28/2016;
- 23) No. CE05828 with Hillside House, located at 98 Hillside Road, Seven Hills, for the period 9/6/1991 - 9/5/2016;
- 24) No. CE05827 with Jackson House, located at 29949 Jackson Road, Orange Village, for the period 9/9/1991 - 8/8/2016;
- 25) No. CE05850 with Warrington House, located at 3270 Warrington Road, Shaker Heights, for the period 9/4/1991 - 9/3/2016;
- 26) No. CE05920 with Monticello House, located at 4520 Monticello Road, South Euclid, for the period 11/18/1991 - 11/17/2016;
- 27) No. CE05966 with Royalton House, located at 7575 Royalton Road, North Royalton, for the period 11/8/1991 - 11/7/2016;
- 28) No. CE06006 with Independence House, located at 4711 East Sprague Road, Independence, for the period 10/3/1991 - 10/2/2016;
- 29) No. CE06107 with Maple House, located at 250 Maplelawn Drive, Berea, for the period 2/12/1992 - 2/11/2017;
- 30) No. CE06106 with Oak House, located at 26365 Tryon Road, Oakwood Village, for the period 6/19/1992 - 6/18/2017;
- 31) No. CE06108 with Wilson House, located at 785 Miner Road, Highland Heights, for the period 11/1/1991 - 10/31/2016;
- 32) No. CE06106 with Wood House, located at 26405 Tryon Road, Oakwood Village, for the period 7/2/1992 - 7/1/2017;
- 33) No. CE06135 with Broadway House, located at 1310 Broadway, Bedford, for the period 10/7/1991 - 10/5/2016;
- 34) No. CE06288 with Grand House, located at 19853 Grand Boulevard, Euclid, for the period 6/29/1992 - 6/28/2017;
- 35) No. CE06289 with SOM House, located at 1777 SOM Center Road, Gates Mills, for the period 1/1/1992 - 12/31/2016;
- 36) No. CE06290 with Terrace House, located at 19855 Grand Boulevard, Euclid, for the period 6/15/1991 - 6/14/2017;
- 37) No. CE06310 with Stearns House, located at 6797 Stearns Road, North Olmsted, for the period 2/12/1992 - 2/11/2017;
- 38) No. CE06382 with Fairview House, located at 4579 West 210th Street, Fairview Park, for the period 4/20/1992 - 4/19/2017;
- 39) No. CE06383 with Parkgate House, located at 9035 Parkgate, Cleveland, for the period 1/5/1993 - 1/4/2018;
- 40) No. CE06448 with Smith House, located at 6809 Smith Road, Middleburg Heights, for the period 8/19/1992 - 8/18/2017;
- 41) No. CE06611 with Solon House, located at 37025 Aurora Road, Solon, for the period 12/16/1992 - 12/15/2017;
- 42) No. CE06623 with Wallings House, located at 2491 East Wallings Road, Broadview Heights, for the period 9/16/1992 - 11/15/2017;
- 43) No. CE06664 with Jennings House, located at 22900 Jennings Road, Warrensville Heights, for the period 12/2/1992 - 12/1/2017;

- 44) No. CE06663 with Walton House, located at 14700 Alexander Road, Walton Hills, for the period 12/16/1992 - 12/15/2017;
- 45) No. CE06702 with Parma House, located at 7211 West 130th Street, Parma, for the period 6/2/1993 - 6/1/2018;
- 46) No. CE07663 with Moreland House, located at 35450 Chagrin Boulevard, Moreland Hills, for the period 11/10/1994 - 11/9/2019;
- 47) No. CE08041 with Seven Hills House, located at 6577 Broadview Road, Seven Hills, for the period 8/3/1995 - 8/2/2020;
- 48) No. CE08376 with Howe House, located at 18005 Howe Road, Strongsville, for the period 10/1/1996 - 9/30/2021;
- 49) No. CE09393 with Taft House, located at 740 Taft Road, Bedford, for the period 2/23/1998 - 2/22/2023;
- 50) No. CE09831 with Verona House, located at 4285 Verona Road, South Euclid, for the period 10/23/1998 - 10/22/2023;
- 51) No. CE0700923 with Green House, located at 1905 Green Road, Cleveland, for the period 12/17/2004 - 12/16/2029; and
- 52) No. CE0400924 with Memphis House, located at 9401 Memphis Avenue, Brooklyn, for the period 1/19/2005 - 1/18/2030.

- c) O2012-0026: An Ordinance establishing the Cuyahoga County Debarment Law, Procedures and Review Board; and declaring the necessity that this Ordinance become immediately effective.
- d) O2012-0031: An Ordinance amending Ordinance No. O2011-0020, which provided for complimentary parking for members of the public to attend regularly scheduled evening and committee meetings of the County Council at the Huntington Park Garage, by removing restrictions regarding time of day; and declaring the necessity that this Ordinance become immediately effective.

6. MISCELLANEOUS BUSINESS

7. OTHER PUBLIC COMMENT

8. ADJOURNMENT

*In accordance with Ordinance No. O2011-0020, complimentary parking in the Huntington Park Garage will be available for the public **beginning at 4:00 p.m.** on any day when the Council or any of its committees holds evening meetings. Please see the Clerk to obtain a parking pass.



MINUTES

**CUYAHOGA COUNTY PUBLIC WORKS, PROCUREMENT & CONTRACTING COMMITTEE
MEETING
THURSDAY, OCTOBER 18 2012
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
11:00 AM**

1. CALL TO ORDER

Chairman Jones called the meeting to order at 11:08 a.m.

2. ROLL CALL

Mr. Jones asked Assistant Deputy Clerk Thurman to call the roll. Committee members Jones, Germana, Miller, Conwell and Rogers were in attendance and a quorum was determined. Councilmembers Greenspan and Connally were also in attendance.

3. PUBLIC COMMENT RELATED TO THE AGENDA

No public comments were given.

4. APPROVAL OF MINUTES FROM THE OCTOBER 11, 2012 MEETING

A motion was made by Ms. Conwell, seconded by Mr. Miller and approved by unanimous vote to approve the minutes of the October 11, 2012 meeting.

5. MATTERS REFERRED TO COMMITTEE

- a) O2012-0026: An Ordinance establishing the Cuyahoga County Debarment Law, Procedures and Review Board; and declaring the necessity that this Ordinance become immediately effective.

The following attendees addressed the Committee regarding Ordinance No. O2012-0026:

- 1) Mr. Rich Gebbie, representing Midwest Direct**
- 2) Ms. Ingrid Halpert, representing Weiss Movers & Storage**
- 3) Mr. Richard Grier, representing Attevo, Inc.**
- 4) Ms. Beth Stewart, representing DLZ Ohio, Inc.**
- 5) Mr. Todd Anderson, Esq., representing Tenable Protective Services**
- 6) Mr. Anton Gorkavchuk, representing DASI**
- 7) Mr. Jim Bower, representing Precision Environmental Co.**
- 8) Mr. Bob Abe, representing US Communications & Electric, Inc.**
- 9) Ms. Mary Ann Driscoll, representing RW Armstrong.**

Mr. David Merriman, Special Assistant to County Executive FitzGerald; Mr. Majeed Makhoulf, Law Director; Ms. Nailah Byrd, Inspector General; and Mr. Matthew Hawes, Deputy Inspector General, addressed the Committee regarding Ordinance No. O2012-0026. Discussion ensued.

Committee members and Councilmembers asked questions of Mr. Merriman, Mr. Makhoulf, Ms. Byrd and Mr. Hawes, which they answered accordingly.

Mr. Jones introduced a proposed substitute to Ordinance No. O2012-0026. Discussion ensued.

A motion was then made by Mr. Germana, seconded by Mr. Miller and approved by unanimous vote to accept the proposed substitute.

Committee members Jones and Germana asked to be added as co-sponsors to Ordinance No. O2012-0026.

No further legislative action was taken on Ordinance No. O2012-0026.

6. MISCELLANEOUS BUSINESS

There was no miscellaneous business.

7. OTHER PUBLIC COMMENT

No public comments were given.

8. ADJOURNMENT

With no further business to discuss and on a motion by Mr. Germana with a second by Mr. Miller, the meeting was adjourned at 1:04 p.m., without objection.

From: "Patrick Hickey" <phickey@loveinsurance.com>
To: "Trevor A McAleer" <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 2:50 AM
Subject: RE: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Thank you for sending me this. I do not intend on going to the meeting but I have the following comments.

- 1) What is meant by wrongdoing?
- 2) A penalty is reasonable and should meet the offense.
- 3) An individual does the wrong-doing on behalf of a company. Punishing a big company makes sense but you have to punish the individual also or they can just go to a different company.
- 4) The county needs to make sure it does not have so many procedures that it becomes too expensive or complicated for a small vender to participate. There purchasing procedures are already very time consuming and complicated.
- 5) This procedure should not burden the vendor with extra paperwork.

Hope this helps.

Thank you.

Patrick M. Hickey

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From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM

From: "Mr. Daniel Daniel Santiago Plumbing inc." <dsplumbinginc@hotmail.com>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 6:37 AM
Subject: Re: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Definitely need something like this but this law in its current form has too many vague conditions for action.

Thank you,

Daniel Santiago

Daniel Santiago Plumbing Inc.
PO Box 263
North Olmsted OH 44070
Oh lic 34360
2163747630
Fax 4407340215

On Oct 12, 2012, at 1:04 AM, "Trevor A McAleer" <tmcaleer@cuyahogacounty.us> wrote:

> Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance. Trevor McAleer

>

> Use this link to log on to BuySpeed Online: <https://buyspeed.opd.cuyahogacounty.us/bsol/login.jsp>

>

> <O2012-0026B Debarment~1.doc>

From: <allurepainting@gmail.com>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 6:53 AM
Subject: Re: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

I paid \$100.00, and went to the meeting almost two years ago to become a vendor. I've never been invited to bid on any work thus far. Huge waste of my time and money.

No, I will not attend another meeting.

Mike Guinther
216-287-7468
www.allurepainting.net

On Oct 12, 2012, at 1:01 AM, Trevor A McAleer <tmcaleer@cuyahogacounty.us> wrote:

> Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance. Trevor McAleer

>

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>

> <O2012-0026B Debarment~1.doc>

From: duko <duko@jabr.com>
To: "tmcaleer@cuyahogacounty.us" <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 7:25 AM
Subject: Remarks concerning the new County Debarment Law

Trevor,

I am David Williamson, President and CEO of JABR software Inc a Vendor.

I will not be able to attend the meeting. I appreciate the notification and solicitation for comments to the City Councils new Debarment Law.

My Comments are as follows:

- * As published the intent of the law is a good thing, and in today's world prudent and necessary for protection of your citizens.
- * For the most part the violations are spelled out fairly and clearly. Each section has one very broad option which under the right circumstances would not be fair and I do not believe the remedy's in place could adequately handle the situation
- * In the 5 year option:
 - o [cid:image001.png@01CDA841.846D5230] Seems open to a very broad interpretation and catch all for personal bias.
- * In the 3 year option:
 - o [cid:image002.png@01CDA842.00A71430] would have the same problem

Once again, thank you for the opportunity to provide input.

David Williamson
JABR Software

From: <TB@healthcare-consulting.com>
To: <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 9:28 AM
Subject: Comments on Debarment Ordinance

Hi Trevor,

Thank you for inviting comments from vendors.

In my opinion, every government entity should have similar debarment procedures in place.

Vendors have a duty to taxpayers, purchasers and consumers to:

- a.. deal in good faith devoid of fraudulent practices and misrepresentation of goods and services
- b.. be above reproach in ethical conduct and business practices
- c.. fully disclose any actual or potential conflicts-of-interest
- d.. provide not-to-exceed quotations for professional services
- e.. disclose any business or personal relationships with county employees or their friends and families
- f.. disclose any pending civil litigation as defendants

If the above had been in place and enforced, billions of dollars in graft, waste, fraud and abuse would have been conserved by federal, state, county and local governments in the course of the last several decades.

Kindest Regards,

Terry Brauer, CEO
HealthCare Initiatives
HealthCare Management Consultants
PO Box 621
Highland Park, IL 60035
www.healthcare-consulting.com
847-266-7800

From: "Heidi Buggele" <heidi@infoshredohio.net>
To: "Trevor A McAleer" <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 9:44 AM
Subject: RSVP

Good Morning Trevor,

I can not attend the County Debarment Law meeting, Please keep us informed of the outcome. I would support the Law.

