

RESOLUTION NO. 2003 –19

A RESOLUTION DETERMINING TO PROCEED WITH THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS TO BE UNDERTAKEN BY THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY IN CONNECTION WITH THE DEVELOPMENT OF THE CALHOUN STREET MARKETPLACE PROJECT TO BE LOCATED IN THE CLIFTON HEIGHTS-UNIVERSITY HEIGHTS-FAIRVIEW (CUF) DISTRICT INCENTIVE DISTRICT WITHIN THE CITY OF CINCINNATI AND AUTHORIZING THE NEGOTIATION OF A COOPERATIVE AGREEMENT WITH THE CLIFTON HEIGHTS COMMUNITY URBAN REDEVELOPMENT CORPORATION AND THE CITY OF CINCINNATI PERTAINING THERETO.

WHEREAS, the Port of Greater Cincinnati Development Authority (“Issuer”), by virtue of the laws of the State of Ohio (“State”), particularly Sections 4582.21 through 4582.59, Ohio Revised Code (“Act”), and the authorities therein mentioned, heretofore adopted Resolution No. 2003-___ relating to the financing of certain public improvements therein described (“Project”) to be undertaken by the Issuer and financed, in cooperation with the City of Cincinnati (“City”), by the issuance of tax increment financing revenue bonds of the Issuer (“Bonds”), which Project is to be undertaken concurrently with and will benefit the redevelopment of the “District 8 -- Clifton Heights-University Heights-Fairview (CUF) District Incentive District” (“CUF Tax Increment Incentive District”) created by the City pursuant to Section 5709.40(C), Ohio Revised Code, which redevelopment is being undertaken by the Clifton Heights Community Urban Redevelopment Corporation (“CHCURC”), a nonprofit corporation organized and existing under Ohio Revised Code Chapter 1728; and

WHEREAS, this Board intends to proceed with the financing of the Project and wishes to take or authorize preliminary actions pertaining to the Bonds and the Project, including negotiation of a cooperative agreement with the City and CHCURC;

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

Section 1. This Board finds, determines (or confirms existing determinations) and declares, based upon the representations of the City and CHCURC, that (i) the Project will be a “port authority facility” in furtherance of the purposes set forth within the Act, including transportation, governmental operations, housing, recreation, education, cultural, research and economic development purposes, as those terms are used or defined in Section 4582.21, Ohio Revised Code, (ii) the Project is 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, (iii) the Project is consistent with the purpose of Section 16 of Article VIII, Ohio Constitution, to enhance the availability of adequate housing in, and to improve the economic and general well-being of the people of, the State, (iv) the Project will be for the restoration and redevelopment of property within Hamilton County affected or perceived to be affected by environmental contamination, (v) the Issuer intends to and, subject to the conditions set forth herein and in cooperation with the City, will proceed with the financing of the Project and, for that purpose, this Board will exercise its best efforts to authorize and issue the Bonds, in the estimated maximum aggregate face amount of \$6,000,000 pursuant to the Act, and (vi) the financing, ownership, construction, management, operation and maintenance of the Project will be implemented by or pursuant to a cooperative agreement to be entered into by CHCURC and by the Issuer and the City pursuant to Sections 4582.43 and 4582.431 of the Act (the “Cooperative Agreement”).

Section 2. The President of the Issuer, in consultation (if the President in his sole discretion deems it desirable) with the Chairperson or Vice Chairperson of this Board, is hereby authorized and directed to negotiate, with the City and CHCURC, the terms of the Cooperative Agreement, with a view to the issuance and sale of the Bonds, the securing thereof by the assignment of the tax increment financing revenues generated by the CUF Tax Increment Incentive District and assigned by the City to the Issuer pursuant to the Cooperative Agreement (“TIF Payments”) for the benefit and protection of the holders of the Bonds (and any additional revenue bonds that may hereafter be issued by the Issuer on parity therewith), and the protection of the Issuer. The execution and delivery of the Cooperative Agreement by the Issuer is subject to (1) acknowledgment by the City that the CUF Tax Increment Incentive District is affected or perceived to be affected by environmental contamination, (2) approval of the Cooperative Agreement by the City and CHCURC, including any obligations with respect to contracting matters such as prevailing wages, (3) consent of the Cincinnati City School District to the use of the TIF Payments for the payment of debt service charges on the Bonds, (4) evidence satisfactory to the Issuer of the availability of TIF Payments adequate for the payment of all debt service charges on the Bonds, and (5) approval by this Board of a resolution authorizing the issuance of the Bonds.

Section 3. The President of the Issuer is hereby authorized to designate a Prevailing Wage Coordinator for the Project pursuant to the requirements of Section 4115.032, Ohio Revised Code, and to perform the duties therein specified.

Section 4. The Issuer retains the law firms of Squire, Sanders & Dempsey L.L.P. (“Squire Sanders”), as bond counsel, and Gonzalez, Saggio & Harlan, L.L.P. (“Gonzalez Saggio”), as counsel to the Issuer, in each case to provide legal services in connection with the authorization, sale, issuance and delivery of the Bonds. In providing those legal services, as independent contractors in an attorney-client relationship, Squire Sanders and Gonzalez Saggio shall not exercise any administrative discretion on behalf of this Board in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State or any political subdivision, or the execution of public trusts. The fees and expenses of Squire Sanders and Gonzalez Saggio for those legal services shall be paid by or on behalf of CHCURC or the City, including from the proceeds of the Bonds, pursuant to the indemnification provisions of the Cooperative Agreement.

Section 5. This Board finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board 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 6. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: October 9, 2003

Yeas: 11

Nays: 0

Abstentions: 1

Chairperson

Attest: _____
Secretary