

RESOLUTION NO. 2016-25

AUTHORIZING THE ACQUISITION AND CONSTRUCTION ON REAL PROPERTY IN THE CITY OF HARRISON, OHIO OWNED BY THE PORT AUTHORITY OF "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE; AUTHORIZING THE EXECUTION AND DELIVERY OF FIRST AMENDMENT TO PROJECT LEASE OF SAID REAL PROPERTY TO 200 INDUSTRIAL DRIVE LLC; AND AUTHORIZING THE EXECUTION AND DELIVERY OF A CONSTRUCTION MANAGER AT RISK AGREEMENT, A MASTER AMENDMENT AGREEMENT AND AN ASSIGNMENT AGREEMENT WITH 200 INDUSTRIAL DRIVE LLC, AND A COOPERATIVE AGREEMENT WITH 200 INDUSTRIAL DRIVE AND THE CITY OF HARRISON; 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 Amended Lease, the Construction Manager at Risk Agreement, the Master Amendment Agreement, Cooperative Agreement and the Assignment, each defined herein, upon the terms and conditions provided herein and therein; and

WHEREAS, the Port Authority has acquired certain real property located in the City of Harrison, Ohio (the "Project Site") for the purpose of constructing, improving and equipping equipment thereon an ASRS Distribution Center that will consist of an approximately 47,287 sq. ft. freezer, a 12,064 sq. ft. shipping dock, utilities, shipping office (2-story), link and utilities (the "Freezer Project") and has leased the Project Site and the Freezer Site to 200 Industrial Drive, LLC, an Ohio limited liability company ("the Lessee"), which entered into a sublease to JTM Provisions Company, Inc. ("JTM"), an Ohio corporation, as sublessee, for use in the manufacture and distribution of food products (the "Project Purpose"); and

WHEREAS, the Lessee and JTM have requested the Port Authority to construct, improve and equip on the Project Site a 119,918 sq. ft production facility comprising three or more production lines (the "Production Project") for lease to the Lessee and sublease to JTM for use for the Project Purpose; and

WHEREAS, JTM has indicated that the acquisition and construction of the Freezer Project and the Production Project will create approximately 34 new jobs with an annual payroll of \$1,928,546 by 2021 and approximately 246 full time temporary construction jobs for at least one year with an annual payroll of \$8,864,849; and

WHEREAS, this Board has determined that (a) the Production 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, improvement and equipping of the Production 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 Production 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.

"Amended Lease" means the First Amendment to Project Lease of the Project Site between the Port Authority, as lessor, and 200 Industrial Drive LLC, as lessee.

"Assignment" means the Assignment of Rights under a Construction Contract, dated as of the Closing Date, given by JTM 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.

"City" means the City of Harrison, Hamilton County, Ohio.

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

"Cooperative Agreement" means the Cooperative Agreement, dated as the date of the Amended Lease, by and among the Port Authority, the City, the Developer and JTM.

"Developer" means 200 Industrial Drive, LLC, a Delaware limited liability company.

"Development Agreement" means the Development Agreement between the Port Authority and the Developer, as amended by the Master Amendment Agreement.

"Freezer Project" has the meaning set forth in the recitals hereto.

“Indemnity Agreement” means the Indemnity Agreement among the Port Authority, the Developer and JTM, as amended by the Master Amendment Agreement.

“JTM” means JTM Provision Company, Inc., an Ohio corporation.

“Lease” means the Project Lease of the Project Site between the Port Authority, as lessor, and 200 Industrial Drive LLC, as lessee, dated December 2, 2016, relating to the Freezer Project, as amended by the Amended Lease.

“Lessee” means the Developer.

“Manager” means JTM, in its capacity as construction manager at-risk under the Construction Manager At-Risk Agreement.

“Master Amendment Agreement” means the Master Amendment Agreement, dated as of the Closing Date, by and among the Port Authority, the Developer and JTM, amending the Development Agreement, the Indemnity Agreement and other instruments and documents referenced therein.

"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.

“Production Project” means the 119,918 sq. ft. production facility comprising three or more production lines, 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.

“Production Project Documents” means the Amended Lease, the Sublease, the Construction Manager At-Risk Agreement, the Assignment, the Master Amendment Agreement, and the Cooperative Agreement.

“Project Site” means the 22.1872 acre site located at 200 Industrial Drive, Harrison, Ohio 45030.

"State" means the State of Ohio.

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

“Sublessee” means JTM and its permitted successors and assigns under the Sublease.

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 Construction of the Production Project on 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 construct, improve and equip the Production Project on the Project Site owned by the Port Authority for lease to the Developer.

(ii) The Production 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 Production Project is consistent with purposes of Section 13 of Article VIII, Ohio Constitution.

(iii) The Production 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 Amended Lease and the other Project Documents as herein provided.

Section 3. Construction and Ownership of Production Project. It is hereby determined by the Board that the construction of the Production 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 Production Project. In addition, each Authorized Officer, alone or together, in order to provide for the acquisition, construction, equipping, installation and improvement of the Production 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 Production 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 Production Project.

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

Section 4. Lease of the Project Site and Production Project. It is hereby determined by this Board, the Port Authority being the owner of the Project Site, to enter into the Amended 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 Amended 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 Production 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 Amended Lease under the terms of this resolution. It is determined by this Board that the rent to be paid under the Amended Lease, as provided in this resolution, is in the best interests of the Port Authority and is in compliance with all legal requirements.

Section 5. Development Agreement and Cooperative Agreement. This Board finds that the Port Authority's cooperation with the City and the Port Authority's cooperation with the parties to the Cooperative Agreement and the Development Agreement will facilitate the acquisition, construction, improvement, equipment and installation of the Production Project and will advance and support authorized purposes of the Port Authority. 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 Master Amendment Agreement and the Amended Lease, in substantially the forms 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 Amended Lease. 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 City and the Developer the Cooperative Agreement, with terms consistent with this resolution and the requirements under the term sheet for the Amended Lease. 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 JTM 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 Amended Lease. The forms of the aforesaid documents are 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. 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 lease of the Freezer Project, the Production Project and Project Site and the construction of the Freezer Project and the Production Project and to consummate the transactions contemplated in this resolution, the Development Agreement, the Cooperative Agreement and the Amended Lease, including, without limitation, such documents customarily and reasonably required by lenders in commercial transactions 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. All actions heretofore taken by the officers and officials of the Port Authority and of this Board in connection with the Lease and the Amended Lease 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 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 11. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.

Adopted 12-14, 2016

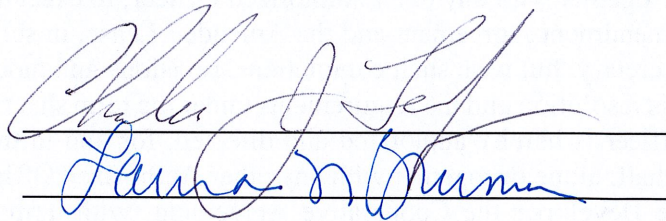
Yeas: 8

Chair

Nays: 0

Secretary

Abstentions: 0



Two handwritten signatures in blue ink are positioned above two horizontal lines. The top signature is 'Charles J. Sel' and the bottom signature is 'Laura L. Thurman'.