

RESOLUTION NO. 2017-09

AUTHORIZING THE ACQUISITION OF AN INTEREST IN REAL PROPERTY IN COLERAIN TOWNSHIP, OHIO AND THE CONSTRUCTION THEREON OF "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE OF SAID REAL PROPERTY TO STRUBLE ROAD DEVELOPMENT COMPANY, LLC; AND AUTHORIZING THE EXECUTION AND DELIVERY OF A CONSTRUCTION MANAGER AT RISK AGREEMENT, AN INDEMNITY AGREEMENT AND AN ASSIGNMENT AGREEMENT WITH STRUBLE ROAD DEVELOPMENT COMPANY, LLC; AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AS MAY BE NECESSARY OR DESIRABLE IN CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF SUCH PORT AUTHORITY FACILITIES.

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 of Article VIII, Ohio Constitution, and Sections 4582.21 through 4582.59, Ohio Revised Code: (i) to acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease to or from, or lease with an option to purchase, convey other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose; and (ii) to adopt this resolution and to enter into the Ground Lease and the Lease, the Construction Manager at Risk Agreement, the Indemnity Agreement and the Assignment, each defined herein, upon the terms and conditions provided herein and therein; and

WHEREAS, Struble Road Development Company, LLC, an Ohio limited liability company ("the Lessee"), has requested the Port Authority to acquire an interest in real property located in the Colerain Township, Ohio (the "Project Site") and to construct, improve and equip thereon a new 64,000 square foot 3-Story office building, together with all necessary appurtenances thereto and site improvements therefor, and personal property for use therein (the "Project"), together with public infrastructure necessary in connection with the Project, which Project will be subleased to Rumpke Consolidated Companies, Inc. an Ohio corporation, as sublessee (the "Sublessee"), for use as Sublessee's corporate headquarters; and

WHEREAS, the Sublessee has indicated that the acquisition and construction of the Project will retain 200 existing jobs together with the total annual payroll associated with such jobs; and

WHEREAS, this Board has determined that (a) the Project constitutes a "port authority facility" within the meaning of the Act creating or retaining jobs and employment opportunities or otherwise supporting economic development in Hamilton County, (b) the acquisition, construction, development, and improvement of the Project will be consistent with the purpose of Section 13 of Article VIII, Ohio Constitution, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State of Ohio, and (c) the Project will be consistent with the purposes of Section 4582.21(B)(1), Ohio Revised Code, by providing assistance to projects that create and preserve jobs and employment opportunities within Hamilton County, Ohio;

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:

"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.

"Assignment" means the Assignment of Rights under a Construction Contract, dated as of the date of the Lease, given by the Developer to the Port Authority.

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

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

"Construction Manager At-Risk Agreement" means the Construction Manager At-Risk Agreement, dated as of the date of the Lease, between the Port Authority and the Manager.

"Developer" means Struble Road Development Company, LLC, a Ohio limited liability company.

"Ground Lease" means the Ground Lease of the Project Site from the Developer, as ground lessor, to the Port Authority, as ground lessee.

"Indemnity Agreement" means the Indemnity Agreement among the Port Authority, the Developer and the Sublessee.

"Lease" means the Project Lease of the Project Site between the Port Authority, as lessor, and the Developer, as lessee.

"Lessee" means the Developer.

"Manager" means the Developer, in its capacity as construction manager at-risk under the Construction Manager At-Risk Agreement.

"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.

"Project" means a new 64,000 square foot 3-Story office building, together with all necessary appurtenances thereto and site improvements therefor, and personal property for use therein, together with public infrastructure necessary in connection with the Project, 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.

"Project Documents" means the Lease, the Sublease, the Construction Manager At-Risk Agreement and the Indemnity Agreement.

“Project Site” means the portion of the 12 acre site located at 200 on Struble Road, Colerain Township, Ohio that shall be dedicated to the construction, development, and installation of the Project.

"State" means the State of Ohio.

“Sublease” means the project sublease from the Developer, as sublessor, to the Sublessee, as sublessee.

“Sublessee” means Rumpke Consolidated Companies, Inc. and its permitted successors and assigns under the Sublease.

“Township” means Colerain Township, a township and political subdivision in and of the State.

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. Words or terms used herein with initial capital letters and not defined herein shall have the meanings given to them in the Basic Indenture or the Supplement.

Section 2. Determinations by the Board as to the Acquisition of the Project Site.

This Board determines that:

(i) It is necessary and proper and in the best interest of the Port Authority to, and the Port Authority shall acquire a forty-year ground lease of and to the Project Site as provided and authorized herein and pursuant to the authority of the Act, for the purpose of constructing, improving and equipping the Project for lease to the Developer.

(ii) The Project constitutes a "port authority facility" as defined in the Act and is consistent with the purposes of the Act; and the construction, equipment, installation and otherwise improvement of the Project is consistent with purposes of Section 13 of Article VIII, Ohio Constitution.

(iii) The Project is in furtherance of the Port Authority's authorized purposes, including without limitation, the creation or retention of jobs and employment opportunities and otherwise supporting economic development in the County, and will benefit the people of the State and the Port Authority.

