

RESOLUTION NO. 2016-09

AUTHORIZING THE ISSUANCE AND SALE OF ECONOMIC DEVELOPMENT MORTGAGE REVENUE BOND ANTICIPATION NOTES, SERIES 2016 (GREATER CINCINNATI PATIENT CAPITAL FUND), IN ONE OR MORE ISSUES AND IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$20,000,000, FOR THE PURPOSE OF FINANCING "COSTS" OF "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE, INCLUDING COSTS OF THE ACQUISITION, IMPROVEMENT AND OTHER DEVELOPMENT AND REDEVELOPMENT OF REAL PROPERTY TO PROMOTE ECONOMIC DEVELOPMENT AND THE CREATION AND RETENTION OF JOBS IN HAMILTON COUNTY AND THE CITY OF CINCINNATI; AUTHORIZING PLEDGED REVENUES TO SECURE PAYMENT OF SUCH NOTES, INCLUDING A PLEDGE OF NON-TAX REVENUES OF THE PORT AUTHORITY TO SECURE PAYMENT OF INTEREST ON THE NOTES WHEN DUE; AUTHORIZING THE EXECUTION OF A TRUST AGREEMENT AND OPEN-END MORTGAGE, ONE OR MORE NOTE PURCHASE AGREEMENTS, ONE OR MORE MORTGAGES AND OTHER RELATED AGREEMENTS AND INSTRUMENTS IN CONNECTION WITH THE FOREGOING; AND AUTHORIZING AND APPROVING RELATED MATTERS.

WHEREAS, the authorized purposes of the Port of Greater Cincinnati Development Authority ("Port Authority"), pursuant to and as defined in Sections 4582.21, et seq., of the Ohio Revised Code (together with other authorities therein mentioned, the "Act"), include activities that enhance, foster, aid, provide, or promote transportation, economic development, governmental operations, culture or research throughout the City of Cincinnati, Ohio ("City") and the County of Hamilton, Ohio ("County") and other activities authorized within the State of Ohio ("State") by Article VIII, Sections 13 and 16 of the Ohio Constitution; and

WHEREAS, pursuant to the Act, including Article VIII, Section 13 of the Ohio Constitution, the Port Authority is authorized, in order to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, to (among other things) acquire and improve, and to sell, lease, exchange or otherwise dispose of property, structures, equipment and facilities within the State for industry, commerce, distribution and research and to borrow money and issue its revenue bonds or other obligations to provide moneys for such purposes; and

WHEREAS, consistent with its charge to undertake a proactive role in economic development in the Greater Cincinnati region, the Port Authority, in its own right and as manager of the Hamilton County Land Reutilization Corporation, pursuant to the Act and to promote its authorized purposes, is actively engaged in cooperative ongoing community stabilization and revitalization efforts throughout the City and County in order to return vacant, blighted and underutilized properties into vital and stable community assets through public-private partnerships and catalytic investments; and

WHEREAS, this Board has further determined that one of the greatest challenges to the recruitment and retention of commercial and industrial businesses within the Greater Cincinnati area is the lack of large development-ready sites available for advanced manufacturing operations and other commercial and industrial projects, plants and businesses and as part of its 2022 strategic planning process prioritized repurposing and redeveloping underutilized industrial land along key transportation corridors and working with target communities to return vacant or blighted properties to productive use for neighborhood transformation; and

WHEREAS, this Board has further determined that, based on the Port Authority's highly-successful public and structured finance activities in support of real estate and economic development, its expertise in the clean-up and redevelopment of industrial sites and its history of utilizing public-

private partnerships to maximize the catalytic and transformative impact of its development and redevelopment efforts, the Port Authority is ideally situated to acquire, improve, assemble, reposition and otherwise develop and redevelop former commercial and industrial sites and other necessary or desirable parcels to create newly marketable sites attractive for commercial, industrial and mixed-use redevelopment, all of which will create and preserve jobs and employment opportunities (“Program Purposes”); and

