

RESOLUTION NO. 2010-09

**RESOLUTION AUTHORIZING THE PORT OF GREATER CINCINNATI
DEVELOPMENT AUTHORITY TO ENTER INTO MULTIPLE AGREEMENTS
RELATED TO THE REVITALIZATION OF THE FORMER FEDERAL
RESERVE BUILDING**

WHEREAS, the Port of Greater Cincinnati Development Authority (the "Port Authority") is engaged, among other matters, in the remediation and revitalization of environmentally challenged, "brownfield" property for productive reuse; and

WHEREAS, ACG Federal Reserve, LLC ("ACG") has entered into a purchase agreement with Fourth and Race Tower Ltd. to purchase the real property and improvements at 105 West Fourth Street commonly known as the former Federal Reserve Building in Cincinnati, Ohio ("Property"), and desires to remediate and rehabilitate the Property for reuse; and

WHEREAS, the Port Authority made an application for a Clean Ohio Assistance Fund ("COAF") grant, with ACG as its Development Partner, in order to fund the environmental restoration and demolition/renovation of the Property ("Project"), and such application has been approved by the State of Ohio Clean Ohio Council ("Clean Ohio Council"); and

WHEREAS, the Ohio Department of Development will tender to the Port Authority a COAF Grant Agreement for execution by the Port Authority to govern the Port Authority's receipt and use of the COAF Grant monies; and

WHEREAS, the Ohio Department of Development has revised the standard COAF Grant Agreement, and the Port Authority has the revised form of agreement on file in the Port Authority offices; and

WHEREAS, such COAF Grant Agreement is similar in most material respects to COAF and Clean Ohio Revitalization Fund Grant Agreements executed by the Port Authority in the past; and

WHEREAS, the Port Authority and ACG have determined that a Contract for Clean Ohio Assistance Fund Project Management Environmental Services between them is necessary to govern the use of COAF Grant monies at the Project in compliance with a COAF Grant Agreement and for redevelopment of the Property. Specifically, ACG is the redeveloper for the Project and Property and it will subcontract, subject to review and approval by the Port Authority and subject to Port Authority and COAF policies and the COAF Grant Agreement, with third parties to perform remediation, a portion of which will be subject to reimbursement by COAF under the COAF Grant Agreement with the Port Authority. The redeveloper, ACG, will not be paid or reimbursed by the Port Authority or COAF for its services, but rather will perform them as consideration for COAF Grant Funds being used to remediate the Property. As a result, the selection of ACG, without further competitive processes, to perform such services (although its selection of subcontractors is subject to COAF Grant Agreement and other requirements) is consistent with Ohio law, acceptable to the Ohio Department of Development under the COAF Grant Agreement for the Project, is in the best interests of the Port Authority and will assist the Port Authority in its fulfillment of its economic development activities; and

WHEREAS, because the Project requires that an Ohio EPA Certified Professional ("Certified Professional") be engaged to oversee certain work and it is expected that such Certified Professional will ultimately issue a No Further Action Letter with respect to the Property after it is remediated, the Port Authority has determined that (i) an Ohio EPA Certified Professional be engaged by the Port Authority in order to perform certain professional services, subject to the COAF Grant Agreement, (ii) the Certified Professional should perform these professional services due to their knowledge of hazardous materials remediation issues, and their prior experience with the Ohio EPA Voluntary Action Program, and (iii) the selection of the Certified Professional to perform such professional services pursuant to a Request for Qualifications/Proposal ("RFQ/P") process is consistent with Ohio law, consistent with the COAF Grant Agreement for the Project, is in the best interests of the Port Authority and will assist the Port Authority in its fulfillment of its economic development activities. The Port Authority is currently completing a RFQ/P process to select the Certified Professional; and

WHEREAS, the Port Authority desires and intends to enter into the agreements noted above, and conduct activities, engage contractors, and provide services in the exercise of its powers as set forth in Ohio Revised Code Chapter 4582, and in furtherance of economic development activities contemplated in Section 13 of Article VII of the Ohio Constitution.

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

Section 1. The President of the Port Authority is hereby authorized to execute the following contracts:

A. Clean Ohio Assistance Fund Grant Agreement with the Ohio Department of Development in a form substantially similar to that on file with the Port Authority offices in a dollar amount of \$750,000; and

B. Contract for Clean Ohio Assistance Fund Project Management Environmental Services between the Port Authority and ACG in a form substantially similar to that on file with the Port Authority offices and in a dollar amount not to exceed the COAF grant budget for non-Certified Professional work on the Project, but in a dollar amount that may exceed \$25,000; and

C. Contract for Clean Ohio Assistance Fund Environmental Services between the Port Authority and the Certified Professional for the Project, which Certified Professional will be selected by the President of the Port Authority through a RFQ/P process, for professional services on the Project in a form substantially similar to that which is on file in the Port Authority's offices and in a dollar amount not to exceed the COAF grant budget for this specific work, but in a dollar amount that may exceed \$25,000.

Section 2. 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, and that all deliberations of this Board and of any of its committees that resulted in such formal action were held, in meetings open to the public, in compliance with the law.

Section 3. This Resolution shall be in full force and effect upon its adoption.

Adopted: November 12, 2010

Yeas: 6

Nays: 0

Chairperson

Attest: _____
Secretary