

**RESOLUTION NO. 2016-26**

**RESOLUTION ESTABLISHING THE CINCINNATI NEIGHBORHOOD COMMERCIAL REAL ESTATE LOAN FUND FOR "AUTHORIZED PURPOSES" OF THE PORT AUTHORITY WITHIN THE MEANING OF OHIO REVISED CODE SECTION 4582.21, AUTHORIZING THE ACCEPTANCE OF A LOAN, AND THE ISSUANCE, SALE AND DELIVERY OF AN ECONOMIC AND COMMUNITY DEVELOPMENT REVENUE BOND (CINCINNATI NEIGHBORHOOD COMMERCIAL REAL ESTATE LOAN FUND), IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$5,000,000, FOR THE PURPOSE OF FINANCING "COSTS" OF "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF REVISED CODE SECTION 4582.21 BY FUNDING AN INITIAL DEPOSIT INTO THE FUND FOR LOANS TO PROVIDE FOR SUCH COSTS IN FURTHERANCE OF THE PROGRAM PURPOSES; PLEDGING FUND REVENUES TO SECURE PAYMENT OF SUCH BOND AND LOAN WHEN DUE; AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT TO PROVIDE FOR THE TERMS OF THE LOAN AND THE SECURITY THEREFOR; AUTHORIZING RELATED INSTRUMENTS AND AGREEMENTS RELATING TO THE PROGRAM AND THE FUND; 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, housing, recreation, education, 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 to create and preserve jobs and employment opportunities and improve the economic welfare of the people of the State pursuant to and consistent with Article VIII, Section 13 of the Ohio Constitution, and may provide, or assist in providing, housing in the State for individuals and families to enhance the availability of adequate housing in the State and improve the economic and general well-being of the people of the State pursuant to and consistent with Article VIII, Section 16 of the Ohio Constitution; and

**WHEREAS**, pursuant to the aforementioned authority and a comprehensive strategic planning process, the Port Authority has developed, adopted and begun to implement a Targeted Neighborhood Investment Strategy ("Targeted Neighborhood Investment Strategy") to form and assist in forming successful neighborhood ecosystems where residents and others feel safe, create and have jobs and employment opportunities, and have access to adequate, diverse and cost-effective housing options, all of which will promote economic development and create and preserve jobs and employment opportunities within the City, the County and the State pursuant to and consistent with Article VIII, Section 13 of the Ohio Constitution and will provide, or assist in providing, housing in the State for individuals and families and enhance the availability of adequate housing in the State and improve the economic and general well-being of the people of the City, the County and the State pursuant to and consistent with Article VIII, Section 16 of the Ohio Constitution ("Neighborhood Investment Purposes"); and

**WHEREAS**, this Board has previously adopted resolutions, and expects to adopt further resolutions from time to time, implementing the Targeted Neighborhood Investment Strategy and has now determined that it is necessary and desirable, in furtherance of the Neighborhood Investment Purposes and in the best interests of the Port Authority, to establish and seek impact investment capital to fund a revolving loan fund

for commercial real estate loans in support of targeted Cincinnati neighborhoods (“Fund” or “Neighborhood Commercial Real Estate Loan Fund”) for the purpose of making loans (“Project Loans”) to finance costs of the acquisition, construction, reconstruction, equipping, furnishing, improvement and other development, redevelopment and rehabilitation of “port authority facilities” as defined in the Act (“Project Costs”), including the development, redevelopment and rehabilitation of mixed-use, commercial and retail spaces (each a “Project”) in order to create and revive neighborhood business districts anchored by a combination of place-based neighborhood-serving businesses, including local micro-entrepreneurs and creative enterprises (herein “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 establish and provide for the Neighborhood Commercial Real Estate Loan Fund for the purposes and in the manner contemplated herein; (b) to fund, and to seek and secure capital funding for, the Neighborhood Commercial Real Estate Loan Fund through loans, grants and other activities authorized or permitted under the Act, and to issue its revenue bonds for the purpose of paying “costs” of “port authority facilities”, both terms used as defined in the Act, in consideration of, and to evidence its obligations with respect to any such loan; (c) to enter into loan agreements to provide for the terms of and security for any such loan and revenue bonds, including the pledge or assignment of revenues (“Revenues”) sufficient to pay the principal of and interest and any premium on those revenue bonds; (d) to make Project Loans from the Fund to pay or provide for Project Costs of and for Projects in furtherance of the Program Purposes as contemplated herein and in any such loan agreement and to make and enter into a loan agreement (“Project Loan Agreement”) and such other instruments or agreements as shall be reasonably necessary or desirable in connection with the execution of and security for any such Project Loans (collectively “Project Loan Documents”); (e) to make and enter into such other contracts and agreements, and to execute such other instruments, as may be necessary, desirable or included in any of the foregoing for the exercise of powers otherwise granted to the Port Authority under the Act, including an agreement to provide for the deposit, custody, investment and disbursement of the Fund and any Revenues and for any required paying agent or other agency services related to its revenue bonds; and (f) to adopt this resolution, execute and deliver the Agreement (as defined herein), issue, sell and deliver the Bond (as defined herein) and execute and deliver the Project Loan Documents and such other instruments and agreements as are provided for herein, all upon the terms and conditions provided herein and in the Loan Agreement; and