WHEREAS, in furtherance of its authorized purposes, including the Program Purposes, the Port Authority is authorized and empowered, by virtue of the laws of the State including the Act, among other things (a) to issue its revenue bonds, and its notes in anticipation of revenue bonds, for the purpose of paying costs of “port authority facilities”, as defined in the Act, located within the boundaries of either the City or the County, (b) to enter into trust agreements and convey mortgages and to execute and deliver other agreements and instruments to secure such revenue obligations, and to provide for the pledge or assignment of revenues sufficient, together with other amounts provided therefor, to pay the principal of and interest and any premium on those revenue obligations, (c) to acquire, construct, equip, furnish, improve and otherwise develop such port authority facilities for “authorized purposes”, as defined in the Act, including to enhance, foster, aid, provide, or promote transportation, economic development, governmental operations, culture or research, (d) to make and enter into such contracts and agreements and execute all instruments as may be necessary or included for the exercise of powers otherwise granted to the Port Authority under the Act, (e) to provide for the development, financing and use of such port authority facilities to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State and to improve the economic and general well-being thereof, and to assist in providing housing for individuals and families, and (f) to adopt this resolution, issue and sell the Bonds and the Notes, and execute and deliver the Trust Agreement, Note Purchase Agreements and Mortgages and such other instruments and agreements as are provided for herein, all upon the terms and conditions provided herein and therein; and

WHEREAS, pursuant to the foregoing authority and in order to provide for the acquisition of Project Sites and to pay Project Costs for Program Purposes, this Board has determined that it is necessary and proper and in the best interest of the Port Authority to issue from time to time on or prior to December 31, 2016, in anticipation of the issuance of revenue bonds, revenue bond anticipation notes of the Port Authority in the maximum aggregate principal amount of \$20,000,000, and to enter into a Trust Agreement and Mortgages to secure the payment of Debt Service Charges on the Notes, with the expectation that the outstanding principal of the Notes will be redeemed, at or prior to maturity, from money available to the Port Authority or from the proceeds of revenue bonds (“Bonds”) to be issued by the Port Authority;

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

Section 1. Captions; Definitions. The captions and headings in this resolution are solely for convenience of reference and do not define, limit or describe the scope or intent of any provisions or Sections of this resolution. In addition to terms defined in the recitals which are incorporated herein by reference, the following capitalized terms shall mean:

“Authorized Officer” means the Chair, Vice Chair, Secretary, President/CEO and any Assistant Secretary of this Board or of the Port Authority.

“Debt Service Charges” means, for any period or payable at any time, the principal of and interest on the Notes for that period or payable at that time, as the case may be.

“Land Sale Proceeds” means the amounts received or to be received by or on behalf of the Port Authority from the sale, lease or other disposition or use of any portion of the Project Sites.

“Mortgage” means each Open-End Mortgage given by the Port Authority to the Trustee pursuant to the Trust Agreement, to secure payment of the Debt Service Charges, as amended and supplemented from time to time, and “Mortgages” means all such Open-End Mortgages.

“Non-Tax Revenues” means all revenues of the Port Authority derived from sources other than taxes, to the extent available for the purpose of paying Debt Service Charges, including without limitation, revenues derived from services rendered by the Port Authority such as financing fees, down payment assistance program fees and management fees.

“Note” means any revenue bond anticipation note to be issued by the Port Authority pursuant to this resolution and “Notes” mean all or any portion such revenue bond anticipation notes.

“Note Purchase Agreement” means the Note Purchase Agreements by and between the Port Authority and the purchaser of each Note, as the same may be amended and supplemented from time to time, and “Note Purchase Agreements” means all or any portion of such Note Purchase Agreements.

“Pledged Revenues” means (a) the Land Sale Proceeds, (b) any moneys and investments in the Special Funds, (c) any other moneys intended to be used for Debt Service Charges, including proceeds of the Bonds, (d) all income and profit from the investment of the foregoing moneys, and (e) with respect to interest on the Notes, the Non-Tax Revenues.

“Program Purposes” has the meaning set forth in the recitals hereof and includes, without limitation, the acquisition, improvement, and development and redevelopment of sites constituting port authority facilities, including related acquisition, demolition, rehabilitation, remediation, construction and installation of infrastructure and related activities, for “authorized purposes”, as defined in the Act, to enhance, foster, aid, provide, or promote transportation, economic development, governmental operations, culture or research in the City and County and to create and preserve jobs and employment opportunities and to improve the economic welfare of the people of the State and to improve the economic and general well-being thereof.

