

It was moved by WIDEMAN and seconded by BAKER that the following resolution be adopted:

RESOLUTION NO. 2022-10

AUTHORIZING THE ISSUANCE AND SALE OF A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$39,850,000 OF TAX INCREMENT FINANCING AND PARKING REVENUE BONDS IN ONE OR MORE SERIES FOR THE PURPOSE OF FINANCING COSTS OF PORT AUTHORITY FACILITIES WITHIN THE MEANING OF SECTION 4582.21, REVISED CODE FOR THE DISTRICT AT CLIFTON HEIGHTS PROJECT; PLEDGEDING REVENUES TO SECURE PAYMENT OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST AGREEMENT, A PURCHASE AGREEMENT, SECURITY AGREEMENTS AND OTHER RELATED AGREEMENTS AND INSTRUMENTS IN CONNECTION WITH THE FOREGOING; AND AUTHORIZING AND APPROVING RELATED MATTERS.

WHEREAS, the Port of Greater Cincinnati Development Authority (the "Port") (with all other capitalized terms having the meaning assigned to them in Section 1) is authorized and empowered, by virtue of the laws of the State of Ohio, including, without limitation, the Act, among other things: (a) to issue its revenue bonds for the purpose of financing the costs of "port authority facilities", as defined in the Act; (b) to enter into trust agreements, and to execute and deliver other instruments and agreements, to secure such revenue bonds, and to provide for the pledge or assignment of revenues sufficient, together with other amounts available therefor, to pay the principal of and interest and any premium on those revenue bonds; (c) to acquire interests in real or personal property, or any combination thereof, and construct, furnish and equip port authority facilities and enter into agreements to operate, maintain and repair such port authority facilities for "authorized purposes," as defined in the Act; (d) to make and enter into such contracts and agreements as may be necessary or incidental to the exercise of powers otherwise granted to the Port under or pursuant to the Act; and (e) to adopt this resolution, issue and sell the Bonds, and execute and deliver the Trust Agreement and the other transaction documents to which it is a party; and

WHEREAS, OH-UC Holdings II LLC (the "Developer") has requested that the Port issue its revenue bonds in the maximum aggregate principal amount of \$39,850,000 for the purpose of financing certain public infrastructure improvements, including a 169-space public parking structure and streetscape improvements, in support of the District at Clifton Heights Phase IB development, which public infrastructure improvements constitute "port authority facilities", and the Developer and the Port have executed a term sheet and has or will execute a first supplement to the term sheet for such financing, which term sheets are now on file with the Secretary or an Assistant Secretary (collectively, the "Term Sheet"); and

WHEREAS, pursuant to authorities hereinabove mentioned and other applicable provisions of the Ohio Constitution and the Ohio Revised Code, the Port will implement the Project by issuing Bonds to finance the costs of the Project, with those Bonds secured by and paid from the Pledged Revenues described in the Trust Agreement, which primarily consist of service payments in lieu of taxes to be transferred by the City of Cincinnati, Ohio (the "City") pursuant to the

Cooperative Agreement and parking revenues generated from the operation of the parking garage that is part of the Project, all in furtherance of authorized purposes, and all as further described in the Term Sheet; and

WHEREAS, this Board has now determined that it is necessary and proper and in the best interest of the Port to authorize, sell and issue Bonds for the purpose of financing the costs of the Project for authorized purposes in order to enhance, foster, aid, provide, or promote economic development and housing opportunities within the City and Hamilton County, to enter into the Trust Agreement to provide for the issuance and terms of, and to secure the payment of debt service charges on the Bonds, and to enter into the other transaction documents, including the manner of entering into those agreements, all so as to promote the Authorized Purposes, consistent with and pursuant to the Act;

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 or in the Trust Agreement, the following words and terms as used in this resolution shall have the following meanings unless otherwise provided and unless the context or use indicates another or different meaning or intent:

“Act” means Sections 4582.21 to 4582.60, both inclusive, of the Ohio Revised Code, as enacted and amended from time to time.

“Authorized Officer” means the Chair, Vice Chair, Secretary, President and Chief Executive Officer, Vice President and General Counsel, and any Assistant Secretary of this Board or of the Port.

“Board” means the Board of Directors of the Port.

“Bonds” means the Port’s Tax Increment Financing and Parking Revenue Bonds, Series 2022 (The District at Clifton Heights Project – Phase I) in the maximum aggregate principal amount of \$39,850,000 issued in one or more series pursuant to the Trust Agreement and this resolution.

“Cooperative Agreement” means the Cooperative Tax Increment Financing Agreement between the Port and the City, and any additional parties an Authorized Officer deems necessary or advisable.

“Disclosure Statement” means any preliminary or final offering memorandum, official statement, placement memorandum or other document used in connection with the offering and sale of the Bonds or provided to the Original Purchaser upon closing the Bonds.