**WHEREAS**, pursuant to Act and for the Program Purposes, in order to provide for the initial capitalization of the Neighborhood Commercial Real Estate Loan Fund and thereby provide a source from which to make Project Loans to finance Project Costs in furtherance of the Program Purposes, this Board has determined that it is necessary and proper and in the best interest of the Port Authority for the Port Authority to accept an impact investment in the Fund in the form of a loan (“Loan”) from The Kresge Foundation, a Michigan nonprofit corporation (“Investor” or “Lender”), and to issue a port authority revenue bond to the Investor, in the maximum aggregate principal amount of \$5,000,000 (“Bond”), in consideration of and to evidence the obligations of the Port Authority with respect to the Loan and the repayment of the principal of and interest on the Bond and Loan (“Debt Service”), and to enter into a loan agreement with the Investor (“Agreement”) to provide for the terms of and security for the Bond, including the assignment of Revenues sufficient to pay Debt Service (“Pledged Revenues”), including in such Pledged Revenues any unencumbered Fund deposits, Project Loan payments, any amounts realized on the collateral for any such Project Loans and other amounts intended to be used to pay Debt Service;

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

Section 1. Recitals; Captions; Definitions. This Board hereby adopts, confirms and restates, as fully as if set forth in this Section 1, the recitals to this resolution, all of which are incorporated herein by reference as a statement of the findings and determinations of this Board, including as to the public purposes of the Port Authority in implementing the Targeted Neighborhood Investment Strategy, adopting this resolution, establishing the Fund, accepting the Loan and issuing the Bond, entering into the Agreement and making each of the Project Loans. 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. Capitalized terms not defined by reference to the recitals or otherwise defined herein are used with the meanings given in or pursuant to the Agreement.

Section 2. Additional Determinations by the Board. In addition to and not in derogation of the findings and determinations of this Board stated in the recitals and incorporated into Section 1 hereof, this Board hereby further finds and determines, or confirms its prior findings and determinations, 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 Bond to the Investor in consideration of, and to evidence, the Loan made by the Investor to the Port Authority under the Agreement, in a maximum aggregate principal amount of \$5,000,000, as provided and authorized herein and in the Agreement, for the purpose of making Project Loans to finance Project Costs for the Program Purposes; (ii) the use of proceeds of the Bond to make Project Loans to finance 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 (A) aiding, promoting or providing economic development and housing within the City and County, (B) providing for the acquisition, construction, enlargement, improvement or equipping, and the sale, lease, exchange or other disposition, of property, structures, equipment or facilities within the State for industry, commerce, distribution or research to create or preserve jobs and employment opportunities and improve the economic welfare of the people of the State consistent with Article VIII, Section 13 of the Ohio Constitution, and (C) providing, or assisting in the provision of housing in the State for individuals and families and enhancing the availability of adequate housing in the State to improve the economic and general well-being of the people of the City, the County and the State consistent with Article VIII, Section 16 of the Ohio Constitution; (iii) the terms of the Bond, as contained herein and in the form of Agreement on file with the Secretary of this Board, are satisfactory and are hereby approved with such changes as shall be consistent herewith and with Act and the Agreement, as shall not be substantially adverse to the Port Authority and as shall be approved by the officials executing the same, which approval (and that any changes are not substantially adverse to the Port Authority) shall be conclusively evidenced by execution and delivery of the Bond in accordance herewith; (iv) the terms of the Agreement, in the form on file with the Secretary of this Board, are satisfactory and are hereby approved with such changes as shall be consistent herewith and with the Act, as shall not be substantially adverse to the Port Authority and as shall be approved by the officials executing the same, which approval (and that any changes are not substantially adverse to the Port Authority) shall be conclusively evidenced by execution and delivery of the Agreement in accordance herewith; (v) the Bond, and the Loan evidenced thereby, shall be payable from and secured only by the Pledged Revenues assigned thereto pursuant to the Agreement; and (vi) the Project Loans shall be made by the Port Authority pursuant to the Project Loan Documents only for the Program Purposes consistent with and as authorized by the Agreement.

