

RESOLUTION NO. 2016-22

AUTHORIZING THE ISSUANCE AND SALE OF DEVELOPMENT REVENUE BONDS (SOUTHWEST OHIO REGIONAL BOND FUND) OF THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,565,000 FOR THE PURPOSE OF FINANCING "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE; AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL TRUST INDENTURE TO SECURE SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT, A COOPERATIVE AGREEMENT AND THE DISTRIBUTION OF ANY REQUIRED DISCLOSURE STATEMENT FOR THE OFFERING AND SALE OF THOSE BONDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS NECESSARY OR DESIRABLE FOR THE ISSUANCE AND SALE OF THE BONDS.

WHEREAS, the Port of Greater Cincinnati Development Authority ("Port Authority"), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, is authorized and empowered, by virtue of the laws of the State of Ohio, including, without limitation, Sections 13 and 16 of Article VIII, Ohio Constitution, and Sections 4582.21 through 4582.59, Ohio Revised Code: (i) to issue revenue bonds for the purpose of financing costs of acquiring, constructing, installing, equipping or improving "port authority facilities," as defined in Section 4582.21, Ohio Revised Code; (ii) to secure those revenue bonds by a trust indenture, as provided herein, and to provide for "Pledged Revenues" sufficient to pay the principal of and interest and any premium on those revenue bonds; and (iii) to adopt this resolution and to enter into the Supplement, the Purchase Agreement and the Cooperative Agreement, each defined herein, upon the terms and conditions provided herein and therein; and

WHEREAS, by Resolutions Nos. 2015-04 and 2016-03, this Board has previously approved the Port Authority's joinder to the Southwest Ohio Regional Bond Fund ("Bond Fund") and other related actions of the Port Authority and, as a result, the Port Authority is authorized to act as an issuer of revenue bonds under the Indenture (that term and any other term used but not defined in these recitals used as defined in Section 1 below), in cooperation with the Dayton-Montgomery County Port Authority ("Dayton Port"), within the Bond Fund for the purpose of financing costs of acquiring, constructing, installing, equipping or improving port authority facilities, creating or retaining jobs and employment opportunities or otherwise supporting economic development in the City of Cincinnati, Ohio ("City") or the County of Hamilton, Ohio ("County"); and

WHEREAS, pursuant to Ordinance No. 0413-2002 (the "TIF Ordinance"), the City of Cincinnati, Ohio (the "City") created Tax Increment Finance District 3 Downtown/OTR West (the "TIF District") to support over \$400 million in redevelopment which included 352 condominiums, 108 apartments and 373,000 square feet of commercial space and, pursuant to the TIF Ordinance, exempted real property within the TIF District from the payment of real property taxes for a period of 30 years, and required such owners to make Service Payments in lieu of taxes; and

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

Section 1. Definitions. In addition to the words and terms elsewhere defined in this resolution, the following words and terms as used in this resolution, in the Indenture and in the Bonds shall have the following meanings unless otherwise provided in those documents and unless the context or use indicates another or different meaning or intent:

“3CDC” has the meaning set forth in the preambles hereto.

"Act" means Sections 4582.21 to 4582.59, inclusive, Ohio Revised Code, as enacted and amended from time to time pursuant to Sections 13 and 16 of Article VIII of the Ohio Constitution.

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

"Authorized Denominations" means Authorized Denominations as defined in the Certificate of Award or the Supplement.

"Basic Indenture" means the Amended and Restated Trust Indenture dated as of April 1, 2015 between the Port Authority, the Dayton Port and the Trustee, as amended from time to time.

"Board" means the Board of Directors of the Port Authority.

"Bond" or "Bonds" means part or all, respectively, of the bonds authorized by this resolution.

"Bond Fund" means the Bond Fund created by Section 5.04 of the Basic Indenture.

“Bond Legislation” means this Bond Legislation and the Certificate of Award executed pursuant to this Bond Legislation.

"Bond Reserve Deposit" means, for the Bonds, the amount to be paid from the proceeds of the Bonds and deposited in the PRF Account or an Acceptable Letter of Credit or Bond Reserve Insurance (as such terms are defined in the Basic Indenture), in any case or in combination equal to ten percent of the proceeds of the Bonds, as designated in the Certificate of Award.

