

RESOLUTION NO. 2016-12

A RESOLUTION AUTHORIZING AND APPROVING MATTERS PERTAINING TO OUTSTANDING PORT AUTHORITY REVENUE BONDS, THE PROJECT FINANCED, THE RELATED DEVELOPMENT PROPERTY AND THE PROPOSED SALE THEREOF, AND EXISTING AGREEMENTS OF THE PORT AUTHORITY, INCLUDING EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AGREEMENTS, AMENDMENTS, SUPPLEMENTS, CONSENTS AND OTHER DOCUMENTS, AND THE TAKING OF ALL RELATED ACTIONS BY THE PORT AUTHORITY.

WHEREAS, pursuant to Resolution No. 2006-09 adopted by this Board on June 21, 2006 (“Bond Resolution”), this Board authorized the issuance by the Port of Greater Cincinnati Development Authority (“Port Authority”) of its Special Obligation Development Revenue Bonds, Series 2006 (Springdale Public Infrastructure Project) (Pictoria Corporate Center Development) dated October 25, 2006 (“Bonds”) for the purpose of financing costs of public parking facilities (“Project”) in cooperation with the City of Springdale, Ohio (“City”), all as further described in and provided for by the Tax Increment and Special Assessment Financing Cooperative Agreement dated as of October 1, 2006 (as supplemented and amended, “Cooperative Agreement”) by and among the Port Authority, the City and MEPT Pictoria LLC, a Delaware limited liability company (“MEPT”), the Trust Indenture dated as of October 1, 2006 (as supplemented and amended, “Indenture”) between the Port Authority and U.S. Bank National Association, as trustee (together with any successors thereto, “Trustee”), and the other Transaction Documents (that term, and all other terms used as defined terms but not defined herein, being used as defined in the Master Definitions List included in the Cooperative Agreement and the Indenture); and

WHEREAS, pursuant to Resolutions Nos. 2009-04 and 2011-08 adopted on February 19, 2009 and November 9, 2011 respectively (“Supplemental Resolutions” and, together with the Bond Resolution, “Existing Resolutions”), this Board approved certain revisions to the Transaction Documents, including execution and delivery of certain amending and/or supplemental agreements generally relating to the terms and conditions on which the irrevocable direct-pay letter of credit (“Letter of Credit”) issued by U.S. Bank National Association (“Bank”) to the Trustee would continue to secure the payment of Bond Service Charges on, and the Purchase Price of, the Bonds; and

WHEREAS, the Letter of Credit cannot currently be terminated by the Bank except on the Stated Termination Date, currently February 15, 2017, and only by giving at least 270 days’ notice to the Port Authority of any such proposed termination; and

WHEREAS, the Port Authority has received notice from MEPT, as the initial and current Owner of the Pictoria Tower Site, of its intention to sell Pictoria Tower, the Pictoria Tower Site, and its interests in the Garage Site and Plaza Site (collectively “MEPT Pictoria Property”) to Fairbridge Partners, LLC a New Jersey limited liability company or an acceptable affiliate thereof (“Purchaser”) and requesting the consent of the Port Authority to (i) the assignment of MEPT’s obligations under the Cooperative Agreement and other related documents including, without limitation, the Management Agreement (herein “Existing Management Agreement”) to the Purchaser and (ii) the release of MEPT from all obligations under the Cooperative Agreement and other related documents accruing after completion of the sale of the MEPT Pictoria Property to, and the assumption of all such obligations by, the Purchaser (“Assignment, Assumption and Release”); and

WHEREAS, in order to implement the Assignment, Assumption and Release, MEPT and the Purchaser have submitted to the Port Authority, and there is on file with the Secretary: (i) a form of agreement styled “Assignment and Assumption of Tax Increment and Special

Assessment Financing Cooperative Agreement and Other Applicable Transaction Documents” by and between MEPT and the Purchaser, with Consent and Agreement of Port Authority, Acknowledgment and Agreement of Trustee and Acknowledgment of the City (collectively “Assignment and Assumption Agreement”) and (ii) forms of three separate Limited Warranty Deeds conveying from MEPT to the Purchaser all interests of MEPT in and to the MEPT Pictoria Property (collectively “Deeds”); and

