

## RESOLUTION NO. 2015-06

**A RESOLUTION AUTHORIZING AND APPROVING MATTERS RELATING TO KENWOOD COLLECTION REAL ESTATE AND REDEVELOPMENT TRANSACTIONS, INCLUDING APPROVAL OF THE PROPOSED SEVERANCE OF THE PARCEL OF REAL ESTATE CONTAINING THE KENWOOD COLLECTION OFFICE BUILDING, A PROPOSED RETAIL MASTER LEASE AND REDEVELOPMENT TRANSACTION, INCLUDING CONSTRUCTION OF IMPROVEMENTS TO THE RETAIL DEVELOPMENT AT KENWOOD COLLECTION AND THE MANNER THEREOF, AND THE FINANCING AND REFINANCING OF COSTS OF THE PORT AUTHORITY'S PUBLIC PARKING GARAGE AT THE KENWOOD COLLECTION SITE BY THE ISSUANCE, SUBJECT TO FINAL APPROVAL BY THIS BOARD, OF TAX INCREMENT FINANCING REVENUE BONDS, ALL PURSUANT TO THE COOPERATIVE REDEVELOPMENT AGREEMENT AMONG THE PORT AUTHORITY, KENWOOD COLLECTION LLC AND OTHERS, AS AMENDED AND SUPPLEMENTED FROM TIME TO TIME; APPROVING TERM SHEETS DESCRIBING SUCH REAL ESTATE AND REDEVELOPMENT TRANSACTIONS, AUTHORIZING EXECUTION AND DELIVERY OF A PROPOSED SUPPLEMENTAL COOPERATIVE REDEVELOPMENT AGREEMENT, SUPPLEMENTAL GROUND LEASE AND MASTER LEASE AGREEMENT, AND RELATED PRELIMINARY AND INTERIM INSTRUMENTS AND AGREEMENTS, ALL CONSISTENT THEREWITH, AND AUTHORIZING THE EXECUTION, DELIVERY OR ACCEPTANCE OF, AND ANY REQUIRED CONSENTS TO, ANY RELATED INSTRUMENTS, AGREEMENTS, AMENDMENTS, SUPPLEMENTS, ASSIGNMENTS, DECLARATIONS, STATEMENTS, AFFIDAVITS, CERTIFICATES, NOTICES AND OTHER DOCUMENTS, AND THE TAKING OF ALL RELATED ACTIONS, BY OR ON BEHALF OF THE PORT AUTHORITY; AND AUTHORIZING AND APPROVING RELATED MATTERS.**

WHEREAS, pursuant to Ohio Revised Code Section 4582.21, *et seq.*, and Resolutions Nos. 2007-06 and 2007-12 adopted by this Board on April 5 and December 14, 2007 respectively ("2007 Authorizing Resolutions"), this Board authorized, among other things, the issuance by the Port of Greater Cincinnati Development Authority ("Port Authority"), in cooperation with Sycamore Township, Ohio ("Township"), of Special Obligation Development Revenue Bonds (Variable Rate Demand, Series 2008A) (Sycamore Township Kenwood Central Public Parking Project) and Taxable Special Obligation Development Revenue Bonds (Variable Rate Demand, Series 2008B) (Sycamore Township Kenwood Central Public Parking Project), all dated January 29, 2008 ("Series 2008 Bonds"), to finance costs of public parking facilities owned by the Port Authority ("Project Facilities") and located on a leased portion (that portion, the "Project Site") of a site generally located at 5901 East Galbraith Road in the Township ("Township"), all as further described in and provided for by (i) the Trust Indenture dated as of January 1, 2008 (as supplemented and amended, "Indenture") between the Port Authority and U.S. Bank National Association, as trustee (together with any successor thereto, "Trustee"), (ii) the Tax Increment Service and Cooperative Agreement dated the same date and referred to in the Indenture ("Original Cooperative Development Agreement"), (iii) the Ground Lease (with Declaration of Obligations, Easements, Restrictions and Covenants) dated January 29, 2008 between the then-owner of the Site, as Ground Lessor, and the Port Authority, as Ground Lessee ("Original Ground Lease"), and (iv) the other Transaction Documents (that term, and any other terms used as defined terms herein, whether in these recitals or in the substantive provisions of and grants of authority under this resolution, being used as defined in the Master Definitions List included as Appendix I to the Indenture, Original Cooperative Agreement and Original Ground Lease); and