Infoshred is SBE,NEOSD, My boss; Terry Medlar and the entire Infoshred Team pride ourselves on Ethics, Integrity & the Golden Rule.

Have a great weekend

Heidi Buggele

Security Consultant

Infoshred.Net

<mailto:Heidi@infoshredohio.net> Heidi@infoshredohio.net

Cell (440)313-8839

Click below to learn more about Infoshred's services

<<http://infoshredohio.net/>> VBC_med

From: "Boyd, Greg" <greg.boyd@reeng.com>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 9:55 AM
Subject: Re: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Mr. McAleer:

I support this ordinance and believe 5 years is the proper term.

Also, when firms are debarred from doing business with other federal, state and local governments, they reform a new corporation under another name and go back to doing business with the government which debarred it. A good example of this is Aurora Corporation who was banned from doing business with the State of Ohio and on State Term Schedule with other county and local Ohio governments for illegally sending Ohio Birth and Death records to Sri Lanka for scanning and data entry, lost records, then had the lost records used by Al Qaeda to create false identifications to gain access to the US. Six months later the same principals were under Ohio State Term delivering the exact same services as 3SG Corporation.

It is not the company that commits crimes it is the owners. The debarment needs to be tied to the principals for five years, so simply reforming under another company is not viable. This also makes full disclosure of 100% of ownership, any lobbying or sales agents who are not owners a necessary step to do business with Cuyahoga County.

Sincerely,

Greg Boyd
 President
 Results Engineering

On Fri, Oct 12, 2012 at 1:01 AM, Trevor A McAleer <tmcaleer@cuyahogacounty.us> wrote:

> Dear Vendor: Cuyahoga County Council's Public Works Committee is currently
 > considering an Ordinance establishing a County Debarment Law, Procedures
 > and Review Board for vendors who do business with the County. In short, the
 > debarment ordinance is a proposed ordinance that could debar companies from
 > doing business with the County for 5 years, 3 years, or 18 months if the
 > company has done any wrongdoing. The Public Works Committee would
 > appreciate your feedback on the proposed debarment ordinance. They are
 > inviting you to attend the next Public Works Committee, which is scheduled
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 > Attached is a copy of the proposed legislation. A full copy of the
 > legislation can also be found on our homepage listed under "featured
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 > If you plan on attending the Public Works Committee, please let us know by
 > emailing us at tmcaleer@cuyahogacounty.us. You may also send us an email
 > to the same address with any comments or questions regarding the
 > legislation if you can't attend the Public Works Committee meeting. We
 > appreciate any input you have regarding this proposed ordinance. Trevor
 > McAleer
 >

From: Patti Choby <pchoby@cobaltgroupinc.com>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 10:38 AM
Subject: Re: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

This is good idea, but I am out of town the day of the meeting and will not be able to attend.

Patti Choby

On Fri, Oct 12, 2012 at 1:01 AM, Trevor A McAleer <tmcaleer@cuyahogacounty.us> wrote:

- > Dear Vendor: Cuyahoga County Council's Public Works Committee is currently
- > considering an Ordinance establishing a County Debarment Law, Procedures
- > and Review Board for vendors who do business with the County. In short, the
- > debarment ordinance is a proposed ordinance that could debar companies from
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- > legislation if you can't attend the Public Works Committee meeting. We
- > appreciate any input you have regarding this proposed ordinance. Trevor
- > McAleer
- >
- > Use this link to log on to BuySpeed Online:
- > <https://buyspeed.opd.cuyahogacounty.us/bsol/login.jsp>
- >
- >

--
Patti Choby
Cobalt Group, Inc.
1814 East 40th Street, Suite 4E
Cleveland, OH 44103
216.849.6333
pchoby@cobaltgroupinc.com
www.cobaltgroupinc.com

<<http://www.cobaltgroupinc.com/>>

From: "James Baker" <James.Baker@ImageAccess.com>
To: "Trevor A McAleer" <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 10:51 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Trevor,

Thank you for the opportunity to respond to the proposed 'Debarment Ordinance'.

My comment(s)are:

Section B

When one uses the lesser 'reasonable belief' standard combined with the term 'any' the language appears to be too broad. Vendors may be in violation of say a 'local law' in another jurisdiction and not even be aware of it. I am assuming therefore that 'local' means 'this jurisdiction'.

I must also assume the 'prevailing wage laws' in B iii is referring to Cuyahoga County' wage laws.

I am not sure whether or not 'Failure to cooperate with a Cayuhoga County investigation or audit' as in B xi might violate the fifth amendment.

I also believe that 'Violation of any other responsible business practice', B xiv, is too vague especially when using the term 'responsible' unless such term is clearly defined.

As to the 18 month disbarment:

'Breach ...of contract' in Ci is too broad. Should say 'Breach of contract without cause'...or something similar. Not all breaches should be punished. What if the county causes the vendor to breach?

Section 4

Paragraph 1 '.....that has a substantial interest in the contractor entity or whose actions 'should be' attributed to the contractor." Since you are using the 'reasonable belief' standard in 3B and 3C, I would replace 'should be' with 'are'. Meaning reasonable belief attributed the actions to the contractor.

Under Section 7 (B) subsection (D) which begins ' Any political subdivision or government or quasi governmental board...' I would add these entities under the '....universities, colleges and trade schools'

Thanks

James Baker

From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
 Sent: Friday, October 12, 2012 1:02 AM

From: "Hawn, John" <jhawn@harris.com>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
CC: "aclose@clecom.com" <aclose@clecom.com>
Date: 10/12/2012 11:22 AM
Subject: RE: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

We would support this.

From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us<mailto:tmcaleer@cuyahogacounty.us>. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance. Trevor McAleer

Use this link to log on to BuySpeed Online: <https://buyspeed.opd.cuyahogacounty.us/bsol/login.jsp>

From: "Pat Meade" <pat@cre8veworks.com>
To: "Trevor A McAleer" <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 12:10 PM
Subject: RE: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Mr. McAleer,

It's my understanding Cuyahoga County supports second chances for convicted persons in order to become productive citizens and contribute to society. Are the terms contractors and vendors interchangeable?

While I understand the need for the debarment ordinance, would it make sense to consider drafting a section for Special Circumstances?

Are contractors who hire convicted persons prohibited from bidding? Will businesses be mandated to disclose "employees with records" as part of the RFP/RFQ process?

For example, would a person who served time for manslaughter and has been productive for six years be permitted to bid as contractor? Would a vendor be required to disclose this?

Are former military personnel that have been dishonorably discharged or discharged for bad conduct and are now contractors prohibited from bidding?

If a record has been expunged, pardoned, overturned or won on appeal, then is one required to disclose? Permitted to bid as a contractor or subcontractor?

Perhaps I watch too much TV, but this is what crossed my mind while quickly scanning the first few pages .

Thanks for asking for input,

Pat

From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM
To: PAT@cre8veworks.com
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and

From: Mary Cangelosi <mediaimpressions@sbcglobal.net>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Date: 10/12/2012 2:44 PM
Subject: Re: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Hello Trevor:

Thank you for forwarding this ordinance. I cannot attend the meeting, but would like to offer one comment. I feel that rather than have 3 levels of debarment, ie. 5 year, 3 year and 18 months, all violations should be subject to a 5 year debarment. It is no secret that there are companies that game the system, and that hurts those of us that are honest, upstanding companies competing for these contracts. A 5 year debarment would much more greatly discourage ANY sort of shenanigans, and serve notice that the county is serious about maintaining the highest level of integrity in vendor contracting.

Again, I appreciate the opportunity to comment on this ordinance!

Mary Cangelosi
Media Impressions
(440) 808-9669

From: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Sent: Fri, October 12, 2012 1:03:36 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance.
Trevor McAleer

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From: "Paul Pivato" <paul.pivato@ibuyibs.com>
To: <tmcaleer@cuyahogacounty.us>
CC: "Steve Gordon" <steve.gordon@ibuyibs.com>
Date: 10/14/2012 9:13 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026
Attachments: O2012-0026B Debarment 1.doc; City of Cleveland Ineligible Companies to Contract With.pdf

Greetings Trevor,

I wanted to share with you our feedback on the County's proposed debarment ordinance and let you know Steve and I both feel this is a necessary ordinance to put into place to help sustain the County's new credibility with the public. The City of Cleveland has a similar ordinance or business model in place that restricts companies from doing business that have been involved with wrong doing and not complying with the written code of business ethics. I have attached the file for you information.

Paul Pivato - Senior Account Manager

Independence Business Supply

4550 Hinckley Parkway

Cleveland, Ohio 44109

216-398-8880 ext 249

Cell: 216-570-1005

Fax: 216-398-6327

Paul.Pivato@IBuyIBS.com

<http://www.IBuyIBS.com>

From: Steve Gordon [mailto:steve.gordon@ibuyibs.com]
Sent: Friday, October 12, 2012 7:01 AM
To: 'Paul Pivato'
Subject: FW: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Paul,

Can you respond to this please?

Steve Gordon

4550 Hinckley Parkway

Cleveland, OH 44109

Phone: 216.398.8880 x 223

Fax: 216.398.6327

Find us on the web @ <<http://www.ibuyibs.com>> www.ibuyibs.com

Steve.Gordon@ibuyibs.com

Please consider your environmental responsibility before printing this e-mail

From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be

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From: "Derbin, Susan" <Susan.Derbin@McKesson.com>
To: "tmcaleer@cuyahogacounty.us" <tmcaleer@cuyahogacounty.us>
Date: 10/14/2012 8:04 PM
Subject: Debarment Law

As a vendor and resident of Cuyahoga County, I certainly agree we should enact such a law. It should have been enacted years ago!

Susan Derbin

McKesson Med-Surg
1-800-933-4633 ext 5 8 1 2 6
C#216-402-7614
Don't forget we have office supplies!!!

From: "Bob Green" <bob@gardenstatehwy.com>
To: "Trevor A McAleer" <tmcaleer@cuyahogacounty.us>
Date: 10/15/2012 8:14 AM
Subject: RE: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Trevor,

I think it is a great Ideal! This is a great way to weed out all of the Bad Companies.

Robert A. Green
Vice President
Garden State Highway Products, Inc.
1740 East Oak Road
Vineland, NJ 08361
856-692-7572
Fax 692-6797
<http://www.GardenStateHwy.com>

From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance. Trevor McAleer

Use this link to log on to BuySpeed Online:

From: "Flags & Poles" <joann@flagsandpoles.com>
To: "Trevor A McAleer" <tmcaleer@cuyahogacounty.us>
Date: 10/15/2012 2:47 PM
Subject: Re: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

We have read and are in total agreement with the proposed County's "Debarment Ordinance". It is very well detailed regarding this matter. Our firm will be unable to attend the Thursday, 18th meeting and therefore our input via this e-mail. Thanks!

Joann Ziegeweid, 51% Co-owner & CEO
d/b/a Flags & Poles Int'l
346 Saehler Drive
Minnesota City, MN 55959
joann@flagsandpoles.com
PH: 800-454-4095
FAX: 507.454.4095
www.flagsandpoles.com

From: Trevor A McAleer
Sent: Friday, October 12, 2012 12:01 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance. Trevor McAleer

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From: Ann Allard <AHAllard@chagrinconsulting.com>
To: Trevor A McAleer <tmcaleer@cuyahogacounty.us>
Date: 10/17/2012 3:44 PM
Subject: RE: [BULK] Cuyahoga County's Proposed Debarment Ordinance O2012-0026

I am very much in favor of anything that will only allow ethical vendors to compete for County business. That is part of why we have never gone for County work in the past.