WHEREAS, the Purchaser has requested that the Port Authority, upon completion of the purchase of the MEPT Pictoria Property and the execution and delivery of the Assignment and Assumption Agreement, amend, restate, execute and deliver a new management agreement with respect to the Garage and Plaza (herein “Restated Management Agreement”) with the Purchaser or an approved affiliate of Fairbridge Partners, LLC, as Manager (herein “Successor Manager”) on the same terms and conditions as the Existing Management Agreement except that the term of the Management Agreement will be extended to a date on or about May 1, 2031, subject to delivery to the Port Authority and the Trustee of an Opinion of Bond Counsel to the effect required under the Cooperative Agreement for any such amendment; and

WHEREAS, this Board has determined that it is necessary, desirable and appropriate, is consistent with all requirements of the Cooperative Agreement, and is in the best interest of the Port Authority, to consent to the sale by MEPT of the MEPT Pictoria Property to the Purchaser and to the Assignment, Assumption and Release, all consistent with the Assignment and Assumption Agreement and the Deeds, each in substantially the form on file with the Secretary, to amend and restate the Existing Management Agreement and execute and deliver the Restated Management Agreement, and to authorize and approve the matters and actions described above or otherwise herein, including the execution and delivery of any instruments, agreements, amendments, supplements, consents and other documents related to the matters described herein, and the taking of all related actions required, from time to time on behalf of the Port Authority;

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

Section 1. The recitals hereto are incorporated herein by this reference as a statement of the findings and determinations of this Board and all terms used in this resolution without further definition thereof, are used as defined in, or by reference in, those recitals, and this Board further finds and determines that it is necessary, desirable and appropriate, is consistent with all requirements of the Cooperative Agreement, and is in the best interest of the Port Authority, to and the Port Authority will (i) consent to the sale by MEPT of the MEPT Pictoria Property to the Purchaser and to the Assignment, Assumption and Release, all consistent with the Assignment and Assumption Agreement and the Deeds, each in substantially the form on file with the Secretary, (ii) amend and restate the Existing Management Agreement and execute and deliver the Restated Management Agreement, and (iii) take all related actions required, from time to time, on behalf of the Port Authority, and all such matters and actions are hereby authorized and approved.

Section 2. In furtherance of the authority granted under Section 1 hereof (and without limitation on any other authority that may exist with respect to such matters and actions), this Board hereby authorizes the Chair, the Vice Chair, the President of the Port Authority and the Secretary (each an “Authorized Officer”), alone or together with any other Authorized Officer or Assistant Secretary to execute and deliver, on behalf of the Port Authority, the Consent and Agreement of Port Authority included in the Assignment and Assumption Agreement and the Restated Management Agreement, each in substantially the forms on file with the Secretary, but with such changes therein as are not inconsistent with the this resolution or the Cooperative Agreement and not substantially adverse to the Port Authority and which are 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 any Authorized Officer.

Section 3. Each Authorized Officer is further authorized to execute such other documents consistent herewith and with the Cooperative Agreement (including the execution and delivery of any instruments, agreements, amendments, supplements, consents and other documents) related to the matters described herein, 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 Assignment and Assumption Agreement or Restated Management Agreement or by the Existing Resolutions (as supplemented hereby) and the Cooperative Agreement, Indenture or other Transaction Documents.

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. 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, are hereby adopted, 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.

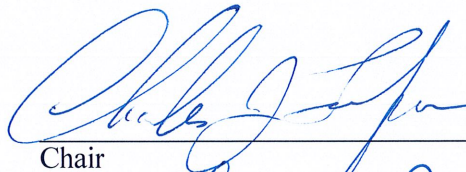
Section 6. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: April 13, 2016

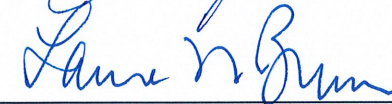
Yeas: 8

Nays: 0

Abstentions: 0



Chair



Attest:

Secretary