WHEREAS, following foreclosure of the Construction Mortgage on the Development, and the purchase by Kenwood Collection LLC (fka Spyder Station LLC), a Delaware limited liability company ("Kenwood Collection"), the sole member of which is Phillips Edison Strategic Investment Fund II LLC, a Delaware limited liability company ("SIF II") managed by PECO Strategic Investment Fund Manager II LLC, a Delaware limited liability company ("SIF II Manager") and an affiliate of Phillips Edison & Company Ltd., an Ohio limited liability company (together with Kenwood Collection, SIF II, SIF II Manager and their affiliates, "PECO") of the Development and all right, title and interest of the Letter of Credit Banks in and to the Reimbursement Agreements and the security provided thereunder, including all right, title and interest of the Letter of Credit Banks in and to the Series 2008 Bonds, this Board, on request of PECO, considered and adopted Resolution No. 2012-12 on September 12, 2012 authorizing various agreements of and actions by and on behalf of the Port Authority in connection with the completion, improvement and management of the Project Facilities and the construction, reconstruction, redevelopment and completion of the Development ("Interim Redevelopment Resolution" and, together with the 2007 Authorizing Resolutions, "Existing Resolutions"); and

WHEREAS, pursuant to the Existing Resolutions, the Port Authority and PECO have worked closely together and have entered into a series of transactions providing for, among other things, the cooperative completion, improvement and management of the Project Facilities and various matters relating to the construction, reconstruction, redevelopment and completion of the Development including the continuing redevelopment of the office building improvements ("Office Improvements" and together with related real estate, "Office Development") and the continuing and intended development and redevelopment of the retail building improvements ("Retail Improvements" and together with related real estate, "Retail Development") including, without limitation, the Deadline Extension and Default Waiver Agreement dated October 31, 2013 among the Port Authority, Kenwood Collection (joined by SIF II), the Township and the Trustee (as amended by letter agreement dated April 17, 2014, the "Interim Cooperative Redevelopment Agreement"), and the Kenwood Central Public Parking Garage Management and Maintenance Agreement dated as of April 17, 2014 between the Port Authority and Kenwood Collection joined by SIF II ("Management Agreement"), all as further described in the Office Severance, Retail Master Lease and Redevelopment Term Sheet (Kenwood Collection Redevelopment Project) on file with the Secretary of this Board ("Redevelopment Term Sheet"); and

WHEREAS, as further described in the Redevelopment Term Sheet, PECO has requested that the Port Authority join in, consent to or otherwise undertake, in cooperation with PECO and, to the extent required, the Township and the Trustee a series of transactions including the "Office Severance and Redevelopment Transaction" and the "Retail Master Lease and Redevelopment Transaction", each as further described therein, and the "TIF Revenue Bond Transaction", as described on a preliminary basis in the Draft Series 2015 TIF Bond Term Sheet on file with the Secretary of this Board ("Draft TIF Bond Term Sheet" and, together with the Redevelopment Term Sheet, the "Term Sheets") in order to promote the Project Purposes (as defined in the Redevelopment Term Sheet) including, without limitation, enhancing the redevelopment of the Site at the lowest possible cost, cooperating in the refunding and sale of the outstanding Series 2008 Bonds on mutually-agreeable terms to reduce costs, finance certain additional costs of the Project Facilities, and permit the Redeveloper Parties to divest a portion of the outstanding Series 2008 Bonds upon such refunding, all as generally outlined in the Draft TIF Bond Term Sheet, assisting PECO in developing and implementing the Office Severance and Redevelopment Transaction to maximize the value of the Office Development to the mutual benefit of PECO, the Port Authority and other governmental agencies with a interest in the Service Payments, undertaking the Retail Master Lease and Redevelopment Transaction, including entering into the Ground Lease Supplement and the Retail Master Lease, both defined and described in the Redevelopment Term Sheet, and related transactions with respect to the construction and financing of the Retail Improvements in order to minimize the costs to PECO of that

construction and thereby offsetting other costs incurred by PECO to the benefit of the Port Authority including, without limitation, costs of the construction, reconstruction, rehabilitation, improvement, repair and management of the Project Facilities (including costs of Garage Enhancements as that term is defined in the Interim Cooperative Redevelopment Agreement) and creating and preserving jobs and employment opportunities in the State and within the jurisdiction of the Port Authority, and promoting the economic welfare of the residents of the State, all consistent with Article VIII, Section 13 of the Ohio Constitution; and