“Original Purchaser” means the party or parties designated as the Original Purchaser in the Purchase Agreement.

“Port” means the Port of Greater Cincinnati Development Authority, an Ohio port authority formed and existing pursuant to the Act.

“Pledged Revenues” has the meaning assigned to it in the Trust Agreement, and primarily consists of service payments in lieu of taxes to be transferred by the City pursuant to the Cooperative Agreement and parking revenues generated from the operation of the parking garage that is part of the Project.

“Project” means the Project, as defined in the Cooperative Agreement, generally consisting of an approximately 169-space public parking garage and other eligible public infrastructure improvements, including acquiring right of way, streetscape improvements, site acquisition, demolition and remediation, which constitutes “port authority facilities” as defined in the Act, as more fully described in the Cooperative Agreement and the Term Sheet.

“Project Costs” mean all costs reasonably necessary to accomplish the Project, as permitted by the Act and the Cooperative Agreement, including, without limitation: acquiring control of or title (including clearing title) to the Project Site; costs of title insurance and other insurance costs incurred to complete the Project; acquiring related rights-of-way, easements and other property rights and interests; planning and pre-development expenses including engineering and design costs; environmental assessment and remediation; demolition; traffic control costs; rehabilitation of existing structures; site work and utilities; infrastructure development and improvements; costs of issuance of the Bonds; funding or otherwise providing for interest; other costs necessary for the development, construction, improvement or ownership of the Project; administrative expenses; continuing disclosure expenses; and associated legal, escrow and filing or recording costs.

“Project Site” means the real property on which the Project will be located.

“Purchase Agreement” means a bond purchase agreement or bond placement agreement for the Bonds, to be dated as of the date of execution between the Port, the Original Purchaser, and any additional parties the Authorized Officer and the Original Purchaser deem necessary or advisable.

“Trust Agreement” means the Trust Agreement securing the Bonds and any additional bonds between the Port and the Trustee, as the same may be further amended.

“Trustee” means a trust company or bank having powers of a trust company serving as Trustee from time to time. The initial Trustee shall be appointed by the Authorized Officer, which appointment shall be conclusively evidenced by that officer’s execution of the Trust Agreement.

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. Any action authorized by this resolution to be taken by the Authorized Officer, or the Authorized Officer, may be taken by any one of the individuals comprising the Authorized Officer unless otherwise expressly provided herein, and shall be performed in such officer’s official capacity and on behalf of the Port.

Section 2. Board Determinations. This Board determines that: (a) it is necessary and proper and in the best interest of the Port to, and the Port shall, issue, sell and deliver the Bonds, in one or more series (including, without limitation, one or more senior series and subordinate series) in the maximum aggregate principal amount of \$39,850,000, as described in the Term Sheet and as provided and authorized herein and in the Trust Agreement, and pursuant to the authority of the Act, for the purpose of assisting in the financing of the costs of acquiring, constructing, equipping the Project; (b) the Project constitutes “port authority facilities” as defined in the Act; (c) the utilization

of the Project is in furtherance of the purposes of the Act and will enhance, foster, aid, provide and promote economic development and housing opportunities, and will benefit the people of the State of Ohio, the City and Hamilton County by improving the welfare of those people; (d) provision of the Project requires the issuance, sale and delivery of the Bonds; and (e) the terms of the Bonds contained in the Term Sheet are satisfactory and are hereby approved and incorporated herein.

Section 3. Terms and Provisions of the Bonds.

(a) Generally. The Bonds: (i) shall be issued in one or more series in substantially the form or forms as set forth in the Trust Agreement; (ii) shall initially be issued to the purchasers thereof unless otherwise determined by an Authorized Officer in the Purchase Agreement; (iii) 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 Purchase Agreement or the Trust Agreement and in the manner set forth in the Trust Agreement or the Purchase Agreement; and (iv) shall be dated as of the date designated in the Purchase Agreement. The Bonds shall be designated "Port of Greater Cincinnati Development Authority Tax Increment Financing and Parking Revenue Bonds, Series 2022 (The District at Clifton Heights Project – Phase I)" or as otherwise may be designated in the Purchase Agreement or the Trust Agreement and as may be appropriate in order to distinguish the Bonds from other series of bonds issued under the Trust Agreement, or in order to distinguish a series of the Bonds from another series of Bonds.