“Project Costs” mean all costs reasonably necessary to accomplish the Program Purposes for each Project Site, as permitted by the Act and reasonably determined by an Authorized Officer, including, without limitation: acquiring control of or title (including clearing title) to Project Sites; costs of title insurance; acquiring related rights-of-way, easements and other property rights and interests; planning and pre-development expenses including engineering and design costs; environmental assessment and remediation; demolition; rehabilitation of existing structures; site work and utilities; infrastructure development and improvements; costs of issuance of the Notes; funding or otherwise providing for interest, but only from subordinate Notes; other costs necessary for the development of a commercial/industrial-ready site; and associated legal, escrow and filing or recording costs.

“Project Site” means each parcel of real property acquired with proceeds of the Notes issued hereunder, which constitute “port authority facilities” as defined in the Act, and “Project Sites” means all or any portion of such parcels.

“Special Funds” means the Debt Service Fund and the Project Fund, each as described in the Trust Agreement.

“Trust Agreement” means the Trust Agreement and Open-End Mortgage by and between the Port Authority and the Trustee, as amended and supplemented from time to time.

“Trustee” means the trust company or bank having the powers of a trust company serving as Trustee under the Trust Agreement from time to time. The initial Trustee shall be appointed by the President/CEO, which appointment shall be conclusively evidenced by that officer’s execution of the Trust Agreement.

“Mortgage” means each Open-End Mortgage given by the Port Authority to the Trustee pursuant to the Trust Agreement, to secure payment of the Debt Service Charges, as amended and supplemented from time to time, and “Mortgages” means all such Open-End Mortgages.

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“Trust Agreement” means the Trust Agreement and Open-End Mortgage by and between the Port Authority and the Trustee, as amended and supplemented from time to time.

“Trustee” means the trust company or bank having the powers of a trust company serving as Trustee under the Trust Agreement from time to time. The initial Trustee shall be appointed by the President/CEO, which appointment shall be conclusively evidenced by that officer’s execution of the Trust Agreement.

Section 2. Determinations by the Board. This Board hereby confirms its findings and determinations described in the recitals hereof, incorporates such recitals herein as the findings and determinations of this Board, including as to the public purposes of the Port Authority and this Board in authorizing the issuance of the Bonds, and the issuance sale and delivery of the Notes in anticipation of such Bonds, and further finds and determines that pursuant to the authority of the Act, (i) it is necessary and proper and in the best interest of the Port Authority to, and the Port Authority shall, issue, sell and deliver the Notes in one or more issues that may be on parity with or subordinate to outstanding Notes, as determined by the President/CEO, and in a maximum aggregate principal amount of \$20,000,000 as provided and authorized herein for the purpose of financing Project Costs for the Program Purposes; (ii) the acquisition of Project Sites by the Port Authority and the use of proceeds of the Notes to pay Project Costs is consistent with the purposes of the Act, will further the Program Purposes and will benefit the people of the State, including those within the jurisdiction of the Port Authority, by, among other benefits, preserving jobs and employment opportunities and improving the economic welfare of the people of the State; (iii) the terms of the Notes contained in this resolution and in the Trust Agreement are satisfactory and are hereby approved; and (iv) the Notes, and any Bonds issued hereunder, shall be secured by the Trust Agreement and the Mortgages and as otherwise provided herein and therein.

Section 3. Issuance of Notes; Bonds. The Port Authority is hereby authorized to issue, sell and deliver one or more Notes in anticipation of the issuance of Bonds in the maximum aggregate principal amount of \$20,000,000 from time to time as determined by the President/CEO to provide funds to pay Project Costs. No Notes may be issued pursuant to this resolution after December 31, 2016. Each Note shall be signed by any two Authorized Officers, in the name of the Port Authority and this Board and in their official capacities, provided that one or both of such signatures may be a facsimile. The Trustee is hereby appointed to act as the registrar for the Notes and the Trustee will maintain a register evidencing the ownership of the Notes. No Note shall be valid or become obligatory for any purpose or be entitled to any security or benefit under this resolution or the Trust Agreement unless and until the certificate of authentication on the Note is signed by the Trustee, as registrar.