WHEREAS, in furtherance of the Project Purposes, this Board has determined to approve the Term Sheets and to authorize all necessary actions and agreements on the part of the Port Authority in connection with the transactions contemplated by the Redevelopment Term Sheet (“Redevelopment Transactions”) including, without limitation: (1) execution and delivery of a Supplemental Cooperative Redevelopment Agreement with PECO and, to the extent required, the Township and the Trustee (“Supplemental Cooperative Redevelopment Agreement” and, together with the Original Cooperative Agreement and the Interim Cooperative Redevelopment Agreement, “Cooperative Redevelopment Agreement”) to evidence the further agreements of the parties with respect to the ongoing cooperative redevelopment of the Site in accordance with the Redevelopment Term Sheet, and (2) execution and delivery of a First Supplemental Ground Lease with the fee owner of the Retail Site and Project Site to acquire a leasehold interest in the Retail Site and title to the existing Retail Improvements (“Ground Lease Supplement”) and a Master Lease Agreement with a PECO affiliate, as lessee (together with any preliminary, interim or amended and restated lease agreements and any related agreements providing for such construction, the “Retail Master Lease”), leasing the Retail Development to such Lessee and providing for, among other things, the construction and leasing of the Retail Redevelopment Improvements, as defined in the Redevelopment Term Sheet; and

WHEREAS, this Board has determined that it is necessary, desirable and appropriate, and in the best interest of the Port Authority, to now approve the Term Sheets, authorize the signing of either or both of the Term Sheets by the Port Authority and the execution and delivery by the Port Authority of the Supplemental Cooperative Redevelopment Agreement, the Ground Lease Supplement and the Retail Master Lease (collectively “Port Authority Redevelopment Documents”), authorize the manner of contracting for the construction of the Retail Redevelopment Improvements, and authorize and approve all other matters and actions described above or in the Term Sheets or otherwise herein, including the execution and delivery of any instruments, agreements, amendments, supplements, assignments, declarations, statements, affidavits, certificates, notices and other documents related to the Redevelopment Transactions, and the taking of all related actions, from time to time hereafter on behalf of the Port Authority, provided that nothing herein shall be construed as authorizing the issuance of any port authority revenue bonds without further authorization by this Board;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Port of Greater Cincinnati Development Authority, that:

Section 1. Pursuant to the Port Act, and in furtherance of the authorized purposes of the Port Authority, including the Project Purposes, this Board hereby finds and determines that it is necessary, desirable and appropriate, and in the best interest of the Port Authority, to and hereby does authorize and approve the Term Sheets, authorize the signing of either or both of the Term Sheets by the Port Authority in substantially the forms on file with the Secretary and the execution and delivery by the Port Authority of the Port Authority Redevelopment Documents, each on substantially the terms and conditions contemplated by the Redevelopment Term Sheet, and authorize and approve all other matters and actions described above or in the Term Sheets or otherwise herein, including the execution and delivery of any instruments, agreements, amendments, supplements, assignments, declarations, statements, affidavits, certificates, notices and other documents related to the Redevelopment Transactions, and the taking of all related

actions, from time to time hereafter on behalf of the Port Authority; provided that nothing herein shall be construed as authorizing the issuance of any port authority revenue bonds without further authorization by this Board. Without limiting the generality of the foregoing, the authorizations herein include the execution and delivery of any instruments (including, without limitation, real estate instruments), agreements, amendments, supplements and other documents (including any approvals, assignments, assumptions, acceptances, estoppels, statements, affidavits, releases, certifications, representations, notices, declarations or covenants) related to the Redevelopment Transactions or the Operative Documents referred to below, and the taking of all related actions, from time to time, on behalf of the Port Authority, and the execution and delivery of agreements or instruments that provide for the severance of the Office Development from the balance of the real estate at the Site, the completion of the Retail Development (including the Retail Redevelopment Improvements) and all related construction in the manner contemplated in the Redevelopment Term Sheet and authorized herein, the management of the Project from and after severance, the acquisition or provision of any property rights or interests as may be necessary or desirable consistent with the Ground Lease, and the assignment, assumption or amendment of any of the Transaction Documents (and the Interim Cooperative Redevelopment Agreement and the Management Agreement), all of which agreements or instruments may amend and restate or otherwise replace prior or existing agreements or instruments for the same or similar purpose, or may amend or supplement any such agreements or instruments (collectively, with the Port Authority Redevelopment Documents, "Operative Documents"), all if and to the extent consistent with the Port Act and this resolution and approved by the Chair, the Vice Chair, the President or a Vice President of the Port Authority (each an "Authorized Officer") prior to signing the applicable Operative Document, such approval to be conclusively evidenced by such signature; provided, that the Operative Documents shall not obligate the Port Authority to make any payments or expenditures except from Pledged Revenues, amounts on deposit under the Indenture, or other amounts specifically provided for by or on behalf of PECO. This Board hereby specifically finds and determines that the actions authorized and approved herein will promote authorized purposes of the Port Authority including, without limitation, the creation and preservation of jobs and employment opportunities in the State pursuant to and consistent with Article VIII, Section 13, of the Ohio Constitution, and other Project Purposes identified above.