Kind regards,

Ann H. Allard, Ph.D.
President, Chagrin Consulting Services, Inc.
A WBENC Certified Women's Business Enterprise
216-514-3301 office
216-402-9389 cell
www.chagrinconsulting.com<<http://www.chagrinconsulting.com>>
<http://www.linkedin.com/in/ahallard>

From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM
Subject: [BULK] Cuyahoga County's Proposed Debarment Ordinance O2012-0026
Importance: Low

Dear Vendor: Cuyahoga County Council's Public Works Committee is currently considering an Ordinance establishing a County Debarment Law, Procedures and Review Board for vendors who do business with the County. In short, the debarment ordinance is a proposed ordinance that could debar companies from doing business with the County for 5 years, 3 years, or 18 months if the company has done any wrongdoing. The Public Works Committee would appreciate your feedback on the proposed debarment ordinance. They are inviting you to attend the next Public Works Committee, which is scheduled on Thursday, October 18, 2012 at 11:00 AM. The meeting will take place in the Council Chambers located on the first floor of the Justice Center. The address of the Justice Center is 1200 Ontario Street, Cleveland, Ohio. Attached is a copy of the proposed legislation. A full copy of the legislation can also be found on our homepage listed under "featured items." The County Council's website is <http://council.cuyahogacounty.us>. If you plan on attending the Public Works Committee, please let us know by emailing us at tmcaleer@cuyahogacounty.us<<mailto:tmcaleer@cuyahogacounty.us>>. You may also send us an email to the same address with any comments or questions regarding the legislation if you can't attend the Public Works Committee meeting. We appreciate any input you have regarding this proposed ordinance. Trevor McAleer

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Janine Thurman - Fwd: Ohio: Cuyahoga County's Proposed Debarment Ordinance O2012-0026-CA INC., FEEDBACK

From: Trevor McAleer
To: Thurman, Janine
Date: 10/18/2012 8:16 AM
Subject: Fwd: Ohio: Cuyahoga County's Proposed Debarment Ordinance O2012-0026-CA INC., FEEDBACK
Attachments: O2012-0026B Debarment~1.doc

Can you add this to the packet of comments for the debarment ordinance.

thanks

>>> "Nieves, James N" <James.Nieves@ca.com> 10/17/2012 5:35 PM >>>

Dear Mr. McAleer,

CA, INC., is pleased to have this opportunity to submit this response for your review and consideration relative to your request for feedback per your email dated October 12, 2012.

Upon review of Ordinance No. 02012-0026, CA INC., has identified a couple of areas that may warrant further review and analysis by the County. Specifically, these areas are as follows;

Section 3, Grounds for Debarment,

(B) Three Year Debarment, sub-article iv;

Proposed language; 'Submission of false information in connection with any bids, proposals, statements of qualifications, or any other offers to the County;'

Area of concern; **Submission of false information in a bid doesn't contain an intent requirement, and thus, could punish unintentional error**

(C) 18-Month Debarment, sub-article i;

Proposed language; The Cuyahoga County Inspector General may debar, for a period of 18 months, a contractor, **based upon a reasonable belief**, for any of the following within the preceding 18 months:

- i. Breach or violation of any contract or agreement with the County; or

Area of concern; **Grounds for 18-month debarment, reasonable belief of breach or violation of contract in the mind of the IG, how would 'reasonable belief' be determined and/or defined?**

Again, CA, INC., appreciates the chance to provide comments during this review period for the County Council's Public Works Committee. If we can be of any further assistance during this process, kindly contact the undersigned.

Sincerely,

James Nieves

CA Technologies
Principal Contracts Manager
U.S. Public Sector Legal
Worldwide Law Department
Tel: 1-703-708-3218
James.Nieves@ca.com



From: Trevor A McAleer [mailto:tmcaleer@cuyahogacounty.us]
Sent: Friday, October 12, 2012 1:02 AM
Subject: Cuyahoga County's Proposed Debarment Ordinance O2012-0026

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County Council of Cuyahoga County, Ohio

Resolution No. R2012-0215

Sponsored by: Council President Connally on behalf of The MetroHealth System	A Resolution approving The MetroHealth System's policies and procedures to participate in one or more group purchasing associations for the purpose of acquiring supplies, equipment and services provided through joint purchasing arrangements in order to achieve beneficial purchasing arrangements for the year 2013, in accordance with Ohio Revised Code Section 339.05; and declaring the necessity that this Resolution become immediately effective.
-------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

WHEREAS, Ohio Revised Code Section 339.05 authorized the Board of Trustees of The MetroHealth System to annually adopt bidding procedures and purchasing policies to obtain supplies, equipment and services routinely used in the operations of the Hospital, which, upon said adoption and the approval of the County Executive and County Council, may be followed by the Board of Trustees in lieu of following the competitive bidding procedures of Ohio Revised Code Section 307.86 to 307.92.

WHEREAS, the cost of supplies necessary for hospital operations including drugs, food stuffs, and other medical and related materials has escalated at a rapid rate which requires further action to attempt to reduce expense.

WHEREAS, The MetroHealth System seeks to participate in one or more group purchasing associations available to health care facilities in order to obtain the favorable volume pricing available to the member institutions, thereby reducing the Hospital's overall expense for such supplies, equipment and services.

WHEREAS, the County Director of Law has thoroughly reviewed this recommendation to reduce the Hospital's overall supply expense.

WHEREAS, it is necessary that this Resolution become immediately effective because The MetroHealth System's current purchasing policy expires December 31, 2012; and in order that critical services provided by The MetroHealth System can continue.

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

SECTION 1. The County Council hereby approves The MetroHealth System's adoption of a purchasing policy which authorizes the President to seek membership and to participate in one or more group purchasing associations for the purpose of acquiring such supplies, equipment and services routinely used in the

operations of the Hospital which are available through group purchasing arrangements in order to achieve economies, which the System does not currently enjoy, for the 2013 Calendar Year.

SECTION 2. That the purchases of such supplies, equipment and services through group purchasing arrangements shall be exempt from the competitive bidding procedures of Ohio Revised Code Section 307.86.

SECTION 3. It is necessary that this Resolution become immediately effective because The MetroHealth System's current purchasing policy expires December 31, 2012; and in order that critical services provided by The MetroHealth System can continue. Provided that this Resolution receives the affirmative vote of eight members Council, this Resolution shall become immediately effective up the signature of the County Executive.

SECTION 4. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees that resulted 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.

On a motion by _____, seconded by _____, the foregoing Resolution was duly adopted.

Yeas:

Nays:

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee:
Committee(s) Assigned:

Journal _____
_____, 2012

County Council of Cuyahoga County, Ohio

Resolution No. R2012-0227

<p>Sponsored by: Council Executive FitzGerald/Department of Public Works on behalf of Cuyahoga County Board of Developmental Disabilities</p>	<p>A Resolution authorizing an assignment of leases from Cuyahoga County to the Cuyahoga County Board of Developmental Disabilities, effective 10/1/2012, in connection with various contracts with North Coast Community Homes, Inc. for the lease/purchase of various properties for use as group homes for persons with developmental disabilities; authorizing the County Executive to execute the assignment of leases and all other documents consistent with this Resolution, and declaring the necessity that this Resolution become immediately effective.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

WHEREAS, Cuyahoga County leases 52 properties from North Coast Community Homes, Inc. for use by the Cuyahoga County Board of Developmental Disabilities for the purpose of providing residences for individuals with developmental disabilities; and,

WHEREAS, the term of the leases is for 25 years with the option to purchase the leased properties any time after ten years after the commencement of the leases and prior to the termination of the leases; and,

WHEREAS, the Cuyahoga County Board of Developmental Disabilities desires the County to assign 52 leased properties for the purpose of purchasing the properties prior to the termination of the respective leases; and,

WHEREAS, the 52 leased properties that are subject to the Assignment of Leases are as follows:

- 1) No. CE03551 with Center Ridge House, located at 28700 Center Ridge Road, Westlake, for the period 4/8/1988 - 4/7/2013;
- 2) No. CE04031 with Richmond House, located at 1435 Richmond Road, Lyndhurst, for the period 12/15/1987 - 12/14/2012;
- 3) No. CE04227 with Bellbrook House, located at 5936 West 130th Street, Brook Park, for the period 9/22/1988 - 8/21/2013;
- 4) No. CE04224 with Lee House, located at 5041 Lee Road, Maple Heights, for the period 6/15/1988 - 6/14/2013;
- 5) No. CE04226 with South Bend House, located at 1653 and 1655 South Bend Drive, Rocky River, for the period 2/11/1988 - 2/10/2013;

- 6) No. CE04225 with Lander House, located at 1455 Lander Road, Mayfield Heights, for the period 6/20/1988 - 6/19/2013;
- 7) No. CE04223 with Nottingham House, located at 17702 Nottingham Road, Cleveland, for the period 6/20/1988 - 6/19/2013;
- 8) No. CE04459 with Bagley House, located at 19080 Bagley Road, Middleburg Heights, for the period 1/4/1989 - 1/3/2014;
- 9) No. CE04541 with Euclid House, located at 23050 Euclid Avenue, Euclid, for the period 10/18/1989 - 10/17/2014;
- 10) No. CE04592 with Highland House, located at 427 Richmond Road, Richmond Heights, for the period 9/25/1989 - 9/24/2014;
- 11) No. CE04591 with Ridge House, located at 7009 West Sprague Road, Parma, for the period 9/19/1989 - 9/18/2014;
- 12) No. CE04593 with Sprague House, located at 7001 West Sprague Road, Parma, for the period 9/19/1989 - 9/18/2014;
- 13) No. CE05008 with Albion House, located at 11607 Pearl Road, Strongsville, for the period 1/25/1990 - 1/24/2015;
- 14) No. CE05035 with Lamson House fka Granger House, located at 7325 Lamson Road, Oakwood Village, for the period 4/11/1990 - 4/10/2015;
- 15) No. CE05209 with Cedar House, located at 29400 Cedar Road, Pepper Pike, for the period 8/8/1990 - 8/7/2015;
- 16) No. CE05270 with Beachwood House, located at 24212 Cedar Road, Beachwood, for the period 8/8/1990 - 8/7/2015;
- 17) No. CE05370 with Bedford House, located at 5526 Richmond Road, Bedford Heights, for the period 11/1/1990 - 10/31/2015;
- 18) No. CE05509 with Southwest House, located at 211 East Schaaf Road, Brooklyn Heights, for the period 12/13/1990 - 12/12/2015;
- 19) No. CE05520 with Dover House, located at 263 Dover Center Road, Bay Village, for the period 10/30/1990 - 10/29/2015;
- 20) No. CE05555 with Van Aken House, located at 2980 Van Aken Boulevard, Cleveland, for the period 3/18/1991 - 3/17/2016;
- 21) No. CE05638 with Columbia House, located at 2855 Columbia Road, Westlake, for the period 12/13/1990 - 12/12/2015;
- 22) No. CE05639 with Edendale House, located at 1374 Edendale Road, Cleveland Heights, for the period 10/29/1991 - 10/28/2016;
- 23) No. CE05828 with Hillside House, located at 98 Hillside Road, Seven Hills, for the period 9/6/1991 - 9/5/2016;
- 24) No. CE05827 with Jackson House, located at 29949 Jackson Road, Orange Village, for the period 9/9/1991 - 8/8/2016;
- 25) No. CE05850 with Warrington House, located at 3270 Warrington Road, Shaker Heights, for the period 9/4/1991 - 9/3/2016;
- 26) No. CE05920 with Monticello House, located at 4520 Monticello Road, South Euclid, for the period 11/18/1991 - 11/17/2016;
- 27) No. CE05966 with Royalton House, located at 7575 Royalton Road, North Royalton, for the period 11/8/1991 - 11/7/2016;
- 28) No. CE06006 with Independence House, located at 4711 East Sprague Road, Independence, for the period 10/3/1991 - 10/2/2016;