Each Note shall be designated "Port of Greater Cincinnati Development Authority Economic Development Mortgage Revenue Bond Anticipation Note, Series 2016 (Greater Cincinnati Patient Capital Fund)", with such additional designations as shall be determined by the President/CEO or the Trustee as necessary or desirable to distinguish the Notes of and security for any one issue, from the Notes and security for any other issue, and as otherwise set forth in the Trust Agreement, and shall be issuable only in definitive (certificated) fully registered form in substantially the form set forth in the Trust Agreement. The Notes shall be issued in authorized denominations of \$100,000 and any multiple of \$5,000 in excess thereof and shall be numbered from R-1 upward. Each Note shall be dated the date of its issuance and the outstanding principal amount of each Note shall bear interest at the rate (not to exceed 3.00% per year), as determined at the time of issuance by the President/CEO (with that determination conclusively evidenced by the President/CEO's execution of the Note); provided, that Notes on parity with each other shall bear the same rate of interest regardless of when issued. Interest on the Notes shall be payable at maturity or earlier prepayment (as to the principal prepaid), from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date. Interest on the outstanding principal amount of the Notes shall be computed on the basis of a 360 day year consisting of twelve 30 day months.

All Notes shall mature on June 1, 2021, and are subject to (i) redemption at the option of the Port Authority at par plus accrued interest, in whole or in part in \$5,000 increments, on any business day, and (ii) mandatory redemption, at par plus any accrued interest, in whole or in part in \$5,000 increments, on any business day, upon the occurrence of certain events described in the Trust Agreement.

The Notes shall have such other terms as provided therein and in the Trust Agreement.

In the event that the Port Authority is obligated to issue Bonds in exchange for or to refund maturing Notes under the Trust Agreement, the Bonds shall mature five years from the maturity of the

Notes, subject to deferral and extension of such maturity in accordance with the Trust Agreement, and all such Bonds shall bear the same rate of interest as, shall be subject to redemption on the same terms and conditions as, and shall be payable from and secured by the same revenues and other sources (except the obligation to issue the Bonds), and with the same priority, as the respective Notes surrendered; provided, that interest will be payable semiannually in accordance with the Trust Agreement. The Bonds shall be executed, authenticated, registered, sold and delivered in the manner, and shall have such other terms, as are provided in the Trust Agreement.

Section 4. Sale of the Notes. Each Note shall be awarded and sold to the purchaser identified by the President/CEO and designated as the registered owner therein at a purchase price equal to the principal amount thereof. The Port Authority shall enter into a Note Purchase Agreement with each purchaser at or prior to the delivery of the Note sold to that purchaser. Any fees due in connection with the issuance, sale and delivery of a Note including, without limitation, any fee due in connection with the structuring and placement of a Note may be paid and are hereby appropriated from the proceeds of the sale of the Note. It is determined by this Board that the price for and the terms of the Notes and the sale and delivery thereof, all as provided in this resolution, are in the best interest of the Port Authority and are in compliance with all legal requirements.

Section 5. Creation of Funds; Application of Proceeds of Notes. The Special Funds are hereby authorized and directed to be created, and the proceeds from the sale of the Notes shall be deposited in accordance with the Trust Agreement and disbursed at the written direction of an Authorized Officer to pay Project Costs, all as provided in the Trust Agreement, and the proceeds from the sale of the Notes are appropriated to those purposes.

Section 6. Security. Notwithstanding anything to the contrary herein or in the Notes, any Bonds or the Trust Agreement, the Notes (and any such Bonds) do not and shall not pledge the general credit or taxing power of the Port Authority or of the State or any political subdivision, municipality or other local agency thereof and nothing herein or in the Notes, any Bonds or the Trust Agreement shall constitute a general obligation, debt or bonded indebtedness of the Port Authority, the State or any political subdivision thereof; and further, nothing therein gives the owners of the Notes or any Bonds, and they do not have, the right to have excises or taxes levied by this Board, or by the State or the taxing authority of any other political subdivision, municipality or other local agency thereof for the payment of Debt Service Charges, the Notes are payable solely from the Pledged Revenues and the Special Funds, and from proceeds of the issuance of the Bonds, as provided herein and in the Trust Agreement, and the Notes shall contain a statement to that effect, and the Bonds shall be payable solely from the Pledged Revenues and the Special Funds, as provided herein and in the Trust Agreement, and the Bonds shall contain a statement to that effect; provided, however, that nothing herein, in the Notes, the Bonds or any other document related to the Notes or the Bonds shall be deemed to prohibit the Port Authority, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this resolution, the Trust Agreement, any Bonds or the Notes.