Section 3. Issuance of Bond; Loan. The Port Authority is hereby authorized to issue, sell and deliver the Bond in consideration of and to evidence the Loan made by the Lender to the Port Authority under the Agreement, in the maximum aggregate principal amount of \$5,000,000 to provide funds, to be deposited into the Neighborhood Commercial Real Estate Loan Fund established hereunder and to be used to make Project Loans to pay Project Costs for the Program Purposes. The Bond shall be issuable only in definitive (certificated) fully-registered form, signed by any one or more of the President of the Port Authority and the Chair and Vice Chair of this Board (each an "Executive Officer"), and by the Secretary (if not signing as an Executive Officer) or an Assistant Secretary of this Board (each a "Fiscal Officer" and collectively, together with the Executive Officers, "Authorized Officers") in the name of the Port Authority and in their official capacities; provided that one or both of such signatures may be a facsimile. The Secretary (or other Fiscal Officer on behalf of the Secretary) shall act as the registrar for the Bond ("Registrar") and will maintain, on behalf of the Port Authority, a register evidencing the ownership of the Bond and the outstanding principal amount thereof, including all related advances, disbursements, payments and prepayments, as further described and provided in the Agreement. The Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this resolution or the Agreement unless and until the certificate of authentication on the Bond is signed by the Registrar.

The Bond shall be designated the “Port of Greater Cincinnati Development Authority Economic and Community Development Revenue Bond (Cincinnati Neighborhood Commercial Real Estate Loan Fund)”, with such additional or alternative designations as are deemed necessary or desirable by the Authorized Officials executing the same, and shall be issued in the form authorized and set forth in the Agreement. The Bond shall be issued in a single bond certificate representing the entire principal amount of the Bond, but the Bond may be exchanged or replaced from time to time, including on any assignment permitted under the Agreement or upon satisfactory proof and indemnity if lost, stolen or destroyed, on terms satisfactory to the Registrar, including provision for cancellation of any Bond surrendered. Any Bond so issued may be executed by officials constituting Authorized Officials at the time of signing regardless of whether they shall be Authorized Officials at the time of authentication and delivery.

The Bond shall be dated the date of its issuance and the outstanding principal amount of the Bond shall bear interest at the rate or rates (0.00% through December 31, 2018 and thereafter at rates not to exceed 3.00% per year) established in or pursuant to the Agreement and approved by an Authorized Officer, with that determination conclusively evidenced by the execution and delivery of the Agreement by an Authorized Officer. The Bond shall mature, subject to optional and mandatory redemption in accordance with the Agreement, on December 31, 2026 (“Maturity Date”). Interest on the Bond shall be payable on March 31, June 30, September 30 and December 31 of each year, commencing March 31, 2019 (“Interest Payment Dates”) until the Maturity Date, or until the principal amount is paid or duly provided for (or deemed paid and provided for in accordance with the Agreement), 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 Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months (and actual days for any partial month). The Bond shall have such other terms as are provided therein and in the Loan Agreement.