- 29) No. CE06107 with Maple House, located at 250 Maplawn Drive, Berea, for the period 2/12/1992 - 2/11/2017;
- 30) No. CE06106 with Oak House, located at 26365 Tryon Road, Oakwood Village, for the period 6/19/1992 - 6/18/2017;
- 31) No. CE06108 with Wilson House, located at 785 Miner Road, Highland Heights, for the period 11/1/1991 - 10/31/2016;
- 32) No. CE06106 with Wood House, located at 26405 Tryon Road, Oakwood Village, for the period 7/2/1992 - 7/1/2017;
- 33) No. CE06135 with Broadway House, located at 1310 Broadway, Bedford, for the period 10/7/1991 - 10/5/2016;
- 34) No. CE06288 with Grand House, located at 19853 Grand Boulevard, Euclid, for the period 6/29/1992 - 6/28/2017;
- 35) No. CE06289 with SOM House, located at 1777 SOM Center Road, Gates Mills, for the period 1/1/1992 - 12/31/2016;
- 36) No. CE06290 with Terrace House, located at 19855 Grand Boulevard, Euclid, for the period 6/15/1991 - 6/14/2017;
- 37) No. CE06310 with Stearns House, located at 6797 Stearns Road, North Olmsted, for the period 2/12/1992 - 2/11/2017;
- 38) No. CE06382 with Fairview House, located at 4579 West 210th Street, Fairview Park, for the period 4/20/1992 - 4/19/2017;
- 39) No. CE06383 with Parkgate House, located at 9035 Parkgate, Cleveland, for the period 1/5/1993 - 1/4/2018;
- 40) No. CE06448 with Smith House, located at 6809 Smith Road, Middleburg Heights, for the period 8/19/1992 - 8/18/2017;
- 41) No. CE06611 with Solon House, located at 37025 Aurora Road, Solon, for the period 12/16/1992 - 12/15/2017;
- 42) No. CE06623 with Wallings House, located at 2491 East Wallings Road, Broadview Heights, for the period 9/16/1992 - 11/15/2017;
- 43) No. CE06664 with Jennings House, located at 22900 Jennings Road, Warrensville Heights, for the period 12/2/1992 - 12/1/2017;
- 44) No. CE06663 with Walton House, located at 14700 Alexander Road, Walton Hills, for the period 12/16/1992 - 12/15/2017;
- 45) No. CE06702 with Parma House, located at 7211 West 130th Street, Parma, for the period 6/2/1993 - 6/1/2018;
- 46) No. CE07663 with Moreland House, located at 35450 Chagrin Boulevard, Moreland Hills, for the period 11/10/1994 - 11/9/2019;
- 47) No. CE08041 with Seven Hills House, located at 6577 Broadview Road, Seven Hills, for the period 8/3/1995 - 8/2/2020;
- 48) No. CE08376 with Howe House, located at 18005 Howe Road, Strongsville, for the period 10/1/1996 - 9/30/2021;
- 49) No. CE09393 with Taft House, located at 740 Taft Road, Bedford, for the period 2/23/1998 - 2/22/2023;
- 50) No. CE09831 with Verona House, located at 4285 Verona Road, South Euclid, for the period 10/23/1998 - 10/22/2023;
- 51) No. CE0700923 with Green House, located at 1905 Green Road, Cleveland, for the period 12/17/2004 - 12/16/2029; and

- 52) No. CE0400924 with Memphis House, located at 9401 Memphis Avenue, Brooklyn, for the period 1/19/2005 - 1/18/2030.

WHEREAS, if approved, the Assignment of Leases shall become effective on October 1, 2012; and,

WHEREAS, it is necessary that this Resolution become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of a County entity.

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

SECTION 1. That the Cuyahoga County Council hereby approves the County's assignment of the following 52 leases between the County and North Coast Community Homes to the Cuyahoga County Board of Developmental Disabilities:

- 1) No. CE03551 with Center Ridge House, located at 28700 Center Ridge Road, Westlake, for the period 4/8/1988 - 4/7/2013;
- 2) No. CE04031 with Richmond House, located at 1435 Richmond Road, Lyndhurst, for the period 12/15/1987 - 12/14/2012;
- 3) No. CE04227 with Bellbrook House, located at 5936 West 130th Street, Brook Park, for the period 9/22/1988 - 8/21/2013;
- 4) No. CE04224 with Lee House, located at 5041 Lee Road, Maple Heights, for the period 6/15/1988 - 6/14/2013;
- 5) No. CE04226 with South Bend House, located at 1653 and 1655 South Bend Drive, Rocky River, for the period 2/11/1988 - 2/10/2013;
- 6) No. CE04225 with Lander House, located at 1455 Lander Road, Mayfield Heights, for the period 6/20/1988 - 6/19/2013;
- 7) No. CE04223 with Nottingham House, located at 17702 Nottingham Road, Cleveland, for the period 6/20/1988 - 6/19/2013;
- 8) No. CE04459 with Bagley House, located at 19080 Bagley Road, Middleburg Heights, for the period 1/4/1989 - 1/3/2014;
- 9) No. CE04541 with Euclid House, located at 23050 Euclid Avenue, Euclid, for the period 10/18/1989 - 10/17/2014;
- 10) No. CE04592 with Highland House, located at 427 Richmond Road, Richmond Heights, for the period 9/25/1989 - 9/24/2014;
- 11) No. CE04591 with Ridge House, located at 7009 West Sprague Road, Parma, for the period 9/19/1989 - 9/18/2014;
- 12) No. CE04593 with Sprague House, located at 7001 West Sprague Road, Parma, for the period 9/19/1989 - 9/18/2014;
- 13) No. CE05008 with Albion House, located at 11607 Pearl Road, Strongsville, for the period 1/25/1990 - 1/24/2015;
- 14) No. CE05035 with Lamson House fka Granger House, located at 7325 Lamson Road, Oakwood Village, for the period 4/11/1990 - 4/10/2015;

- 15) No. CE05209 with Cedar House, located at 29400 Cedar Road, Pepper Pike, for the period 8/8/1990 - 8/7/2015;
- 16) No. CE05270 with Beachwood House, located at 24212 Cedar Road, Beachwood, for the period 8/8/1990 - 8/7/2015;
- 17) No. CE05370 with Bedford House, located at 5526 Richmond Road, Bedford Heights, for the period 11/1/1990 - 10/31/2015;
- 18) No. CE05509 with Southwest House, located at 211 East Schaaf Road, Brooklyn Heights, for the period 12/13/1990 - 12/12/2015;
- 19) No. CE05520 with Dover House, located at 263 Dover Center Road, Bay Village, for the period 10/30/1990 - 10/29/2015;
- 20) No. CE05555 with Van Aken House, located at 2980 Van Aken Boulevard, Cleveland, for the period 3/18/1991 - 3/17/2016;
- 21) No. CE05638 with Columbia House, located at 2855 Columbia Road, Westlake, for the period 12/13/1990 - 12/12/2015;
- 22) No. CE05639 with Edendale House, located at 1374 Edendale Road, Cleveland Heights, for the period 10/29/1991 - 10/28/2016;
- 23) No. CE05828 with Hillside House, located at 98 Hillside Road, Seven Hills, for the period 9/6/1991 - 9/5/2016;
- 24) No. CE05827 with Jackson House, located at 29949 Jackson Road, Orange Village, for the period 9/9/1991 - 8/8/2016;
- 25) No. CE05850 with Warrington House, located at 3270 Warrington Road, Shaker Heights, for the period 9/4/1991 - 9/3/2016;
- 26) No. CE05920 with Monticello House, located at 4520 Monticello Road, South Euclid, for the period 11/18/1991 - 11/17/2016;
- 27) No. CE05966 with Royalton House, located at 7575 Royalton Road, North Royalton, for the period 11/8/1991 - 11/7/2016;
- 28) No. CE06006 with Independence House, located at 4711 East Sprague Road, Independence, for the period 10/3/1991 - 10/2/2016;
- 29) No. CE06107 with Maple House, located at 250 Maplelawn Drive, Berea, for the period 2/12/1992 - 2/11/2017;
- 30) No. CE06106 with Oak House, located at 26365 Tryon Road, Oakwood Village, for the period 6/19/1992 - 6/18/2017;
- 31) No. CE06108 with Wilson House, located at 785 Miner Road, Highland Heights, for the period 11/1/1991 - 10/31/2016;
- 32) No. CE06106 with Wood House, located at 26405 Tryon Road, Oakwood Village, for the period 7/2/1992 - 7/1/2017;
- 33) No. CE06135 with Broadway House, located at 1310 Broadway, Bedford, for the period 10/7/1991 - 10/5/2016;
- 34) No. CE06288 with Grand House, located at 19853 Grand Boulevard, Euclid, for the period 6/29/1992 - 6/28/2017;
- 35) No. CE06289 with SOM House, located at 1777 SOM Center Road, Gates Mills, for the period 1/1/1992 - 12/31/2016;
- 36) No. CE06290 with Terrace House, located at 19855 Grand Boulevard, Euclid, for the period 6/15/1991 - 6/14/2017;
- 37) No. CE06310 with Stearns House, located at 6797 Stearns Road, North Olmsted, for the period 2/12/1992 - 2/11/2017;

- 38) No. CE06382 with Fairview House, located at 4579 West 210th Street, Fairview Park, for the period 4/20/1992 - 4/19/2017;
- 39) No. CE06383 with Parkgate House, located at 9035 Parkgate, Cleveland, for the period 1/5/1993 - 1/4/2018;
- 40) No. CE06448 with Smith House, located at 6809 Smith Road, Middleburg Heights, for the period 8/19/1992 - 8/18/2017;
- 41) No. CE06611 with Solon House, located at 37025 Aurora Road, Solon, for the period 12/16/1992 - 12/15/2017;
- 42) No. CE06623 with Wallings House, located at 2491 East Wallings Road, Broadview Heights, for the period 9/16/1992 - 11/15/2017;
- 43) No. CE06664 with Jennings House, located at 22900 Jennings Road, Warrensville Heights, for the period 12/2/1992 - 12/1/2017;
- 44) No. CE06663 with Walton House, located at 14700 Alexander Road, Walton Hills, for the period 12/16/1992 - 12/15/2017;
- 45) No. CE06702 with Parma House, located at 7211 West 130th Street, Parma, for the period 6/2/1993 - 6/1/2018;
- 46) No. CE07663 with Moreland House, located at 35450 Chagrin Boulevard, Moreland Hills, for the period 11/10/1994 - 11/9/2019;
- 47) No. CE08041 with Seven Hills House, located at 6577 Broadview Road, Seven Hills, for the period 8/3/1995 - 8/2/2020;
- 48) No. CE08376 with Howe House, located at 18005 Howe Road, Strongsville, for the period 10/1/1996 - 9/30/2021;
- 49) No. CE09393 with Taft House, located at 740 Taft Road, Bedford, for the period 2/23/1998 - 2/22/2023;
- 50) No. CE09831 with Verona House, located at 4285 Verona Road, South Euclid, for the period 10/23/1998 - 10/22/2023;
- 51) No. CE0700923 with Green House, located at 1905 Green Road, Cleveland, for the period 12/17/2004 - 12/16/2029; and
- 52) No. CE0400924 with Memphis House, located at 9401 Memphis Avenue, Brooklyn, for the period 1/19/2005 - 1/18/2030.

SECTION 2. That the County Executive is authorized to execute an Assignment of Leases agreement with the Cuyahoga County Board of Developmental Disabilities in accordance with this Resolution and to take any other measures necessary to effectuate the assignments authorized herein to take place as of October 1, 2012.

SECTION 3. It is necessary that this Resolution become immediately effective in order that critical services provided by Cuyahoga County can continue, and to continue the usual and daily operation of a County entity. Provided that this Resolution receives the affirmative vote of eight members of Council, this Resolution shall become immediately effective upon the signature of the County Executive.

SECTION 4. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the 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 all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Resolution was duly adopted.

Yeas:

Nays:

_____	_____
County Council President	Date

_____	_____
County Executive	Date

_____	_____
Clerk of Council	Date

First Reading/Referred to Committee: October 23, 2012
Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____
_____, 20__

County Council of Cuyahoga County, Ohio

Ordinance No. O2012-0026

Sponsored by: County Executive FitzGerald and Councilmembers Jones and Germana	An Ordinance establishing the Cuyahoga County Debarment Law, Procedures and Review Board; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Article 3, Section 9, Subsections 4 and 9 of the Cuyahoga County Charter empowers the Cuyahoga County Council to establish procedures governing the making of County contracts and to establish the procedures for making public improvements; and,

WHEREAS, Article 3, Section 9, Subsection 3 of the Cuyahoga County Charter empowers the Cuyahoga County Council to establish boards and commissions as the Council determines to be necessary for the efficient administration of the County; and,

WHEREAS, it is necessary for Cuyahoga County to establish its debarment procedures to ensure fairness and good government in the County's contracting.

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

SECTION 1: HOME RULE POWERS ASSERTED.