(iv) It is necessary and proper and in the best interest of the Port Authority to, and the Port Authority shall, enter into the Ground Lease, the Lease and the other Project Documents as herein provided.

Section 3. Ground Lease of the Project Site. It is hereby determined by this Board to enter into the Ground Lease with the Developer to acquire a forty-year leasehold interest in and to the Project Site, in substantially the form now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to this resolution, subject only to those encumbrances which shall not interfere with the use of the Project Site and the Project for “authorized purposes,” as such term is defined in the Act. Each Authorized Officer is authorized to take all steps necessary to effect due execution and delivery of the Ground Lease under the terms of this resolution. The ground rent for the Project Site shall be \$100.00, to be paid in advance, which this Board determines is in the best interests of the Port Authority and is in compliance with all legal requirements.

Section 4. Construction and Ownership of Project. It is hereby determined by the Board that the construction of the Project and of any improvements in connection with it has been and shall continue to be undertaken by the Port Authority in the manner provided in the Construction Manager At-Risk Agreement. The Board hereby approves the appointment of the Manager as its agent under the Construction Manager At-Risk Agreement for purposes of acquisition, construction, equipping, installation and improvement of the Project, together with public improvements necessary therefor. In addition, each Authorized Officer, alone or together, in order to provide for the acquisition, construction, equipping, installation and improvement of the Project, is authorized and directed to execute and deliver, for and in the name of the Port Authority and on its behalf, subject to the certification of availability of funds therefor from monies available or to be available to pay costs of the Project, such contracts and agreements, including the Assignment (collectively, "Construction Agreements") as may be necessary for the acquisition, construction, equipping, installation and improvement of the Project.

Based on information furnished to it, this Board has determined that the manner in which the Construction Agreements for acquisition, construction, equipping, installation and improving of the Project should be made is to negotiate the terms of the Construction Agreements, and this Board hereby finds and determines that such negotiation best carries out the public purpose to be fulfilled by the Project.

Section 5. Lease of the Project Site and Project. Upon acquisition of the Project Site pursuant to the Ground Lease, it is hereby determined by this Board to enter into the Lease with the Developer in substantially the form now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to this resolution. Pursuant to the Lease, the Developer, as Lessee, shall pay Initial Rent, Annual Rent, Additional Rent, and all expenses associated with the ongoing leasing, management and operation of the Project, as exist from time to time. Each Authorized Officer is authorized to take all steps necessary to effect due execution and delivery of the Lease under the terms of this resolution. It is determined by this Board that the rent to be paid under the Lease, as provided in this resolution, is in the best interests of the Port Authority and are in compliance with all legal requirements.

Section 6. Construction Manager At-Risk Agreement. Each Authorized Officer is hereby authorized and directed, for and in the name of the Port Authority and on its behalf, alone or together with any other Authorized Officer, to execute and deliver to the Developer the Construction Manager At-Risk Agreement in substantially the form now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to this Resolution and the requirements under the term sheet for the Lease. The form of the aforesaid document is approved with such changes therein as are not inconsistent with this resolution and not substantially adverse to the Port Authority and which are approved by the officer 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 officer.

Section 7. Other Documents. This Board finds that the Port Authority's cooperation with the Township and the Developer will facilitate the acquisition, construction, improvement, equipment and installation of the Project and will advance and support authorized purposes of the Port Authority, and in connection therewith, this Board anticipates that it will enter into a cooperative agreement and/or a development agreement with the Developer and the Township and will issue development revenue bonds to finance the Project, subject to approval of each such agreement and the issuance of such bonds by this Board. Each Authorized Officer is authorized and directed to execute the other Project Documents and any certifications, agreements, assignments, amendments, supplements and other instruments and documents to take such further actions, as are necessary or appropriate to provide for the ground lease and lease of the Project and Project Site and the construction of the Project and to consummate the transactions contemplated in this resolution, the Ground Lease and the Lease. All actions heretofore taken

by the officers and officials of the Port Authority and of this Board in connection with the Ground Lease and the Lease are hereby adopted, ratified and approved.

Section 8. 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 9. 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 10. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.

Adopted 6-14, 2017

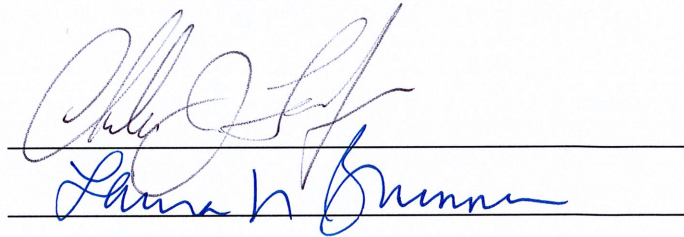
Yeas: 9

Chair

Nays: 0

Secretary

Abstentions: 0



Two handwritten signatures in blue ink are positioned above two horizontal lines. The top signature is more stylized and appears to be 'Cheryl J. ...'. The bottom signature is 'Laura H. Brunner'.