"Bond Service Charges" means, for any period of time, the principal of and interest and any premium due on the Bonds.

“Capitalized Interest” means, with respect to the Bonds, the amount which represents interest on the Bonds during the Capitalized Interest Period.

“Capitalized Interest Period” means the interest accrued on the Bonds from their date of issuance through May 15, 2017.

or the Trustee and intended to be used for Bond Service Charges under the Basic Indenture, including without limitation, all moneys in or to be credited in the Special Funds.

"Port Authority" means the Port of Greater Cincinnati Development Authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, and its lawful successors.

"PRF Account" means the account for the Bonds established in the Primary Reserve Fund created by the Basic Indenture.

"Principal Payment Date" means, as to the Bonds, each May 15 and November 15, commencing November 15, 2017, or as otherwise set forth in the Certificate of Award.

"Proceeds Subaccount" means the subaccount for the deposit of proceeds of the Bonds to be used to refinance the Gateway II Loans and pay certain other costs and expenses, which subaccount is established in the Project Fund created by the Basic Indenture.

"Projects" mean the residential and commercial facilities financed with the proceeds of the Gateway II Loans, comprising "port authority facilities" within the meaning of the Act, for the authorized purposes thereunder to enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within the jurisdiction of the Port Authority.

"Purchase Agreement" means, as to the Bonds, the bond purchase, placement or sale agreement between the Authority and the Original Purchaser providing for the purchase and sale of the Bonds.

"Service Payments" means the service payments in lieu of taxes made by the owners of real property within the TIF District pursuant to the TIF Ordinance.

"Special Funds" means, collectively, the Special Funds as established under and identified in the Indenture and in the custody of the Trustee.

"State" means the State of Ohio.

"Supplement" means the supplemental indenture for the Bonds, among the Port Authority, the Dayton Port and the Trustee, supplementing the Basic Indenture and providing for the issuance and terms of the Bonds, the payment of Financing Payments by the Port Authority and the pledge of the Pledged Revenues for that purpose.

"TIF Fund" means the fund created by the TIF Ordinance and designated as the "DOWNTOWN/OTR WEST EQUIVALENT FUND 482".

"TIF Ordinance" has the meaning set forth in the preambles hereto.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., New Albany, Ohio, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter "Trustee" shall mean the successor Trustee.

shall be in Authorized Denominations; (v) shall be subject to optional, extraordinary and mandatory sinking fund redemption in the amounts, upon the conditions, and at the times and prices set forth in the Certificate of Award and upon the conditions set forth in the Indenture; and (vi) shall be dated as of the date of issuance thereof. Each Bond shall bear interest, payable on the Interest Payment Dates, in accordance with the Supplement, from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from the date of the Bonds and principal on each Bond shall be paid on the Principal Payment Date, as set forth in the Supplement.

(b) Interest Rate, Principal Maturities and Mandatory Redemption of Bonds. The Bonds shall bear interest at the rates, shall mature and be subject to mandatory redemption in the amounts and on specified dates in the years, all as set forth in the Certificate of Award, provided that no rate of interest therein specified shall exceed five percent (5%) per year, the first Bonds to be retired shall be retired, by mandatory redemption or maturity, not later than November 15, 2017, and all Bonds shall have been retired, by mandatory redemption or maturity, not later than November 15, 2030. An Authorized Officer in the Certificate of Award shall fix the interest rate or rates, and the maturities and mandatory and optional redemption provisions of the Bonds so as to provide to the Port Authority the lowest feasible interest cost within the terms of this resolution and the amount required for the costs to be paid from the proceeds of the Bonds. The procedures and conditions for the satisfaction of any mandatory sinking fund requirements shall be set forth in the Supplement. Other terms of the Bonds may be specified in the Certificate of Award or the Supplement.

(c) Execution of Bonds. The Bonds shall be signed by any two Authorized Officers in their official capacities, provided that one or both of such signatures may be a facsimile.