Notwithstanding any requirements or conflicting provisions of any other law or regulation, Cuyahoga County hereby exercises its home rule powers to establish its own Debarment Law and empowers the Cuyahoga County Inspector General and the Cuyahoga County Debarment Review Board to administer the Debarment Law in accordance with this Ordinance.

SECTION 2: SCOPE OF DEBARMENT.

(A) Prohibitions on Debarred Contractors.

1. **No Submission of Offers.** A contractor debarred under this Ordinance may not submit any bids, proposals, statements of qualifications, or any other offers to contract with, enter into an agreement with, or to in any other way do business with Cuyahoga County for the duration of the debarment period regardless of whether the work under the proposed

contract or agreement will take place after expiration of the debarment period.

2. **No Contracting with the County.** A contractor debarred under this Ordinance may not enter into any contract or agreement with the County for the duration of the debarment period.
3. **No Subcontracting on County Contracts.** A contractor debarred under this Ordinance may not serve as a subcontractor on any county contract or agreement for the duration of the debarment period.

(B) Prohibitions on County Contractors.

No contractor may subcontract any work on a county project to a debarred contractor. A contractor who knowingly subcontracts work to a debarred contractor shall be subject to automatic debarment for a period of three years.

(C) Prohibitions on County.

1. The County may not contract with, enter into an agreement with, or otherwise do business with a debarred contractor.
2. The County may not allow any of its contractors to subcontract with any debarred contractor on a county project.
3. The County shall automatically disqualify any and all bids, proposals, statements of qualifications, or any other offers received from a debarred contractor during the period of debarment.

SECTION 3: GROUNDS FOR DEBARMENT.

(A) Five-Year Debarment. The Cuyahoga County Inspector General may debar, for a period of five years, a contractor for a conviction of or a civil judgment anywhere in the United States, its territories, or outlying areas, for any of the following within the preceding five years:

- i. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
- ii. Violation of any federal, state, or local ethics laws, regulations, or policies;
- iii. Violation of any federal or state antitrust statutes, regulations, or policies;

- iv. Violation of any federal, state, or local laws, regulations, or policies relating to the submission of bids, proposals, statements of qualifications, or any other type of offers;
- v. Collusion to restrain competition by any means;
- vi. Embezzlement;
- vii. Theft;
- viii. Forgery;
- ix. Bribery;
- x. Falsification;
- xi. Destruction of records;
- xii. Making false statements;
- xiii. Tax evasion;
- xiv. Criminal violation of any federal, state, or local tax laws;
- xv. Violation of any federal, state, or local laws intended to protect against abusive debt collection practices, such as the federal Fair Debt Collection Practices Act;
- xvi. Receiving stolen property;
- xvii. Intentionally affixing a label indicating that a product was made in a jurisdiction when the product was not made in that jurisdiction;
- xviii. Any other cause listed in Section 3(B) of this Ordinance; or
- xix. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor.

(B) Three-Year Debarment. The Cuyahoga County Inspector General may debar, for a period three years, a contractor, based upon a reasonable belief, for any of the following within the preceding three years:

- i. Violation of the terms of a public contract or subcontract in a serious manner, such as:

- a. Willful or reckless failure to perform in accordance with the terms of one or more contracts; or
 - b. A history of failure to perform, or of unsatisfactory performance of, one or more contracts;
- ii. Violation of the terms, conditions, or requirements of a Small Business Enterprise program, a Disadvantaged Business program, a Minority and Female Business Enterprise program, or any other similar program, including, but not limited to, acting as a front company by purporting to be a Small Business Enterprise, a Disadvantaged Business, or a Minority or Female Business when not in fact;
- iii. Violation of prevailing wage laws;
- iv. Submission of false information in connection with any bids, proposals, statements of qualifications, or any other offers to the County or any other public body;
- v. Abuse of the selection process by repeatedly withdrawing bids or proposals before purchase orders or contracts are issued or failing to accept orders based upon firm bids;
- vi. Attempting to influence a public employee to breach ethical conduct standards or to influence contract award;
- vii. Commission of an unfair trade practice under any federal, state, or local laws;
- viii. Failure to cooperate in monitoring contract performance by refusing to provide information or documents required in a contract or failing to respond to complaints;
- ix. Failure to cooperate with a Cuyahoga County investigation or audit;
- x. Filing a lawsuit against Cuyahoga County that a court finds to be frivolous or filed in bad faith;
- xi. Provided that the tax or court-cost liability is determined to finality and the contractor is delinquent in making payment, delinquent taxes or court costs as follows:
 - a. Delinquent federal or state taxes in an amount that exceeds \$3,000; or

- b. Any delinquent Cuyahoga County taxes or court costs in any amount;
- xii. Any other cause listed in Section 3(A) of this Ordinance without regard to whether there is a conviction or civil judgment against the contractor for such cause;
- xiii. Violation of any other responsible business practice; or
- xiv. Any other cause determined by the Inspector General to be sufficiently serious and compelling so as to represent lack of good faith or responsibility by the contractor.

(C) 18- Month Debarment. The Cuyahoga County Inspector General may debar, for a period of 18 months, a contractor, based upon a reasonable belief, for any of the following within the preceding 18 months:

- i. Breach or violation of any contract or agreement with the County; or
- ii. Commission of an act of moral turpitude in its business practices not provided for in Section 3, subsections A and B herein.

(D) TERM OF DEBARMENT IF EXTENUATING CIRCUMSTANCES EXIST.

If the Inspector General is satisfied that extenuating circumstances warrant a reduction in the duration of a debarment, the Inspector General may reduce the duration of a debarment as follows:

- i. The Inspector General may reduce the duration of a five-year debarment under Section 3(A) to a three-year debarment;
- ii. The Inspector General may reduce the duration of a three-year debarment under Section 3(B) to an 18-month debarment; or
- iii. The Inspector General may reduce the duration of an 18-month debarment under Section 3(C) to a one-year debarment.

If the Inspector General reduces the duration of a debarment as provided herein, the Inspector General must expressly identify the extenuating circumstances in the Notice of Debarment.

SECTION 4. ACTIONS OF ASSOCIATED PERSONS OR ENTITIES GIVING RISE TO DEBARMENT OR SUSPENSION OF CONTRACTORS.

If a contractor is an entity, it shall be subject to debarment under this Ordinance if the actions or inactions giving rise to debarment are of a person or entity (hereinafter “associated person” or “associated entity”) that has a substantial interest in the contractor entity or whose actions should be attributed to the contractor. The Inspector General shall consider the actions of an associated person or associated entity in determining whether the contractor shall be debarred. The Inspector General may determine that the associated person or entity has a substantial interest in the contractor entity or that its actions should be attributed to the contractor entity, and may thus debar the contractor entity, if any of the following exists:

- i. The associated person or associated entity has either a direct or beneficial ownership or control of five percent or more of the contractor entity;
- ii. The associated person or associated entity is an officer, director, or otherwise involved in the management of the contractor entity;
- iii. The associated person or associated entity has participated in contract negotiations, is a signatory to a contract, or has the authority to establish, control, or manage the contract performance or labor practices of the contractor;
- iv. The associated person or associated entity is a parent, subsidiary, or other affiliate of the contractor entity;
- v. The associated person or associated entity provided any seed money or other monetary support within the last five years to the contractor entity;
- vi. The associated person or associated entity provided any loans, except for loans provided by federally chartered banks and credit unions, (whether paid or unpaid) within the last five years to the contractor entity; or
- vii. Any other action of an associated person or associated entity giving rise to the debarment or suspension of contractors

SECTION 5. DEBARMENT WEB SITE.

The County shall give notice of debarment under this Ordinance on the County’s web site as follows:

- i. The Agency of Inspector General shall maintain a listing on its web site of all debarred contractors. The listing shall include the date of the issuance of the debarment and the expiration thereof.

- ii. The Cuyahoga County Office of Procurement and Diversity shall provide a link on its web site to the Agency of Inspector General's list of debarred contractors.
- iii. The Agency of Inspector General shall exercise good faith efforts to expeditiously remove contractors from the list of debarred contractors upon the expiration of the debarment period or reversal of the Agency's debarment of a contractor.

SECTION 6: THE CUYAHOGA COUNTY DEBARMENT REVIEW BOARD.

(A) Establishment. There is hereby established the Cuyahoga County Debarment Review Board. It shall consist of the following five members:

1. The Cuyahoga County Fiscal Officer;
2. A member of the Cuyahoga County Council appointed by the Council President as soon as practicable after the enactment of this Ordinance and immediately following each organizational meeting of the Cuyahoga County Council, who shall serve until his or her successor is appointed; and
3. Three residents of Cuyahoga County appointed by the County Executive and confirmed by the Cuyahoga County Council. None of these members may be an employee of Cuyahoga County while serving on the Board. Members shall have appropriate experience and qualifications to serve on this Board, such as, but not limited to, experience in contracting, law, arbitration, or prior service on public boards. Subject to Council's approval, the County Executive may remove any of these three members for inefficiency, neglect of duty, malfeasance, or if they no longer qualify to serve on the Board. The term of each member shall be five years, and the terms shall be staggered so that no term expires less than one year of the expiration of any other term. No member shall serve more than two consecutive terms. Of the terms for the initial appointees, one shall be appointed for a term of five years commencing on February 1, 2013, and expiring on January 31, 2018, one shall be appointed for a term of four years commencing on February 1, 2013, and expiring on January 31, 2017, and one shall be appointed for a term of three years commencing on February 1, 2013, and expiring on January 31, 2016. All subsequent terms shall commence on February 1st of the year in which the term expires. If a vacancy occurs for any unexpired term, the vacancy shall be filled in the same manner as a regular appointment through appointment by the County Executive subject to

Council's confirmation, and the new member's term shall last through the end of the unexpired term for which he or she is appointed.

(B) Jurisdiction. The Cuyahoga County Debarment Review Board shall review and determine—including the powers to affirm, reverse, modify, and remand—any matters that are submitted for its consideration pursuant to the Cuyahoga County Code of Ordinances.

(C) Alternates. The County officials serving on the Cuyahoga County Debarment Review Board shall have alternates appointed as follows:

1. The County Executive shall appoint two alternates to act in the place of the Cuyahoga County Fiscal Officer on the Debarment Review Board and attend meetings, with full voting rights, if the Fiscal Officer is unavailable or has a conflict of interest on a matter pending before the Board.
2. The Council President shall appoint two Council members to serve as a pool of alternates to act in the place of the appointed Council member on the Debarment Review Board and attend meetings, with full voting rights, if the appointed Council member is unavailable or has a conflict of interest on a matter pending before the Board.

(D) Officers. The Fiscal Officer shall serve as Chairperson of the Debarment Review Board. If the Fiscal Officer is absent from any meeting, the Board shall choose one of its members to chair that meeting. For purposes of this section, the Fiscal Officer shall include his or her alternates.

(E) Compensation. The members of the Debarment Review Board shall not receive compensation for their service on the Board. Members of the Debarment Review Board shall be entitled to reimbursement of reasonable and necessary expenses incurred by them in the exercise of their duties.

(F) Clerk of the Debarment Review Board. The County Executive shall designate a staff person to serve as the Clerk of Debarment Review Board. The Clerk shall be responsible for publishing the agendas and meeting notices and shall record and publish the minutes.

(G) Agendas and Meeting Notices. The Clerk of the Debarment Review Board shall publish the notice and agenda for each Board meeting on the County's web site no later than 6:00 p.m. on the second business day before the Board meeting. The Board may amend the agenda and may also consider items not on the agenda by a vote of a majority of the members present either personally or through their alternates.

(H) Regular Meetings. The Debarment Review Board shall schedule regular meetings to take place at least once every two months at a determined time by the Board. If no business is pending before the Board, the Clerk of the Board may cancel any regular meeting for lack of sufficient business pending before the Board by publishing the cancellation notice on the County's web site.

(I) Special Meetings. The Debarment Review Board may conduct special meetings at a time other than its regularly scheduled meeting times. In the event of an emergency as determined by the Fiscal Officer, the Board may conduct a meeting with less notice than that required under Section 6(G) herein. For any special or emergency meeting, in addition to the notice requirements of Section 6(G), the Clerk of the Board shall also send notice to all news media organizations that request to be notified of such meetings.