Section 7. Covenants of Port Authority. In addition to the covenants and agreements of the Port Authority herein and in the Trust Agreement, the Port Authority, by issuance of the Notes, covenants and agrees with the owners thereof that: (a) the Port Authority will use proceeds of the Notes to pay Project Costs for Program Purposes; (b) the Port Authority will segregate, for accounting purposes, the Pledged Revenues and the Special Funds established under the Trust Agreement from all other revenues and funds of the Port Authority; (c) the Secretary or an Assistant Secretary of this Board will furnish to the Trustee a true transcript of proceedings, certified by such officer, of all proceedings had with reference to the issuance of the Notes together with such information from the Port Authority's records as is necessary to determine the regularity and validity of such issuance; (d) the Port Authority will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purposes of the Notes and this resolution or as may be required by the Act, and will comply with all requirements of law applicable to the Notes; (e) the Port Authority will observe and perform all of its agreements and obligations provided for by this resolution, the

Notes, any Bonds issued, the Trust Agreement, the Note Purchase Agreements and the Mortgages, and that all of the obligations hereunder and thereunder are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Port Authority within the meaning of Section 2731.01, Ohio Revised Code; (f) the Port Authority will use its best efforts to comply with all of its obligations and agreements thereunder and to keep the same in full force and effect; (g) the Port Authority will, solely from the Pledged Revenues and the issuance of Bonds, pay or cause to be paid the Debt Service Charges on the dates, at the places and in the manner provided herein and in the Notes; and (j) at or prior to the maturity of the Notes, the Port Authority will issue and deliver the Bonds in a principal amount sufficient, together with Pledged Revenues available to it for that purpose, to pay all Debt Service Charges, when due, on the Notes; provided that the Bonds issued and delivered to any Noteholder shall not exceed the outstanding principal amount of the Notes held by such Noteholder.

Section 8. Trust Agreement, Mortgage and Other Agreements. To provide for the issuance and sale of, and security for the payment of Debt Service Charges on, the Notes, each Authorized Officer, alone or together, is hereby authorized, for and in the name of the Port Authority, to execute and deliver the Trust Agreement, one or more Note Purchase Agreements, the Bonds and one or more Mortgages in substantially the forms thereof now on file with an Assistant Secretary, with such changes therein as are not inconsistent with this resolution and not substantially adverse to the Port Authority and which are permitted by the Act and shall be approved by the officer or officers executing those documents. The approval of such changes, and that such changes are not substantially adverse to the Port Authority, shall be conclusively evidenced by the execution of those documents by that official or those officials.

Each Authorized Officer is further authorized and directed to execute any certifications, agreements or other instruments and to take such further actions, as are necessary or appropriate to provide for the issuance and sale of the Notes and to consummate the transactions contemplated in this resolution, the Notes, the Trust Agreement and the Mortgages. All actions heretofore taken by the officers and officials of this Port Authority and of this Board in connection with the issuance and sale of the Notes are hereby ratified and approved.

Section 9. 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.

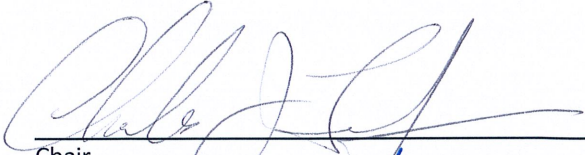
Section 10. Compliance with Open Meeting Law. This Board finds and determines that all formal actions of this Board and any of its committees concerning and relating to the adoption of this resolution were taken in an open meeting of this Board or its committees and that all deliberations of this Board and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 11. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.

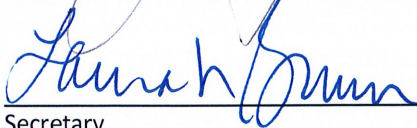
Adopted: March 9, 2016

Yeas: 6

Nays: 0



Chair

Attest: 

Secretary