

**RESOLUTION NO. 2016-14**

**RESOLUTION AUTHORIZING THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY TO MAKE CAPITAL EXPENDITURES TO ACQUIRE FOR REDEVELOPMENT THE PROPERTY GENERALLY LOCATED AT 2100 SECTION ROAD, AMBERLEY VILLAGE, HAMILTON COUNTY, OHIO AND TO MAKE OPERATING EXPENDITURES NECESSARY IN 2016 WITH RESPECT TO THE OWNERSHIP OF SUCH PROPERTY, AND AUTHORIZING RELATED MATTERS.**

**WHEREAS**, the “authorized purposes” of the Port Authority 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**, in support of such authorized purposes, the Port Authority may acquire and improve, and sell, lease, exchange or otherwise dispose of property, structures, equipment and facilities within the State for industry, commerce, distribution and research and, pursuant to such authority, this Board has previously adopted Resolution No. 2016-09 (“Patient Capital Note Resolution”) and, for the reasons further stated in the Recitals to the Patient Capital Note Resolution, which Recitals are incorporated herein by reference, authorized the issuance of revenue bonds and notes in anticipation of such revenue bonds (“Patient Capital Notes”) to provide moneys to acquire, improve, assemble, reposition and otherwise develop and redevelop former commercial and industrial sites, together with 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 within the City and the County (“Program Purposes”); and

**WHEREAS**, consistent with existing authority under the Bylaws adopted by this Board and for the Program Purposes, the Port Authority has entered into an agreement, subject to conditions (as amended, “Agreement”), for the acquisition of the approximately 54-acre industrial property generally located at 2100 Section Road, in the Village of Amberley and City of Cincinnati, Hamilton County, Ohio (Auditor Parcel Nos. 526-0080-0003-00 and 117-0011-0003-00 and herein, collectively, the “Property”), and this Board has been advised by Port Authority staff that the Port Authority has performed the necessary due diligence with respect to the Property utilizing a portion of the Due Diligence Funds line item (“Due Diligence Appropriation”) established by this Board under Resolution No. 2015-22 adopted by this Board on December 9, 2015 (“2016 Appropriations Resolution”) and that the “Due Diligence Period” under the Agreement will expire on or about April 29, 2016 (“Diligence End-Date”); and

**WHEREAS**, this Board has been further advised that the acquisition of the Property for redevelopment will require (i) an initial capital expenditure by the Port Authority of \$8.5 million to pay the purchase price for the Property (“Closing Payment”), with the required deposits of \$50,000 made in 2015 and of \$100,000 to be made on the Diligence End-Date to be returned to the Port Authority upon payment of the Closing Payment and (ii) assuming timely completion of such acquisition, certain holding or operating expenses including, without limitation, utility, tax, insurance and security costs (“Operating Costs”) to be paid by the Port Authority with respect to the Property in the current year, estimated not to exceed \$150,000 and

**WHEREAS**, the Closing Payment is expected to be paid in part from proceeds of Patient Capital Notes and in part from public or private grants (“Grants”) or Southwest Ohio Regional Bond Fund revenue bonds issued for that purpose by the Port Authority (“Bond Fund Bonds”) or

a combination thereof supplemented, as necessary, by Port Authority funds appropriated from unrestricted cash available for that purpose; and

**WHEREAS**, the Operating Costs are expected to be paid from unrestricted cash of the Port Authority available and appropriated for that purpose; and

**WHEREAS**, it is necessary, at this time, to determine whether the Port Authority will proceed with the acquisition of the Property for redevelopment and, to the extent that such determination is made, to appropriate amounts sufficient to pay any portion of the Closing Payment to be made from Port Authority funds and to provide for the anticipated Operating Costs payable in 2016; and

**WHEREAS**, the proceeds of the Patient Capital Notes will be deemed appropriated upon issuance thereof and this Board anticipates that approximately \$6.5 million of such proceeds will be applied to pay a portion of the Closing Payment; and

**WHEREAS**, this Board has separately authorized the issuance of approximately \$2.5 million of Bond Fund Bonds to pay a portion of the costs of the acquisition of the Property and pay or reimburse related costs and this Board anticipates that (i) 10% of such amount will be deposited into the required "primary reserve account" for the Bond Fund Bonds, (ii) 10% of such amount will be used to pay or reimburse costs incurred by the Port Authority in the acquisition of the Property, including reimbursement of all or a portion of the amount advanced from the Due Diligence Funds, and costs relating to the issuance and sale of the Patient Capital Notes and the Bond Fund Bonds, and (iii) approximately \$2 million of such proceeds will be applied to pay a portion of the Closing Payment, and all such amounts will be deemed appropriated to such purposes upon issuance of the Bond Fund Bonds; and

**WHEREAS**, in order to expend the funds of the Port Authority necessary to pay the amounts due under the Agreement, including the Closing Payment and the estimated 2016 Operating Costs (together "Additional Expenditures"), the Annual Budget must be amended to provide for the Additional Expenditures; and

**WHEREAS**, the Port Authority held \$877,051 of unrestricted cash as of the most recent month-end date of March 31, 2016, which is derived from a combination of portions of the resources identified in the 2016 Appropriations Resolution and of the Port Authority's unrestricted 2015 year-end cash balance and, except to the extent payable from other sources (including the Patient Capital Notes, any Grants and the Bond Fund Bonds), the Additional Expenditures will need to be paid from the unrestricted cash (the unencumbered moneys from time to time available in the General Fund); and