(J) Public Meetings. The meetings of the Debarment Review Board shall be open to the public. The Board shall also provide an opportunity for public comment on matters before the Board toward the beginning of the meeting. The Board may require presenters to register with the Board before speaking and may set time limits on presentations, which may be extended at the discretion of the Chairperson.

(K) Executive Sessions. The Debarment Review Board may go into executive session to discuss and consider matters permitted to be discussed or considered in executive sessions under the Ohio Open Meetings Act. A motion to go into executive session must state the topic(s) of the executive session and approved by a majority of the members present through a roll call vote.

(L) Minutes. The Clerk of the Debarment Review Board shall prepare and publish the minutes of each Board meeting on the County's web site within a week of their approval.

(M) Journal. The Clerk of the Debarment Review Board shall maintain a Journal of the Board, containing the notices, agendas, and minutes of all Board meetings. The journal may be maintained electronically through an electronic system.

(N) Quorum. A quorum of the Debarment Review Board shall consist of three members attending personally or through their alternates.

(O) Vote Required for Board Actions. Board action shall require the affirmative vote of any three members attending personally or through their alternates. Amendments to items before the Board and parliamentary motions may be adopted by a majority of those present, provided that a quorum is present.

(P) **Rules of Procedure.** The Debarment Review Board may adopt its own Rules of Procedure.

SECTION 7. DEBARMENT PROCEDURES.

The following procedures shall govern the debarment process:

(A) Debarment by the Inspector General:

i. **Notice of Potential Debarment and Opportunity for Contractor to Respond.**

- a. Prior to debarment, the Inspector General shall provide a written “Notice of Potential Debarment” to the contractor. The Notice of Potential Debarment shall include all of the following:
 1. A notice that the Inspector General is considering debarring the contractor;
 2. A notice that if the contractor is debarred, the contractor will not be able to enter into any contracts or agreements with the County and that it will not be able to submit any bids, proposals, statements of qualifications, or any other offers to the County;
 3. A notice that if the contractor is debarred, the contractor will be barred from doing any work as a subcontractor on a county contract or agreement;
 4. A notice that if the contractor is debarred, the County will automatically disqualify any bids, proposals, statements of qualifications, or any other offers from the contractor;
 5. A notice of the grounds for the potential debarment;
 6. A notice of the duration of the potential debarment;
 7. A notice that the contractor has the right to submit written materials and evidence to the Inspector

General to explain why the contractor should not be debarred;

8. A notice of the due date and time by which any written materials and evidence submitted by the contractor must be received by the Inspector General. The due date and time may not be less than 14 calendar days and no more than 60 calendar days from the Inspector General's mailing or other means of transmitting the notice to the contractor; and
9. A notice that the contractor has the right to request a meeting with the Inspector General or his or her representative to explain the contractor's evidence and why the contractor should not be debarred. The Notice shall specify the location and two dates on which the meeting may take place if the contractor were to request a meeting. The Notice shall also specify the means and deadline by which the contractor may request the meeting and choose one of the two dates provided by the Inspector General in the Notice. The Notice shall also provide that if the contractor does not request the meeting by the deadline and in the manner provided for in the Notice, the contractor shall be deemed to have waived its right to the meeting.

ii. Inspector General's Decision on Debarment.

- a. After expiration of the time period provided in the Notice of Potential Debarment in which the contractor may respond to the Notice of Potential Debarment, the Inspector General shall render a decision on the potential debarment within a reasonable time period under the circumstances.
- b. If the Inspector General determines not to debar the contractor, the Inspector General shall issue a written notice of his/her determination to the contractor.
- c. If the Inspector General determines to debar the contractor, the Inspector General shall do all of the following:

1. The Inspector General shall add the contractor on the listing of debarred contractors on its web site and shall issue a written “Notice of Debarment” to the Contractor.
2. The Notice of Debarment shall include all of the following:
 - i. A notice that the contractor has been debarred;
 - ii. A notice that the debarred contractor may not submit any bids, proposals, statements of qualifications, or any other such offers to the County or otherwise enter into any contract or agreement with the County;
 - iii. A notice that the debarred contractor may not do any work as a subcontractor on any county contract or agreement;
 - iv. A notice that the County will automatically disqualify any bids, proposals, statements of qualifications, or any other contractual offers to the County from the debarred contractor;
 - v. A notice of the duration of the debarment, including the starting and expiration dates of the debarment;
 - vi. A notice that the debarred contractor may appeal the debarment to the Debarment Review Board within 30 days by filing the original copy of its Notice of Appeal with the Inspector General and a copy with the Clerk of the Debarment Review Board;
 - vii. A notice of the exact due date on which the 30th day falls and by which the Notice of Appeal must be received by the Inspector General and the Clerk of the Debarment Review Board;
 - viii. A notice that the Notice of Appeal must include, with sufficient detail and factual

background, the specific assignments of error upon which the debarred contractor seeks to rely in its appeal before the Debarment Review Board;

- ix. A notice that the debarred contractor bears the burden of proof before the Debarment Review Board;
- x. A notice that the debarred contractor has the right to introduce testimony and to cross-examine witnesses at the hearing before the Debarment Review Board;
- xi. A notice that if the debarred contractor intends to introduce evidence before the Debarment Review Board that was not submitted to the Inspector General, the debarred contractor must identify all such evidence with specificity and include copies of any written evidence in its Notice of Appeal;
- xii. A notice that the debarred contractor may not introduce any evidence at the hearing before the Debarment Review Board that was not submitted to the Inspector General in response to the Notice of Potential Debarment or included with its Notice of Appeal as provided in subsection xi herein; and
- xiii. A notice that a debarred contractor's failure to file its Notice of Appeal as provided herein within the 30-day time period as provided in the Notice of Debarment is a jurisdictional failure that may not be otherwise remedied.

iii. Appeal to the Debarment Review Board.

- a. A contractor may appeal the Inspector General's decision to affirm the debarment to the Cuyahoga County Debarment Review Board within 30 days of the Inspector General's issuance of the decision.

- b. The Debarment Review Board shall set the appeal for a hearing in an open meeting within a reasonable time period.
- c. The debarred contractor shall bear the burden of proof before the Debarment Review Board.
- d. The debarred contractor shall have the right to introduce testimony and to cross-examine witnesses at the hearing.
- e. The Debarment Review Board shall render its decision on the appeal within a reasonable time period.

iv. **Appeal to the Cuyahoga County Court of Common Pleas.**

- a. If the Debarment Review Board affirms the Inspector General's debarment, the debarred contractor may appeal the Board's decision to the Cuyahoga County Court of Common Pleas within 30 days of the Board's issuance of its decision.
- b. The appeal to the Court of Common Pleas shall be governed by Revised Code Chapter 2506.

(B) Suspensions of Contractors: The Inspector General may suspend, without additional review, for a period not to exceed one year, a contractor currently suspended or debarred by any of the following, provided that such suspension may not last longer than the underlying suspension or debarment:

(A) The United States Government or any board, commission, committee, department, agency, or other authority thereof;

(B) The District of Columbia, Puerto Rico or any of the 50 States or any board, commission, committee, department, agency, or other authority thereof;

(C) Any quasi-governmental entity, including, but not limited to, non-profit, private corporations, such as JobsOhio or the Indiana Economic Development Corporation, established by any of the 50 States, the District of Columbia, or Puerto Rico; or

(D) Any political subdivision or other governmental or quasi-governmental board, commission, committee, corporation, or other such entity in the United States, including, but not limited to, counties, municipalities, villages, townships, school districts, housing authorities, solid waste districts, sewer districts, port authorities, boards of developmental disabilities, boards of

health, boards of alcohol, drug and mental health services, land banks, and community development corporations.

SECTION 8. PROSPECTIVE APPLICATION.

This Ordinance shall apply prospectively, and any debarment under this Ordinance shall not act to invalidate otherwise properly authorized county contracts entered before enactment of this Ordinance.

SECTION 9. GOOD FAITH IN EXERCISING DISCRETION

The Cuyahoga County Inspector General and Debarment Review Board shall exercise their discretion under this Ordinance in good faith to ensure consistent application among similarly situated contractors.

SECTION 10. IMPACT OF REVERSAL OR EXPIRATION OF DEBARMENT.

A debarment under this Ordinance that is either expired or reversed by the Debarment Review Board or a court under R.C. Chapter 2506 may no longer be used for any purposes against the debarred contractor.

SECTION 11. EXCEPTIONS AND EXEMPTIONS.

(A) Emergency Contracts and Purchases.

The prohibitions outlined in this Ordinance shall not apply to any contracts made for any emergency events pursuant to Section 3.16 of the Cuyahoga County Contracting and Purchasing Procedures Ordinance.

(B) Sole Source Contracts.

If a County contracting authority is unable to identify more than one source through which a purchase or contract may be made, and the sole source is on the Debarred Contractors' List, the contracting authority may apply to the Cuyahoga County Council for an exemption from the requirements of this Ordinance. If Council is satisfied with the sole-source status of the contractor and the need for the proposed contract or purchase, it may grant the exemption by adopting a resolution.

SECTION 12. TRAINING.

The Inspector General shall train vendors on the County's debarment requirements and procedures as part of the vendor ethics trainings required by the Ethics Ordinance.

SECTION 13. It is necessary that this Ordinance become immediately effective in order that critical services being provided by Cuyahoga County can continue without

interruption, and to continue the usual daily operation of the County. Provided that this Ordinance receives the affirmative vote of eight members of Council, this Ordinance shall become immediately effective upon the signature of the County Executive.

SECTION 14. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: August 28, 2012

Committee(s) Assigned: Public Works, Procurement & Contracting

Additional Sponsorship Requested: October 18, 2012

Journal _____
_____, 2012

[PROPOSED SUBSTITUTE ORDINANCE]

County Council of Cuyahoga County, Ohio

Ordinance No. O2012-0026

Sponsored by: County Executive FitzGerald and Councilmembers Jones and Germana	An Ordinance establishing the Cuyahoga County Debarment Law, Procedures and Review Board; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Article 3, Section 9, Subsections 4 and 9 of the Cuyahoga County Charter empowers the Cuyahoga County Council to establish procedures governing the making of County contracts and to establish the procedures for making public improvements; and,

WHEREAS, Article 3, Section 9, Subsection 3 of the Cuyahoga County Charter empowers the Cuyahoga County Council to establish boards and commissions as the Council determines to be necessary for the efficient administration of the County; and,

WHEREAS, it is necessary for Cuyahoga County to establish its debarment procedures to ensure fairness and good government in the County's contracting.

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

SECTION 1: HOME RULE POWERS ASSERTED.

Notwithstanding any requirements or conflicting provisions of any other law or regulation, Cuyahoga County hereby exercises its home rule powers to establish its own Debarment Law and empowers the Cuyahoga County Inspector General and the Cuyahoga County Debarment Review Board to administer the Debarment Law in accordance with this Ordinance.

SECTION 2: SCOPE OF DEBARMENT.

(A) Prohibitions on Debarred Contractors.

1. **No Submission of Offers.** A contractor debarred under this Ordinance may not submit any bids, proposals, statements of qualifications, or any other offers to contract with, enter into an agreement with, or to in any other way do business with Cuyahoga County for the duration of the debarment period regardless of whether the work under the proposed

contract or agreement will take place after expiration of the debarment period.

2. **No Contracting with the County.** A contractor debarred under this Ordinance may not enter into any contract or agreement with the County for the duration of the debarment period.
3. **No Subcontracting on County Contracts.** A contractor debarred under this Ordinance may not serve as a subcontractor on any county contract or agreement for the duration of the debarment period.

(B) Prohibitions on County Contractors.

No contractor may subcontract any work on a county project to a debarred contractor. A contractor who knowingly subcontracts work to a debarred contractor shall be subject to automatic debarment for a period of three years.

(C) Prohibitions on County.

1. The County may not contract with, enter into an agreement with, or otherwise do business with a debarred contractor.
2. The County may not allow any of its contractors to subcontract with any debarred contractor on a county project.
3. The County shall automatically disqualify any and all bids, proposals, statements of qualifications, or any other offers received from a debarred contractor during the period of debarment.

SECTION 3: GROUNDS FOR DEBARMENT.