(b) Interest Rates and Principal Maturities. The Bonds shall bear interest at the rates per year 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 their date, payable on the interest payment dates described in the Purchase Agreement or the Trust Agreement, and shall mature and be subject to mandatory redemption in the years and in the principal amounts, all as shall be set forth in the Purchase Agreement or the Trust Agreement; provided that the average rate of interest for all Bonds therein specified shall not exceed eight percent (8%) per year, and all Bonds shall mature not later than December 1, 2055. In the Purchase Agreement or the Trust Agreement, an Authorized Officer shall fix the principal amount of the Bonds to be issued that will provide the moneys necessary, together with any funds provided by or on behalf of the Developer, to pay Project Costs and fund any required reserves. The Purchase Agreement or the Trust Agreement shall fix the maturity or maturities and the mandatory and optional redemption provisions of the Bonds. The procedures, credits and conditions for the satisfaction of the mandatory sinking fund requirements and redemption shall be as set forth in the Trust Agreement. Other terms of the Bonds may be specified in the Purchase Agreement or in the Trust Agreement. All matters determined in the Purchase Agreement or the Trust Agreement, as the same may be amended or supplemented, shall be conclusive and binding.

(c) Execution. The Bonds shall be signed by any two individuals comprising the Authorized Officer, provided that one or both of such signatures may be a facsimile.

Section 4. Sale of the Bonds; Disclosure Statement. The Bonds shall be awarded and sold to one or more Original Purchasers designated in the Purchase Agreement at the purchase price set forth in the Purchase Agreement, plus accrued interest from their date to the date of delivery and payment. The purchase price of the Bonds shall be established in the Purchase Agreement, provided that such purchase price shall not be less than 95% of the principal amount of the Bonds, all as determined in the Purchase Agreement, which determination shall be in the best interests of the Port. Any fees or expenses payable pursuant to the Purchase Agreement in connection with the issuance

and sale of the Bonds may be paid from the proceeds of the Bonds which are hereby appropriated for that purpose.

The Authorized Officer is authorized to execute and deliver the Purchase Agreement and any amendments thereto in such form or forms similar to other Purchase Agreements to which the Port is a party and that are approved by the Authorized Officer (with such approval conclusively evidenced by such officer's execution of the Purchase Agreement), and to make the necessary arrangements to establish the date, location, procedure and conditions for the delivery of the Bonds to the Original Purchaser. Those officers are further authorized to take all actions necessary to effect due execution, authentication and delivery of the Bonds under the terms of this resolution, the Term Sheet, the Purchase Agreement and the Trust Agreement.

It is determined by this Board that the price for and the terms of the Bonds, and the sale thereof, all as provided in this resolution, the Term Sheet, the Purchase Agreement and the Trust Agreement, are in the best interests of the Port and are in compliance with all legal requirements.

The distribution of one or more Disclosure Statements of the Port relating to the original issuance of the Bonds is hereby approved, and the Authorized Officer is authorized to determine, and to certify or otherwise represent, when the Disclosure Statement is to be "deemed final" (except for permitted omissions) by the Port as of its date or is a final official statement for purposes of paragraph (b) of SEC Rule 15c2-12. The Authorized Officer is authorized to execute, use and distribute, or authorize the use and distribution of, a preliminary Disclosure Statement and a final Disclosure Statement and any supplements thereto in connection with the issuance of the Bonds, and are authorized to advise the Original Purchaser in writing regarding limitations on the use of the preliminary Disclosure Statement and the final Disclosure Statement and any supplements thereto as the officer acting deems necessary or appropriate to protect the interests of the Port. The Authorized Officer is authorized to execute and deliver, on behalf of the Port and in their official capacities, such certificates in connection with the accuracy of the preliminary and final Disclosure Statements and any supplements thereto as, in their judgment, may be necessary or appropriate.

Section 5. Application of Proceeds of the Bonds. The proceeds of sale of the Bonds shall be allocated and deposited as provided in the Trust Agreement. The Authorized Officer is authorized to direct the Trustee as to the amount to deposit into the funds, accounts and subaccounts for the Bonds and any disbursements of such funds for costs of issuance of the Bonds, for Project Costs, and for any other purpose permitted by the Trust Agreement.

Section 6. Security for the Bonds. The Bonds and the obligations of the Port under this resolution and the agreements entered into pursuant to this resolution shall be payable solely from the Pledged Revenues, and the Bonds shall be secured by the assignment of the Pledged Revenues under the Trust Agreement and such other collateral as may from time to time be assigned to the Trustee under the Trust Agreement. The Bonds are special obligations of the Port and do not represent or constitute a debt or pledge of the faith and credit or the taxing power of the Port or the State of Ohio or any of its political subdivisions, including Hamilton County and the City of Cincinnati. Each Bond shall contain a statement to that effect; provided, however, that nothing in this resolution shall be deemed to prohibit the Port, of its own volition, from using to the extent it is lawfully authorized to do so, any resources or revenues other than the Pledged Revenues for the fulfillment of any of the terms, conditions or obligations of the Trust Agreement, this resolution, the agreements entered into pursuant thereto, or the Bonds.