**WHEREAS**, this Board has determined that acquisition and redevelopment of the Property will promote the authorized purposes of the Port Authority, including the Program Purposes, that such acquisition for redevelopment is in the best interests of the Port Authority and the Port Authority should proceed with such acquisition and that, in order to proceed with such acquisition, it is necessary and desirable for this Board to authorize and confirm the President's authority to proceed under and acquire the Property pursuant to the Agreement, to approve all expenditures necessary to acquire and hold the Property for redevelopment, and to amend the appropriations made by this Board for 2016 to enable the President of the Port Authority to expend the funds necessary to pay or provide for the Additional Expenditures;

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

**Section 1.** The recitals hereto are incorporated herein by this reference as a statement of the findings and determinations of this Board, including as to the public purposes of the Port Authority in acquiring the Property for redevelopment and expending Port Authority funds as contemplated and authorized herein, and of this Board in authorizing the acquisition of the Property for redevelopment and the expenditures of Port Authority funds contemplated and authorized herein, and this Board further finds and determines that the acquisition and redevelopment of the Property will promote the authorized purposes of the Port Authority, including the Program Purposes, that such acquisition for redevelopment is in the best interests of the Port Authority, that the Port Authority should proceed with such acquisition and that, in order to proceed with such acquisition, this Board hereby authorizes and confirms the President's authority to proceed under and acquire the Property pursuant to the Agreement, hereby approves all expenditures necessary to acquire and hold the Property for redevelopment and, as further provided in Section 2, hereby amends the appropriations made by this Board for 2016 to enable the President of the Port Authority to expend the funds necessary to pay or provide for Additional Expenditures from unrestricted cash of the Port Authority, which authority is in addition to the expenditures to be made from, and appropriated upon issuance of, the proceeds of the sale of the Patient Capital Notes and Bond Fund Bonds, or to be made for that purpose from any Grants received, all of which are hereby authorized and approved. This Board hereby determines that the expenditures of funds authorized by this Resolution are for the purposes of economic development, and will create and retain jobs and employment opportunities in the State pursuant to and consistent with Article VIII, Section 13, of the Ohio Constitution and are consistent with all applicable requirements of Chapter 4582 of the Revised Code and the Ohio Constitution.

**Section 2.** This Board hereby authorizes the President of the Port Authority to expend \$8.5 million to make the Closing Payment and complete the acquisition of the Property pursuant to the Agreement, which amount is expected to be derived from the following sources:

<u>Source</u>	<u>Amount</u>
Patient Capital Notes	\$6,500,000
Bond Fund Bonds (or Grants if Available)	<u>\$2,000,000</u>
<b>Total Expenditures for Closing Payment</b>	<b>\$8,500,000</b>

If and to the extent that the Bond Fund Bonds are issued and proceeds thereof or of the Patient Capital Notes are used to reimburse moneys expended from or pursuant to the Due Diligence Appropriation (established under the 2016 Appropriations Resolution), such amounts may be used and are hereby appropriated for the same purposes as other such "Due Diligence Funds" may be used. Such purposes are hereby amended to include, in addition to the existing purposes of such Due Diligence Appropriation, the payment of Operating Costs relating to holding or operating real property owned by the Port Authority, and the term "Due Diligence Funds", as used in the 2016 Appropriations Resolution, is hereby amended to read "Diligence and Holding Costs Funds". In addition to all other amounts included in the Due Diligence Appropriation, this Board hereby appropriates \$50,000 for purposes of the Diligence and Holding Costs Funds (as supplemented and amended, the "Diligence and Holding Costs Appropriation"), from the unencumbered moneys available from time to time in the General Fund. This Board hereby authorizes the President of the Port Authority to expend any or all amounts available from time to time pursuant to the Diligence and Holding Costs Appropriation to pay or provide for Operating Costs relating to the Property in 2016. All amounts contemplated to be expended under this resolution or pursuant to the Agreement, to the extent not otherwise appropriated by this Board for those purposes, are hereby appropriated from the unencumbered moneys available from time to time in the General Fund.

**Section 3.** Notwithstanding any requirements of the Bylaws, including Article IV, Sections 3(a) and (b) thereof, the authority granted to the President under this resolution includes the authority to enter into contracts (including, without limitation, the Agreement) in excess of

\$100,000.00 and issuing payments in excess of \$50,000.00 for the purposes contemplated in this resolution without requiring any further approval by this Board.

Section 4. The President of the Port Authority is authorized to execute any certifications, agreements, assignments, amendments, supplements and other instruments and documents, and to take such further actions, as are necessary or appropriate to provide for the acquisition of the Property pursuant to the Agreement and to consummate the transactions contemplated in this resolution and the Agreement. All actions heretofore taken by the President, and by any other officers and officials of the Port Authority and of this Board, in connection with acquisition of the Property pursuant to the Agreement are hereby adopted, ratified and approved.

Section 5. 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 6. 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 7. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: 4-13-16

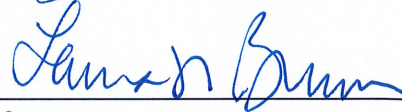
Yeas: 8

Nays: 0

Abstentions: 1



Chairperson



Attest:

Secretary