(A) Five-Year Debarment. From the effective date of this Ordinance through December 31, 2014, ~~the~~ the Cuyahoga County Inspector General may debar, for a period of five years, a contractor for a conviction of or a civil judgment within the preceding five years anywhere in the United States, its territories, or outlying areas, for any of the following ~~within the preceding five years~~:

- i. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
- ii. Violation of any federal, state, or local ethics laws, regulations, or policies;

- iii. Violation of any federal or state antitrust statutes, regulations, or policies;
- iv. Violation of any federal, state, or local laws, regulations, or policies relating to the submission of bids, proposals, statements of qualifications, or any other type of offers;
- v. Collusion to restrain competition by any means;
- vi. Embezzlement;
- vii. Theft;
- viii. Forgery;
- ix. Bribery;
- x. Falsification;
- xi. Destruction of records;
- xii. Making false statements;
- xiii. Tax evasion;
- xiv. Criminal violation of any federal, state, or local tax laws;
- xv. Violation of any federal, state, or local laws intended to protect against abusive debt collection practices, such as the federal Fair Debt Collection Practices Act;
- xvi. Receiving stolen property;
- xvii. Intentionally affixing a label indicating that a product was made in a jurisdiction when the product was not made in that jurisdiction;
- xviii. Any other cause listed in Section 3(B) **or Section 3(C)** of this Ordinance; or
- xix. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor.

(B) Effective January 1, 2015, and thereafter, the Cuyahoga County Inspector General may debar, for a period of five years, a contractor for a conviction of or a civil judgment within the preceding five years anywhere

in the United States, its territories, or outlying areas, for any cause listed in Section 3(A) or Section 3(B) provided that the conviction or civil judgment took place on or after the effective date of this Ordinance.

(B) (C) Three-Year Debarment. The Cuyahoga County Inspector General may debar, for a period three years, a contractor, based upon a reasonable belief, for any of the following within the preceding three years:

- i. Violation of the terms of a public contract or subcontract in a serious manner, such as:
 - a. Willful or reckless failure to perform in accordance with the terms of one or more contracts; or
 - b. A history of failure to perform, or of unsatisfactory performance of, one or more contracts;
- ii. Violation of the terms, conditions, or requirements of a Small Business Enterprise program, a Disadvantaged Business program, a Minority and Female Business Enterprise program, or any other similar program, including, but not limited to, acting as a front company by purporting to be a Small Business Enterprise, a Disadvantaged Business, ~~or~~ a Minority or Female Business, **a Veteran owned business, or any other such type of business** when not in fact;
- iii. Violation of prevailing wage laws;
- iv. Submission of false information in connection with any bids, proposals, statements of qualifications, or any other offers to the County or any other public ~~body~~ **or private entity**;
- v. Abuse of the selection process by repeatedly withdrawing bids or proposals before purchase orders or contracts are issued or failing to accept orders based upon firm bids;
- vi. Attempting to influence a public employee to breach ethical conduct standards or to influence contract award;
- vii. Commission of an unfair trade practice under any federal, state, or local laws;
- viii. Failure to cooperate in monitoring contract performance by refusing to provide information or documents required in a contract or failing to respond to complaints;

- ix. Failure to cooperate with a Cuyahoga County **or any other public** investigation or audit;
- x. Filing a lawsuit against Cuyahoga County that a court finds to be frivolous or filed in bad faith;
- xi. Provided that the tax or court-cost liability is determined to finality and the contractor is delinquent in making payment, delinquent taxes or court costs as follows:
 - a. Delinquent federal or state taxes in an amount that exceeds \$3,000; or
 - b. Any delinquent Cuyahoga County taxes or court costs in any amount;
- xii. Any other cause listed in Section 3(A) **or Section 3(B)** of this Ordinance without regard to whether there is a conviction or civil judgment against the contractor for such cause;
- xiii. Violation of any other responsible business practice; or
- xiv. Any other cause determined by the Inspector General to be sufficiently serious and compelling so as to represent lack of good faith or responsibility by the contractor.

(C) (D) 18- Month Debarment. The Cuyahoga County Inspector General may debar, for a period of 18 months, a contractor, based upon a reasonable belief, for any of the following within the preceding 18 months:

- i. Breach or violation of any contract or agreement with the County; or
- ii. Commission of an act of moral turpitude in its business practices not provided for in Section 3, subsections A and B herein.

(E) SINGLE DEBARMENT PER INCIDENT.

The Inspector General may not debar a contractor under this Ordinance more than once for the same incident. However, if a contractor is debarred under Section 3(C) or Section 3(D) and the contractor is later convicted or subjected to a civil judgment for the same incident for which the contractor was debarred, the Inspector General may automatically extend the duration of the debarment to five years. If the Inspector General extends the duration of any debarment under this provision, the contractor may appeal the extension to the Debarment Review Board and from there to the Cuyahoga County Court

of Common Pleas under Ohio Revised Code Chapter 2506 in the same manner as it has the right to appeal the initial debarment under Section 7 of this Ordinance.

~~(D)~~ (F) TERM OF DEBARMENT IF EXTENUATING CIRCUMSTANCES EXIST.

If the Inspector General is satisfied that extenuating circumstances warrant a reduction in the duration of a debarment, the Inspector General may reduce the duration of a debarment as follows:

- i. The Inspector General may reduce the duration of a five-year debarment under Section 3(A) **or Section 3 (B)** to a three-year debarment;
- ii. The Inspector General may reduce the duration of a three-year debarment under Section 3~~(B)~~(C) to an 18-month debarment; or
- iii. The Inspector General may reduce the duration of an 18-month debarment under Section 3~~(C)~~ (D) to a one-year debarment.

If the Inspector General reduces the duration of a debarment as provided herein, the Inspector General must expressly identify the extenuating circumstances in the Notice of Debarment.

SECTION 4. ACTIONS OF ASSOCIATED PERSONS OR ENTITIES GIVING RISE TO DEBARMENT OR SUSPENSION OF CONTRACTORS.

If a contractor is an entity, it shall be subject to debarment under this Ordinance if the actions or inactions giving rise to debarment are of a person or entity (hereinafter “associated person” or “associated entity”) that has a substantial interest in the contractor entity or whose actions should be attributed to the contractor. The Inspector General shall consider the actions of an associated person or associated entity in determining whether the contractor shall be debarred. The Inspector General may determine that the associated person or entity has a substantial interest in the contractor entity or that its actions should be attributed to the contractor entity, and may thus debar the contractor entity, if any of the following exists:

- i. The associated person or associated entity has either a direct or beneficial ownership or control of five percent or more of the contractor entity;
- ii. The associated person or associated entity is an officer, director, or otherwise involved in the management of the contractor entity;

- iii. The associated person or associated entity has participated in contract negotiations, is a signatory to a contract, or has the authority to establish, control, or manage the contract performance or labor practices of the contractor;
- iv. The associated person or associated entity is a parent, subsidiary, or other affiliate of the contractor entity;
- v. The associated person or associated entity provided any seed money or other monetary support within the last five years to the contractor entity;
- vi. The associated person or associated entity provided any loans, except for loans provided by federally chartered banks and credit unions, (whether paid or unpaid) within the last five years to the contractor entity; or
- vii. Any other action of an associated person or associated entity ~~giving rise to the debarment or suspension of contractors~~ **demonstrating that the associated person or entity has a substantial interest in the contractor entity or that their actions should be attributed to the contractor entity.**

SECTION 5. DEBARMENT WEB SITE.

The County shall give notice of debarment under this Ordinance on the County's web site as follows:

- i. The Agency of Inspector General shall maintain a listing on its web site of all debarred contractors. The listing shall include the date of the issuance of the debarment and the expiration thereof.
- ii. The Cuyahoga County Office of Procurement and Diversity shall provide a link on its web site to the Agency of Inspector General's list of debarred contractors.
- iii. The Agency of Inspector General shall exercise good faith efforts to expeditiously remove contractors from the list of debarred contractors upon the expiration of the debarment period or reversal of the Agency's debarment of a contractor.

SECTION 6: THE CUYAHOGA COUNTY DEBARMENT REVIEW BOARD.

(A) Establishment. There is hereby established the Cuyahoga County Debarment Review Board. It shall consist of the following five members:

1. The Cuyahoga County Fiscal Officer;
2. A member of the Cuyahoga County Council appointed by the Council President as soon as practicable after the enactment of this Ordinance and immediately following each organizational meeting of the Cuyahoga County Council, who shall serve until his or her successor is appointed; and
3. Three residents of Cuyahoga County appointed by the County Executive and confirmed by the Cuyahoga County Council. None of these members may be an employee of Cuyahoga County while serving on the Board. Members shall have appropriate experience and qualifications to serve on this Board, such as, but not limited to, experience in contracting, law, arbitration, or prior service on public boards. Subject to Council's approval, the County Executive may remove any of these three members for inefficiency, neglect of duty, malfeasance, or if they no longer qualify to serve on the Board. The term of each member shall be five years, and the terms shall be staggered so that no term expires less than one year of the expiration of any other term. No member shall serve more than two consecutive terms. Of the terms for the initial appointees, one shall be appointed for a term of five years commencing on February 1, 2013, and expiring on January 31, 2018, one shall be appointed for a term of four years commencing on February 1, 2013, and expiring on January 31, 2017, and one shall be appointed for a term of three years commencing on February 1, 2013, and expiring on January 31, 2016. All subsequent terms shall commence on February 1st of the year in which the term expires. If a vacancy occurs for any unexpired term, the vacancy shall be filled in the same manner as a regular appointment through appointment by the County Executive subject to Council's confirmation, and the new member's term shall last through the end of the unexpired term for which he or she is appointed.

(B) Jurisdiction. The Cuyahoga County Debarment Review Board shall review and determine—including the powers to affirm, reverse, modify, and remand—any matters that are submitted for its consideration pursuant to the Cuyahoga County Code of Ordinances.

(C) Alternates. The County officials serving on the Cuyahoga County Debarment Review Board shall have alternates appointed as follows:

1. The County Executive shall appoint two alternates to act in the place of the Cuyahoga County Fiscal Officer on the Debarment Review Board and attend meetings, with full voting rights, if the Fiscal Officer is

unavailable or has a conflict of interest on a matter pending before the Board.

2. The Council President shall appoint two Council members to serve as a pool of alternates to act in the place of the appointed Council member on the Debarment Review Board and attend meetings, with full voting rights, if the appointed Council member is unavailable or has a conflict of interest on a matter pending before the Board.

(D) Officers. The Fiscal Officer shall serve as Chairperson of the Debarment Review Board. If the Fiscal Officer is absent from any meeting, the Board shall choose one of its members to chair that meeting. For purposes of this section, the Fiscal Officer shall include his or her alternates.

(E) Compensation. The members of the Debarment Review Board shall not receive compensation for their service on the Board. Members of the Debarment Review Board shall be entitled to reimbursement of reasonable and necessary expenses incurred by them in the exercise of their duties.

(F) Clerk of the Debarment Review Board. The County Executive shall designate a staff person to serve as the Clerk of Debarment Review Board. The Clerk shall be responsible for publishing the agendas and meeting notices and shall record and publish the minutes.

(G) Agendas and Meeting Notices. The Clerk of the Debarment Review Board shall publish the notice and agenda for each Board meeting on the County's web site no later than 6:00 p.m. on the second business day before the Board meeting. The Board may amend the agenda and may also consider items not on the agenda by a vote of a majority of the members present either personally or through their alternates.

(H) Regular Meetings. The Debarment Review Board shall schedule regular meetings to take place at least once every two months at a determined time by the Board. If no business is pending before the Board, the Clerk of the Board may cancel any regular meeting for lack of sufficient business pending before the Board by publishing the cancellation notice on the County's web site.

(I) Special Meetings. The Debarment Review Board may conduct special meetings at a time other than its regularly scheduled meeting times. In the event of an emergency as determined by the Fiscal Officer, the Board may conduct a meeting with less notice than that required under Section 6(G) herein. For any special or emergency meeting, in addition to the notice requirements of Section 6(G), the Clerk of the Board shall also send notice to all news media organizations that request to be notified of such meetings.

(J) Public Meetings. The meetings of the Debarment Review Board shall be open to the public. The Board shall also provide an opportunity for public comment on matters before the Board toward the beginning of the meeting. The Board may require presenters to register with the Board before speaking and may set time limits on presentations, which may be extended at the discretion of the Chairperson.