(d) Book Entry System. Notwithstanding any other provisions of this resolution or the Indenture, if it is determined in the Certificate of Award that it is in the best interest of the Port Authority, the Bonds may be issued to a Depository (as defined in the Indenture) for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (ii) except as otherwise provided in the Indenture, the book entry interest owners of Bonds in book entry form shall not have any right to receive Bonds in the form of physical securities or certificates; (iii) ownership of book entry interests in Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Port Authority.

Section 4. Sale of the Bonds; Disclosure Statement. The Bonds are awarded and sold to the Original Purchaser, in accordance with the Purchase Agreement, at the purchase price set forth in the Certificate of Award. The purchase price of the Bonds, expressed as a percentage of the principal amount of the Bonds, shall be established in the Certificate of Award, provided that such purchase price may provide for a discount of not more than 3.00% of the principal amount of the Bonds, if it is determined in the Certificate of Award to be in the best interests of the Port

Each Authorized Officer is authorized to execute a certificate directing the amount of the proceeds to be deposited in each of the aforesaid funds, accounts and subaccounts for the Bonds, which direction may vary the foregoing allocations if that officer certifies that such variance is in the best interests of the Port Authority and appropriate to providing the Project.

Section 6. Security for the Bonds. As provided in the Indenture, the Bonds shall be payable solely from the Pledged Revenues and the funds established under the Basic Indenture and shall be secured equally and ratably by (i) a first lien and collateral assignment of the TIF Fund to the Trustee by the Port Authority, as assigned by the City to the Port Authority under the Cooperative Agreement, (ii) by pledge of and a lien on (A) the Special Funds, (B) the Pledged Revenues, (C) the TIF Fund, and (D) such collateral as may from time to time be assigned to the Trustee as security therefor, to pay Financing Payments under the Supplement; provided, however, that any assignment of or lien on any fund, account, receivables, revenues, money or other intangible property not in the custody of the Trustee shall be valid and enforceable only to the extent permitted by law and (ii) by the Supplement.

The Port Authority hereby covenants and agrees to pay, when due, all Financing Payments required under the Supplement from the Pledged Revenues and hereby pledges the Pledged Revenues for that purpose.

Nothing in this resolution, the Bonds or the Supplement shall represent or constitute a debt, or a pledge of the faith and credit, of the Port Authority, the State or any political subdivision thereof, and nothing therein or herein gives the Holders, and they do not have, the right to have taxes levied by this Board, or by the State or the taxing authority of any political subdivision of the State, for the payment of Bond Service Charges, but the Bonds are payable from the Pledged Revenues and the funds established under the Indenture. Each Bond shall contain a statement to that effect, provided, however, that nothing herein 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 the Indenture, this resolution or the Bonds.

Section 7. Covenants of Port Authority. The Port Authority, by issuance of the Bonds, covenants and agrees with the Holders that:

(a) The Authority will use the proceeds of the Bonds to refinance the Gateway II Loans, to pay certain costs of issuance of the Bonds, to make any capitalized interest deposit and to fund the Bond Reserve Deposit unless that deposit is made in a non-monetary form.

(b) The Port Authority will segregate, for accounting purposes, the Pledged Revenues and Special Funds from all other revenues and funds of the Port Authority.

(c) An Authorized Officer, or other appropriate officer of the Port Authority, will furnish to the Original Purchaser a true transcript of proceedings, certified by an Authorized Officer or such other officer, of all proceedings had with reference to the issuance of the Bonds together with such information from the Port Authority's records as is necessary to determine the regularity and validity of such issuance.

All actions heretofore taken by the officers and officials of the Port Authority and of this Board in connection with the issuance and sale of the Bonds are hereby adopted, ratified and approved.

Section 12. 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 13. 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.

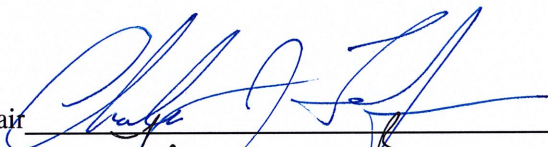
Section 14. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.

Adopted 11-9, 2016

Yeas: 6

Nays: 0

Abstentions: 2

Chair 

Secretary 