In furtherance of the foregoing (and without limitation on any other authority that may exist with respect to the Redevelopment Transactions, the Operative Documents, or the subject matter hereof or thereof), this Board hereby authorizes any Authorized Officer, alone or together with any Fiscal Officer, from time to time to execute and deliver, on behalf of the Port Authority, consistent with the Port Act and in form approved by legal counsel, either or both of the Term Sheets (in substantially the forms on file with the Secretary but with any changes acceptable to that Authorized Officer), the Port Authority Redevelopment Documents (with substantially the terms contemplated by the Redevelopment Term Sheet and otherwise approved by the Authorized Officer signing the same) and such other Operative Documents as are determined by the applicable Authorized Officer (at the applicable time) to be necessary or desirable, consistent herewith and in the best interest of the Port Authority, all such determinations or approvals contemplated by this Section 1, to be conclusively evidenced by the signing of the applicable document.

Section 2. Based on information furnished to it by PECO, and the findings and determinations made by this Board in Section 1 above, pursuant to Revised Code Section 4582.31(A)(18)(e), this Board hereby further determines that the manner in which the contracts for the construction of the Retail Redevelopment Improvements should be made is to negotiate the terms of and enter into an agreement providing for the necessary construction services with the lessee or another PECO affiliate ("Construction Services Provider"), which "Construction Services Agreement" may be included in the Retail Master Lease if the lessee thereunder is the Construction Services Provider, and in accordance therewith to authorize the Construction

Services Provider to act as its project and construction manager of the Retail Redevelopment Improvements and to negotiate the terms and conditions of the design, engineering, architect and any other service contracts relating to such construction as well as the construction contract or contracts, including any subcontract or subcontracts and all contracts for the supply of materials thereunder and necessary and desirable in connection therewith (collectively, "Contracts"), all as further described in the Redevelopment Term Sheet, but subject to applicable provisions of the Ground Lease, the Retail Master Lease and the condition that any and all obligations of the Port Authority thereunder be expressly limited to, and conditioned on the availability of, the amounts made available for that purpose by PECO (including any amounts made available under any construction loans obtained by PECO for the Retail Redevelopment Improvements). This Board hereby specifically finds and determines that such manner of contracting and negotiation will best carry out the applicable Project Purposes, including the public purposes of Article VIII, Section 13 of the Ohio Constitution, that Revised Code Section 4582.31(A)(18)(e)(i) applies to the Construction Services Agreement and the Contracts and that, except as may be otherwise provided herein or therein, no statutory requirements of notice, competitive bidding or selection, or for the provision of security shall apply thereto. This Board hereby authorizes and approves the appointment of the Construction Services Provider for the purpose of undertaking, managing and completing the construction of, and delivering to the Port Authority (and the lessee under the Retail Master Lease) in accordance with the Ground Lease and the Retail Master Lease, the Retail Redevelopment Improvements on the Retail Site, with only such compensation, if any, for serving in that capacity as the Construction Services Agreement may provide. Nothing herein or in the Construction Services Agreement or the Contracts shall create any obligation of the Port Authority under or pursuant to any Contract shall not be a general obligation of the Port Authority but shall be payable solely from amounts advanced or otherwise provided by PECO and any other revenues derived from the Retail Development and specifically pledged thereto, and each Contract shall include, and shall be deemed to include, that limitation.

Section 3. Each Authorized Officer and Fiscal Officer is further authorized and directed to execute such other documents consistent herewith and with the Port Act including any instruments (including, without limitation, real estate instruments), agreements, amendments, supplements and other documents (including any approvals, assignments, assumptions, acceptances, estoppels, statements, affidavits, releases, certifications, representations, notices, declarations or covenants) related to the Redevelopment Transactions or the Operative Documents, and to take all related actions, from time to time, on behalf of the Port Authority, as are deemed by that officer to be reasonably necessary, desirable or appropriate to implement the transactions contemplated hereby or by the Operative Documents, the Transaction Documents and the Existing Resolutions (as supplemented hereby).

Section 4. The authorizations herein are supplemental to and are not in derogation of any other prior or existing authorizations provided by this Board with respect to the subject matter hereof, including the Redevelopment Transactions. Except to the extent, if any, inconsistent herewith, the Existing Resolutions and the findings, determinations, declarations and authorizations therein are, as supplemented hereby, ratified and confirmed. All actions taken by the officers of this Board and the officers and staff of the Port Authority pursuant to prior or existing authorizations with respect to the subject matter hereof, including the Redevelopment Transactions, are hereby ratified and confirmed.

Section 5. This Board finds and determines 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 committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: May 18, 2015

Yeas: 9

Nays: 0

Hyun M. Kim  
Chair

Attest: Laura N. Gunnar