(K) Executive Sessions. The Debarment Review Board may go into executive session to discuss and consider matters permitted to be discussed or considered in executive sessions under the Ohio Open Meetings Act. A motion to go into executive session must state the topic(s) of the executive session and approved by a majority of the members present through a roll call vote.

(L) Minutes. The Clerk of the Debarment Review Board shall prepare and publish the minutes of each Board meeting on the County's web site within a week of their approval.

(M) Journal. The Clerk of the Debarment Review Board shall maintain a Journal of the Board, containing the notices, agendas, and minutes of all Board meetings. The journal may be maintained electronically through an electronic system.

(N) Quorum. A quorum of the Debarment Review Board shall consist of three members attending personally or through their alternates.

(O) Vote Required for Board Actions. Board action shall require the affirmative vote of any three members attending personally or through their alternates. Amendments to items before the Board and parliamentary motions may be adopted by a majority of those present, provided that a quorum is present.

(P) Rules of Procedure. The Debarment Review Board may adopt its own Rules of Procedure.

SECTION 7. DEBARMENT PROCEDURES.

The following procedures shall govern the debarment process:

(A) Debarment by the Inspector General:

i. Notice of Potential Debarment and Opportunity for Contractor to Respond.

- a. Prior to debarment, the Inspector General shall provide a written "Notice of Potential Debarment" to the

contractor. The Notice of Potential Debarment shall include all of the following:

1. A notice that the Inspector General is considering debarring the contractor;
2. A notice that if the contractor is debarred, the contractor will not be able to enter into any contracts or agreements with the County and that it will not be able to submit any bids, proposals, statements of qualifications, or any other offers to the County;
3. A notice that if the contractor is debarred, the contractor will be barred from doing any work as a subcontractor on a county contract or agreement;
4. A notice that if the contractor is debarred, the County will automatically disqualify any bids, proposals, statements of qualifications, or any other offers from the contractor;
5. A notice of the grounds for the potential debarment;
6. A notice of the duration of the potential debarment;
7. A notice that the contractor has the right to submit written materials and evidence to the Inspector General to explain why the contractor should not be debarred;
8. A notice of the due date and time by which any written materials and evidence submitted by the contractor must be received by the Inspector General. The due date and time may not be less than 14 calendar days and no more than 60 calendar days from the Inspector General's mailing or other means of transmitting the notice to the contractor; and
9. A notice that the contractor has the right to request a meeting with the Inspector General or his or her representative to explain the

contractor's evidence and why the contractor should not be debarred. The Notice shall specify the location and two dates on which the meeting may take place if the contractor were to request a meeting. The Notice shall also specify the means and deadline by which the contractor may request the meeting and choose one of the two dates provided by the Inspector General in the Notice. The Notice shall also provide that if the contractor does not request the meeting by the deadline and in the manner provided for in the Notice, the contractor shall be deemed to have waived its right to the meeting.

ii. Inspector General's Decision on Debarment.

- a. After expiration of the time period provided in the Notice of Potential Debarment in which the contractor may respond to the Notice of Potential Debarment, the Inspector General shall render a decision on the potential debarment within a reasonable time period under the circumstances.
- b. If the Inspector General determines not to debar the contractor, the Inspector General shall issue a written notice of his/her determination to the contractor.
- c. If the Inspector General determines to debar the contractor, the Inspector General shall do all of the following:
 1. The Inspector General shall add the contractor on the listing of debarred contractors on its web site and shall issue a written "Notice of Debarment" to the Contractor.
 2. The Notice of Debarment shall include all of the following:
 - i. A notice that the contractor has been debarred;
 - ii. A notice that the debarred contractor may not submit any bids, proposals, statements of qualifications, or any other such offers to the County or otherwise enter into any contract or agreement with the County;

- iii. A notice that the debarred contractor may not do any work as a subcontractor on any county contract or agreement;
- iv. A notice that the County will automatically disqualify any bids, proposals, statements of qualifications, or any other contractual offers to the County from the debarred contractor;
- v. A notice of the duration of the debarment, including the starting and expiration dates of the debarment;
- vi. A notice that the debarred contractor may appeal the debarment to the Debarment Review Board within 30 days by filing the original copy of its Notice of Appeal with the Inspector General and a copy with the Clerk of the Debarment Review Board;
- vii. A notice of the exact due date on which the 30th day falls and by which the Notice of Appeal must be received by the Inspector General and the Clerk of the Debarment Review Board;
- viii. A notice that the Notice of Appeal must include, with sufficient detail and factual background, the specific assignments of error upon which the debarred contractor seeks to rely in its appeal before the Debarment Review Board;
- ix. A notice that the debarred contractor bears the burden of proof before the Debarment Review Board;
- x. A notice that the debarred contractor has the right to introduce testimony and to cross-examine witnesses at the hearing before the Debarment Review Board;
- xi. A notice that if the debarred contractor intends to introduce evidence before the

Debarment Review Board that was not submitted to the Inspector General, the debarred contractor must identify all such evidence with specificity and include copies of any written evidence in its Notice of Appeal;

- xii. A notice that the debarred contractor may not introduce any evidence at the hearing before the Debarment Review Board that was not submitted to the Inspector General in response to the Notice of Potential Debarment or included with its Notice of Appeal as provided in subsection xi herein; and
- xiii. A notice that a debarred contractor's failure to file its Notice of Appeal as provided herein within the 30-day time period as provided in the Notice of Debarment is a jurisdictional failure that may not be otherwise remedied.

iii. Appeal to the Debarment Review Board.

- a. A contractor may appeal the Inspector General's decision to affirm the debarment to the Cuyahoga County Debarment Review Board within 30 days of the Inspector General's issuance of the decision.
- b. The Debarment Review Board shall set the appeal for a hearing in an open meeting within a reasonable time period.
- c. The debarred contractor shall bear the burden of proof before the Debarment Review Board.
- d. The debarred contractor shall have the right to introduce testimony and to cross-examine witnesses at the hearing.
- e. The Debarment Review Board shall render its decision on the appeal within a reasonable time period.

iv. Appeal to the Cuyahoga County Court of Common Pleas.

- a. If the Debarment Review Board affirms the Inspector General's debarment, the debarred contractor may appeal the Board's decision to the Cuyahoga County Court of Common Pleas within 30 days of the Board's issuance of its decision.
- b. The appeal to the Court of Common Pleas shall be governed by Revised Code Chapter 2506.

(B) Suspensions of Contractors: The Inspector General may suspend, without additional review, for a period not to exceed one year, a contractor currently suspended or debarred by any of the following, provided that such suspension may not last longer than the underlying suspension or debarment:

(A) The United States Government or any board, commission, committee, department, agency, or other authority thereof;

(B) The District of Columbia, Puerto Rico or any of the 50 States or any board, commission, committee, department, agency, or other authority thereof;

(C) Any quasi-governmental entity, including, but not limited to, non-profit, private corporations, such as JobsOhio or the Indiana Economic Development Corporation, established by any of the 50 States, the District of Columbia, or Puerto Rico; or

(D) Any political subdivision or other governmental or quasi-governmental board, commission, committee, corporation, or other such entity in the United States, including, but not limited to, counties, municipalities, villages, townships, school districts, housing authorities, solid waste districts, sewer districts, port authorities, boards of developmental disabilities, boards of health, boards of alcohol, drug and mental health services, land banks, and community development corporations.

(E) Any public or private educational institutions.

(C) DEBARMENT DURATION TO INCLUDE SUSPENSION.

If a contractor suspended by the Inspector General is later debarred by the Inspector General for the same incident, the duration of the suspension shall count toward the duration of the debarment so that the total combined duration of the debarment and suspension for the same incident does not exceed the total duration of debarment allowed for the same incident.

SECTION 8. PROSPECTIVE APPLICATION.

~~This Ordinance shall apply prospectively, and a~~Any debarment under this Ordinance shall not act to invalidate otherwise properly authorized county contracts entered before the enactment of this Ordinance.

SECTION 9. GOOD FAITH IN EXERCISING DISCRETION

The Cuyahoga County Inspector General and Debarment Review Board shall exercise their discretion under this Ordinance in good faith to ensure consistent application among similarly situated contractors.

SECTION 10. IMPACT OF REVERSAL OR EXPIRATION OF DEBARMENT.

A debarment under this Ordinance that is either expired or reversed by the Debarment Review Board or a court under R.C. Chapter 2506 may no longer be used for any purposes against the debarred contractor.

SECTION 11. EXCEPTIONS AND EXEMPTIONS.

(A) Emergency Contracts and Purchases.

The prohibitions outlined in this Ordinance shall not apply to any contracts made for any emergency events pursuant to Section 3.16 of the Cuyahoga County Contracting and Purchasing Procedures Ordinance.

(B) Sole Source Contracts.

If a County contracting authority is unable to identify more than one source through which a purchase or contract may be made, and the sole source is on the Debarred Contractors' List, the contracting authority may apply to the Cuyahoga County Council for an exemption from the requirements of this Ordinance. If Council is satisfied with the sole-source status of the contractor and the need for the proposed contract or purchase, it may grant the exemption by adopting a resolution.

SECTION 12. TRAINING.

The Inspector General shall train vendors on the County's debarment requirements and procedures as part of the vendor ethics trainings required by the Ethics Ordinance.

SECTION 13. COMPLIANCE WITH FEDERAL AND STATE DEBARMENT REQUIREMENTS.

The Inspector General shall take all steps necessary to ensure that the County is in compliance with all mandatory federal and state debarment obligations to which the County is subject.

SECTION 134. It is necessary that this Ordinance become immediately effective in order that critical services being provided by Cuyahoga County can continue without interruption, and to continue the usual daily operation of the County. Provided that this Ordinance receives the affirmative vote of eight members of Council, this Ordinance shall become immediately effective upon the signature of the County Executive.

SECTION 15. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: August 28, 2012

Committee(s) Assigned: Public Works, Procurement & Contracting

Additional Sponsorship Requested: October 18, 2012

Journal _____
_____, 2012

County Council of Cuyahoga County, Ohio

Ordinance No. O2012-0031

Sponsored by: Councilmembers Gallagher, Connally, Rogers and Miller	An Ordinance amending Ordinance No. O2011-0020, which provided for complimentary parking for members of the public to attend regularly scheduled evening and committee meetings of the County Council at the Huntington Park Garage, by removing restrictions regarding time of day; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, the Cuyahoga County Council adopted Ordinance No. O2011-0020, to provide for complimentary parking for members of the public to attend regularly scheduled evening and committee meetings of the County Council; and,

WHEREAS, the Cuyahoga County Council encourages public attendance at and participation in its meetings, yet is cognizant of the fact that many members of the public may be discouraged or unable to attend because of the additional cost of parking; and,

WHEREAS, this Council has discussed that public attendance at Council meetings may be increased if members of the attending public are provided with complimentary parking and, therefore, provide more public participation in the new County government; and,

WHEREAS, Cuyahoga County owns the Huntington Park Garage, located at 1141 West 3rd Street, Cleveland, Ohio and has determined that it will provide complimentary parking vouchers for citizens who choose to attend regularly scheduled Cuyahoga County Council meetings.

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

SECTION 1. Section 1 of Ordinance No. O2011-0020 is hereby amended to read as follows (deletions are stricken out; additions are underlined and bolded):

“**SECTION 1:** ~~That~~ the County shall provide complimentary parking for the public to attend **public** evening and committee meetings of the County

Council **and its committees** at the Huntington Park Garage, on a space-available basis, as provided in this Ordinance.”

SECTION 2. Section 2 of Ordinance No. O2011-0020 is hereby amended to read as follows (deletions are stricken out; additions are underlined and bolded):

“**SECTION 2:** Complimentary parking will be available beginning at 4 ~~PM~~**8:30 AM** on any day when the Council or any of its committees holds ~~evening~~ meetings.”

SECTION 3. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. It is necessary that this Ordinance become immediately effective in order that the functions of Council can continue, and to and to provide for the usual, daily operation of Council. Provided that this Ordinance receives the affirmative vote of eight members of Council, this Ordinance shall become immediately effective upon the signature of the County Executive.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

_____	_____
County Council President	Date
_____	_____
County Executive	Date
_____	_____
Clerk of Council	Date

First Reading/Referred to Committee: October 23, 2012
Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____
_____, 2012