

RESOLUTION NO. 2019-10

A RESOLUTION EXPRESSING THE OFFICIAL INTENT WITH RESPECT TO REIMBURSEMENT FROM REVENUE BONDS OF THE COSTS OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A PUBLIC PARKING FACILITY.

WHEREAS, Uptown SEQ Holdings, LLC, an Ohio limited liability company (including any affiliate thereof, the “Developer”) intends to acquire, construct and equip two office buildings, each of approximately 180,000 square feet, along with the potential for related retail and hospitality development and related site improvements, to be located in the Uptown neighborhood of the City of Cincinnati, Ohio (the “Private Project”); and

WHEREAS, in order support development and operation of the Private Project, the Port of Greater Cincinnati Development Authority (the “Port Authority”) intends to construct or have constructed a public parking facility comprised of approximately 1,400 spaces (the “Public Project”); and

WHEREAS, the Port Authority, at the request of the Developer, intends to issue revenue bonds in a principal amount not to exceed \$55,000,000 to finance the costs of the Public Project; and

WHEREAS, Treasury Regulation §1.150-2 (the “Reimbursement Regulations”), issued pursuant to Section 150 of the Internal Revenue Code of 1986, as amended (the “Code”), prescribes certain requirements by which proceeds of tax-exempt bonds, notes, certificates or other obligations included in the meaning of “bonds” under Section 150 of the Code (“Obligations”) used to reimburse advances made for Capital Expenditures (as hereinafter defined) paid before the issuance of such Obligations may be deemed “spent” for purposes of Sections 103 and 141 to 150 of the Code and therefore, not further subject to any other requirements or restrictions under those sections of the Code; and

WHEREAS, such Reimbursement Regulations require that the Issuer (as hereinafter defined) of Obligations make a Declaration of Official Intent (as hereinafter defined) to reimburse any Capital Expenditure paid prior to the issuance of the Obligations intended to fund such Capital Expenditure and require that such Declaration of Official Intent be made no later than sixty (60) days after payment of the Capital Expenditure and further require that any Reimbursement Allocation (as hereinafter defined) of the proceeds of such Obligations to reimburse such Capital Expenditures occur no later than eighteen (18) months after the later of the date the Capital Expenditure was paid or the date the property acquired with the Capital Expenditure was placed in service, except that any such Reimbursement Allocation must be made no later than three years after such Capital Expenditure was paid; and

WHEREAS, the Port Authority wishes to ensure compliance with the Reimbursement Regulations;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors (the “Board”) of the Port of Greater Cincinnati Development Authority:

Section 1. Definitions. The following definitions apply to the terms used herein:

“Allocation” means written evidence that proceeds of Obligations issued subsequent to the payment of a Capital Expenditure are to reimburse the Developer or Port Authority, as applicable, for such payments. “To allocate” means to make such an allocation.

“Capital Expenditure” means any expense for an item that is properly depreciable or amortizable or is otherwise treated as a capital expenditure for purposes of the Code, as well as any costs of issuing Reimbursement Bonds.

“Declaration of Official Intent” means a written declaration that the Issuer intends issue Reimbursement Bonds to finance the reimbursement of Capital Expenditures and reasonably expects the proceeds of such an issue to be used for such reimbursement.

“Issuer” means a governmental unit that is reasonably expected to issue Obligations, and for purposes of this Resolution, the Port Authority.

“Reimbursement” means the restoration to the Issuer of money temporarily advanced from other funds, including moneys borrowed from other sources of the Issuer to pay for Capital Expenditures before the issuance of Obligations intended to fund such Capital Expenditures. To “reimburse” means to make such a restoration.

“Reimbursement Bonds” means Obligations that are issued to reimburse the Issuer for Capital Expenditures, and for certain other expenses permitted by the Reimbursement Regulations, previously paid by or for or on behalf of the Issuer.

“Reimbursement Regulations” means Treasury Regulation §1.150-2 and any amendments thereto or superseding regulations, whether in proposed, temporary or final form, as applicable, prescribing conditions under which the proceeds of Obligations may be allocated to reimburse the Issuer for Capital Expenditures and certain other expenses paid prior to the issuance of the Obligations such that the proceeds of such Obligations will be treated as “spent” for purposes of Sections 103 and 141 to 150 of the Code.

Section 2. Declaration of Official Intent.

(a) The Port Authority declares that, based on the representations of the Developer, it reasonably expects that Capital Expenditures described in Section (b), which were paid no earlier than sixty (60) days prior to the date hereof, or which will be paid prior to the issuance of any Obligations intended to fund such Capital Expenditures, will be reimbursed with the proceeds of Obligations, representing a borrowing by the Port Authority in the maximum principal amount, for such Reimbursements, of \$55,000,000; and

(b) the Capital Expenditures to be reimbursed are to be used for the acquisition, construction, improvement, equipping, and operation of an approximately 1,400 space public parking structure.

Section 3. Reasonable Expectations. Based on the representations of the Developer, the Port Authority does not expect any other funds (including the money advanced to make the Capital Expenditures that are to be reimbursed), to be reserved, allocated on a long-term basis, or otherwise set aside by the Developer or any other entity, with respect to the Capital Expenditures for the purposes described in Section 2(b).

Section. 4. Severability. Each section of this resolution and each subdivision or paragraph of any section hereof and each sentence of a paragraph hereof is hereby declared to be independent and the finding or holding of any section or any subdivision, paragraph or sentence

hereof to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision, paragraph or sentence of this resolution.

Section 5. Compliance with Open Meeting Law. It is found and determined that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees or subcommittees, or any other public bodies of the Authority, that resulted in such formal actions were in meetings open to the public, in compliance with the law.

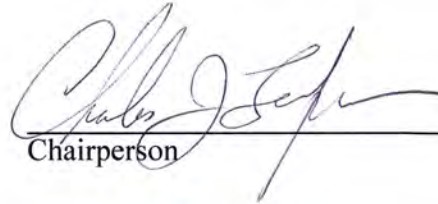
Section 6. Effective Date. This resolution shall be in full force and effect upon its adoption.

On motion of P. SMITSON, seconded by D. JONES, the foregoing Resolution was duly adopted.

Adopted: May 8, 2019

Yeas: 9

Nays: 0


Chairperson

Attest: 
Secretary