Section 7. Covenants of Port. The Port, by issuance of the Bonds, agrees for the benefit of the beneficial holders of the Bonds that:

(a) Use of Proceeds. The Port shall use the proceeds of the Bonds to pay Project Costs as further described in the Trust Agreement or the Purchase Agreement.

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

(c) Transcript of Proceedings. The Port shall furnish to the Original Purchaser and to the Trustee a true transcript of proceedings, certified by the Authorized Officer, of all proceedings had with reference to the issuance of the Bonds, together with such information from the Port's records as is necessary to determine the regularity and validity of such issuance.

(d) Further Actions and Delivery of Instruments. The Port shall, 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 Bonds and this resolution or as may be required by the Act and will comply with all requirements of law applicable to the Bonds.

(e) Observance and Performance of Agreements and Obligations. The Port shall observe and perform all its agreements and obligations provided for by the Bonds, the Trust Agreement, the Purchase Agreement or this resolution. All of the obligations of the Port thereunder are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Port within the meaning of RC 2731.01.

(f) Tax Covenants. If any Bonds are issued as obligations the interest on which is excluded from gross income for federal income tax purposes, the Port shall restrict the use of the proceeds of such Bonds in such manner and to such extent as may be necessary so that such Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Authorized Officer is authorized and directed to execute and deliver (i) an appropriate certificate of the Port for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Port regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Bonds, all as of the date of delivery of and payment for the Bonds; and (ii) the statement setting forth the information required by Section 149(e) of the Code.

The Port shall (a) take or cause to be taken such actions which may be required of it for the interest on any such Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) not take or permit to be taken any actions which would adversely affect that exclusion, and that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Authorized Officer is authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, as may be appropriate to assure such exclusion of that interest.

Section 8. Trust Agreement and Cooperative Agreement. To provide for the issuance and sale of, and security for the payment of Debt Service Charges on, the Bonds, and the performance of the Port as provided in this resolution and the Bonds, the Authorized Officer is authorized to execute and deliver the Trust Agreement and the Cooperative Agreement, each in substantially the form on file with the Secretary or an Assistant Secretary, with such modifications and amendments as are necessary to conform to this resolution, the Term Sheet and the Purchase Agreement. The forms of the aforesaid documents are approved with such changes therein or amendments thereto as are not inconsistent with this resolution and not substantially adverse to the Port, which are permitted by the law and shall be approved by the officer or officers executing those documents. The approval of such changes or amendments, and that such changes or amendments are not inconsistent with this resolution substantially adverse to the Port, shall be conclusively evidenced by the execution of the document or amendments by that officer or those officers.

Section 9. Other Bond Documents. The Authorized Officer is authorized to execute any certifications, financing statements, agreements, assignments, amendments, supplements and other instruments and documents, including but not limited to any administration agreements related to the Bonds, and to take such further actions, as are necessary or appropriate to perfect the assignments contemplated in the Trust Agreement and to consummate the transactions contemplated in this resolution, the Term Sheet, the Trust Agreement, the Cooperative Agreement, the Purchase Agreement and any Disclosure Statement, including, without limitation, any mortgages, security agreement, intercreditor agreements, assignments of leases and rents, collateral agent agreements, disbursing agreements, escrow agreements or continuing disclosure agreements. The Authorized Officer is hereby authorized and directed to take any actions necessary for the Port to fulfill its obligations under this resolution, the Trust Agreement, the Purchase Agreement or other agreements made in connection with the Bonds.

Section 10. Acquisition, Construction, Operation and Maintenance of the Project. This Board hereby approves (a) the acquisition, by the Port, of an easement, leasehold or fee simple interest, or combination thereof, in such portions of the Project Site as are deemed necessary by an Authorized Officer, (b) the construction, equipping and installation of the Project and of any improvements in connection with it, including those paid from the proceeds of the Bonds, by the Developer, or its designee, as a construction manager at-risk, pursuant to a construction manager at-risk agreement between the Port and the Developer, or its designee, and (c) the authorization of any agreements necessary for the operation and maintenance of the Project, all consistent with the Cooperative Agreement and the Term Sheet. Such instruments or agreements shall be in such forms as are approved by the Authorized Officer accepting or signing that instrument or agreement, which approval shall be conclusively evidenced by the acceptance or execution of those documents by that officer or those officers.

Section 11. Severability. Each section of this resolution and each subdivision or paragraph of any section thereof is hereby declared to be independent and the finding or holding of any section or any subdivision or paragraph of any section to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this resolution.

Section 12. 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 13. Effective Date. This resolution shall be in full force and effect upon its adoption.

Adopted: 5/11, 2022

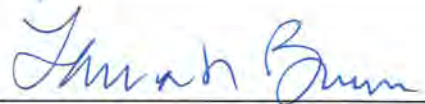
Yeas: 5

Nays: 0

Abstentions: 0



Chair



Attest:

Secretary