Section 4. Sale of the Bond. The Bond shall be sold to the Investor in consideration of the making of the Loan to the Port Authority in accordance with the Agreement, at a purchase price equal to 100% of the principal amount thereof payable in installments of disbursements requested and paid in accordance with the Agreement, and otherwise on the terms and conditions established in the Agreement and approved by the Authorized Official signing the Agreement, such approval to be evidenced conclusively by execution and delivery of the Agreement by an Authorized Official. It is determined by this Board that the price for and the terms of the Bond, and of the Loan, and the sale and delivery of the Bond in consideration of the making of the Loan to the Port Authority, all as provided in and pursuant to this resolution and the Agreement, are in the best interest of the Port Authority and are in compliance with all legal requirements.

Section 5. Creation of Neighborhood Commercial Real Estate Loan Fund; Deposit, Custody and Application of Proceeds; Project Loan Documents. The Cincinnati Neighborhood Commercial Real Estate Loan Fund is hereby created as a special separate and segregated fund of the Port Authority, available for and restricted to the Program Purposes, including (i) making Project Loans to Project Borrowers (which may include the Port Authority if approved by this Board or the Hamilton County Land Reutilization Corporation managed by the Port Authority if approved by or on behalf of that Corporation) to finance Project Costs in furtherance of the Program Purposes consistent with the Agreement, all as determined by an Authorized Official (such determination to be evidenced conclusively by execution and delivery of the applicable Project Loan Agreement), and (ii) securing, and providing for Pledged Revenues sufficient to pay Debt Service on, the Bond (and Loan) and on any other obligations issued by the Port Authority to obtain funds to provide for the capitalization of the Fund (“Additional Obligations”), which obligations may be secured *pari passu* with the Bond (and Loan) in accordance with the Agreement.

The proceeds from the sale of the Bond, upon receipt of each disbursement of an installment of the Loan, shall be promptly and directly deposited into the Fund and shall be disbursed from time to time by or on the order of an Authorized Officer to make Project Loans documented and made in accordance with the Agreement. The proceeds from the sale of any Additional Obligations, upon receipt, shall be promptly and directly deposited into the Fund and shall be disbursed from time to time by or on the order of an Authorized Officer to make Project Loans documented and made in accordance with the terms of any applicable agreement. All payments made on any Project Loans, and all proceeds from the enforcement of any such Project Loan

(including all proceeds received from the lease, use, sale or other disposition of any collateral securing any Project Loan), upon receipt, shall be promptly and directly deposited into the Fund and shall be disbursed from time to time by or on the order of an Authorized Officer to make Project Loans documented and made in accordance with the terms of any applicable agreement.

Amounts on deposit in the Fund may be invested and reinvested from time to time as determined or directed by a Fiscal Officer in any Eligible Investments (using that term with the same meaning as it is given in the "Trust Agreement" executed and delivered by the Port Authority pursuant to Resolution No. 2016-09 adopted by this Board on March 9, 2016). The proceeds of the sale of any such investments and all interest or other earnings thereon or therefrom, shall be deposited immediately upon receipt into the Fund and thereafter used for the purposes thereof.

To the extent, if any, that amounts are on deposit in the Fund and are not encumbered to pay or provide for Project Costs under any applicable Project Loan Agreement, such amounts shall be used by or on direction of the Fiscal Officer to pay Debt Service when due on the Bond (and Loan) and principal and interest, when due, on any Additional Obligations secured *pari passu* with the Bond and, if all such payments are current, then to the payment of any other obligations payable therefrom. If and as determined to be beneficial to the Port Authority for purposes of managing and administering the Fund, the Bond and Loan, any Additional Obligations, the Project Loans and the security therefor, or any other matters relating to the Program Purposes, each Authorized Officer (alone or together with any other Authorized Officer) is hereby authorized to enter into an agreement, in the name and on behalf of the Port Authority, with a bank or trust company authorized under the Act to serve as a bond trustee to act as the agent of the Port Authority for the provision of custodial, depository, paying agent and other related services in such form and on such terms, including the payment of such fees, as are determined by the Authorized Officer executing such agreement to be reasonable and customary for the services to be provided (such determination to be conclusively evidenced by the execution and delivery of the related agreement).

Each Project Loan shall be documented in accordance with the requirements of the Agreement, including a Project Loan Agreement consistent therewith. Each Authorized Officer (alone or together with any other Authorized Officer) is hereby authorized to execute and deliver, in the name and on behalf of the Port Authority (as Project Loan lender), each Project Loan Agreement and any other Project Loan Documents to be executed and delivered by the Port Authority pursuant to any such Project Loan Agreement or otherwise related to or in connection with any Project Loan.

Section 6. Security; Pledged Revenues. The Bond, the Loan and the Agreement do not and shall not pledge the general credit or taxing power of the Port Authority or of the State or any political subdivision thereof, and nothing herein or in the Bond or the 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 Lender or any owner of the Bond, 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 for the payment of Debt Service. The Bond and the Loan are payable solely from the Pledged Revenues, including amounts from time to time on deposit in the Fund and available therefor, all as further provided herein and in the Agreement, and the Bond and the Agreement shall contain statements to that effect; provided, however, that nothing herein, in the Bond or the Agreement 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 Agreement or the Bond.

Section 7. Covenants of Port Authority. In addition to the other covenants and agreements of the Port Authority herein and in the Agreement, the Port Authority, by issuance of the Bond, covenants and agrees with the owners thereof that: (a) the Port Authority will use proceeds of the Bond to make Project Loans to finance Project Costs for Program Purposes in accordance herewith and with the Agreement; (b) the Port Authority will, for accounting purposes, segregate the Fund and the Pledged Revenues from all other revenues and funds of the Port Authority; (c) 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 purpose of the Agreement, the Loan, the Bond and this resolution or as may be required by the Act, and will

comply with all requirements of law applicable to the Bond; (d) the Port Authority will observe and perform all of its agreements and obligations provided for by this resolution, the Bond and the Agreement, and the obligations of the Port Authority 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; and (e) the Port Authority will, solely from the Pledged Revenues, pay or cause to be paid all required Debt Service on the dates, at the places and in the manner provided herein and in the Bond.

Section 8. Agreement and Other Documents. To provide for the Loan and the issuance and sale of, and security for the payment of Debt Service on, the Bond, each Authorized Officer, alone or together with any other Authorized Officer, is hereby authorized, for and in the name of the Port Authority, to execute and deliver the Agreement, in substantially the form thereof now on file with the 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 any Authorized Officer. In addition to the foregoing authorization and all other authorizations herein, each Authorized Officer is further authorized and directed to execute any certificates, certifications, agreements (including amendments of or supplements to, and assignments or assumptions of, agreements), notices, directions, statements, assignments, estoppels, instruments and other documents of any kind whatsoever, and to take all such other and further actions, as are necessary or desirable and appropriate to provide for the issuance of the Bond in consideration of and to evidence the Loan, and to otherwise consummate the transactions contemplated in this resolution, the Bond and the Agreement, to obtain additional capital for the Neighborhood Commercial Real Estate Loan Fund and to make, implement, administer and enforce the Project Loans and thereby implement the Program Purposes. All actions heretofore taken by any of the officers and other officials of this Port Authority and of this Board in connection with any of the matters referred to in this resolution are hereby adopted, 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 or any of its committees concerning and relating to the adoption of this resolution were taken in an open meeting of this Board or committee and that all deliberations of this Board or any such committee that resulted in those formal actions were in meetings open to the public in compliance with the law.

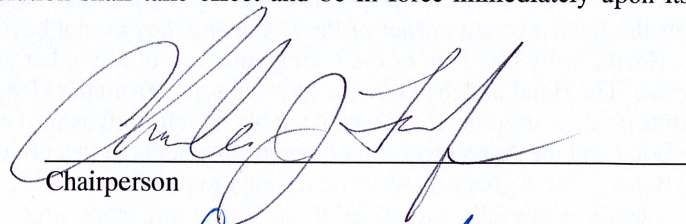
Section 11. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.

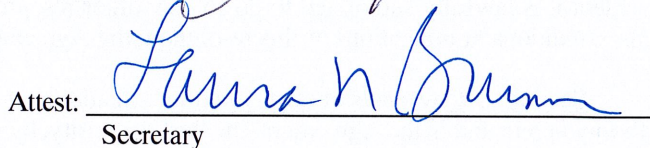
Adopted: December 14 2016

Yeas: 8

Nays: 0

Abstention: 0

  
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Chairperson

  
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Attest: Secretary