

RESOLUTION NO. 2005-9

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$750,000 VARIABLE RATE DEMAND PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY REVENUE BONDS, SERIES 2005 OF THE PORT AUTHORITY, IN ORDER TO ASSIST THE ZOOLOGICAL SOCIETY OF CINCINNATI, IN THE FINANCING OF COSTS OF A COMMERCIAL PARKING FACILITY IN THE CITY OF CINCINNATI; AUTHORIZING THE ISSUANCE OF ADDITIONAL BONDS; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SAID BONDS; AUTHORIZING A LOAN AGREEMENT WITH RESPECT TO THE PROCEEDS DERIVED FROM THE SALE OF SAID BONDS; AUTHORIZING A TRUST INDENTURE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND FURTHER TO SECURE THE PAYMENT OF SAID BONDS; AUTHORIZING A BOND PURCHASE AGREEMENT AND A TAX REGULATORY AGREEMENT; AND AUTHORIZING THE ASSIGNMENT BY THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY, OF A NOTE FROM THE ZOOLOGICAL SOCIETY OF CINCINNATI.

WHEREAS, the Port of Greater Cincinnati Development Authority, Ohio, and any successor thereto, (hereinafter called the "Issuer"), a body corporate and politic in and of the State of Ohio, is by virtue of the laws of said State, including Section 13 of Article VIII of the Ohio Constitution and Chapter 4582 of the Ohio Revised Code, and other authorities mentioned therein, authorized and empowered, among other things, (a) to issue revenue bonds in order to assist in the financing of costs of port authority facilities located within the boundaries of the Issuer, (b) to enter into an agreement with the user of such facilities providing for revenues, as defined in Section 4582.21(k) of the Ohio Revised Code, sufficient to pay the principal of and interest and any premium on such revenue bonds, (c) to secure such revenue bonds by a trust agreement or indenture between the Issuer and a corporate trustee, and by a pledge and assignment of such revenues, as provided for herein, and (d) to enact this Bond Legislation and enter into the Indenture and the Agreement, as hereinafter identified, upon the terms and conditions provided therein; and

WHEREAS, The Zoological Society of Cincinnati is an Ohio non-profit corporation qualified as a charitable institution under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, it is hereby determined by this Legislative Authority that the completion of the acquisition and construction of the Project, as hereinafter defined, including the financing thereof, will require the issuance, sale and delivery of Project Bonds in the principal amount of \$750,000 and hereafter may require the Issuer's issuance, sale and delivery of Additional Bonds

on a parity therewith, all of which Bonds shall be equally and ratably payable and secured as provided herein and in the Indenture authorized herein:

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 Bond Legislation or in the Agreement, hereinafter identified, and used herein as defined words and terms, the following words and terms as used in this Bond Legislation and in the Indenture authorized herein shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:

“Accrual Period” means the one-week period commencing on a Thursday and ending on the Wednesday succeeding such Thursday, during which period the Bonds bear interest at a Variable Interest Rate.

“Acquisition Period” means the period between the date on which the Project Bonds are delivered to the Original Purchaser and the Completion Date.

“Act” means Section 4582.21 through 4582.59 of the Ohio Revised Code, as enacted and amended from time to time.

“Additional Bonds” means Bonds issued pursuant to Section 8 of this Bond Legislation.

“Additional Payments” means the amounts required to be paid by the provisions of Section 2.2 of the Agreement.

“Agreement” means the Loan Agreement, provided for in Section 11 hereof, between the Issuer and the Company, as the same may be duly amended, modified or supplemented in accordance with the provisions thereof.

“Alternate Letter of Credit” means an irrevocable letter of credit authorizing drawings thereunder by the Trustee, the terms of which shall be the same in all material respects (except as to expiration date) as the Letter of Credit, and issued by a savings and loan association or a national bank or other commercial bank which satisfies the requirements of Section 4.16 of the Indenture, or a surety bond, a bond insurance policy or other credit enhancement instrument, which Alternate Letter of Credit shall, in the opinion of the Remarketing Agent, provide the Bondholders with comparable or better security than the Letter of Credit.

“Authorized Company Representative” means any person reasonably acceptable to the Trustee and the Letter of Credit Bank from time to time designated to act on behalf of the Company by written certificate furnished to the Issuer and the Trustee, containing the specimen signature of such person and signed on behalf of the Company by an officer of the Company. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as such Authorized Company Representative.

“Authorized Issuer Representative” means the person from time to time designated to act on behalf of the Issuer by written certificate furnished to the Company and Trustee, containing the specimen signature of such person and signed on behalf of the Issuer by the Executive or Fiscal Officer of the Issuer. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as the Authorized Issuer Company Representative.

“Bonds” means the Project Bonds and any Additional Bonds issued and to be issued pursuant to the Indenture.

“Bond Fund” means the Bond Fund created in Section 7 of this Bond Legislation.

“Bond Fund Payment” means as to the Project Bonds an amount equal to the interest accrued, if any, on the Project Bonds from their date to the date of their delivery to the Original Purchaser and payment therefor, and as to the Additional Bonds the amount specified in this Bond Legislation authorizing such Additional Bonds, provided that the Bond Fund Payment for any Additional Bonds shall not be less than an amount equal to the interest accrued on such Additional Bonds from their date to the date of delivery of such Additional Bonds to their original purchaser and payment therefor.

“Bond Purchase Agreement” means the Bond Purchase Agreement by and among the Issuer, the Company, the Letter of Credit Bank and the Original Purchaser.

“Bondholder” or “Holder” or “holder” or “holder of Bonds” means any person in whose name a Bond is registered.

“Bond Legislation” means this resolution adopted by the Legislative Authority of the Issuer authorizing the Project Bonds, except that when used with reference to an issue of Additional Bonds it shall mean this resolution to the extent applicable and other legislation providing for the issuance of such Additional Bonds, and except that when used with reference to Bonds when Additional Bonds are outstanding, it shall mean the resolution first referred to above and the Bond Legislation providing for the issuance of Additional Bonds, all as the same may from time to time be lawfully amended, modified or supplemented.

“Bond Redemption Date” means any date, other than an Interest Payment Date, upon which Bonds shall be redeemed pursuant to the Indenture.

“Bond service charges” for any time period or with respect to any date means the principal, including mandatory sinking fund redemption requirements, interest, and redemption premium, if any, required to be paid by the Issuer on the Bonds for such time period or on such date.

“Business Day” means any day of the year, other than a Saturday or a Sunday, on which banks located in the cities in which the principal corporate trust office of the Trustee and the principal office of the Letter of Credit Bank are located are not required or authorized by law to remain closed and on which the payment system of the Federal Reserve System is operational.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto and applicable to the Bonds or the use of the proceeds thereof.

“Company” means The Zoological Society of Cincinnati, an Ohio non-profit corporation qualified as a charitable institution under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and its successors and assigns including any surviving, resulting or transferee corporation or other entity as provided in Section 6.3 of the Agreement.

“Completion Date” means the date by which acquisition and construction of the Project is completed with such completion to be evidenced by the certificate of the Authorized Company Representative to be furnished with respect to the Project pursuant to Section 3.3 of the Agreement.

“Construction Fund” means the Construction Fund created in Section 6 of this Bond Legislation.

“Conversion Date” means the Interest Payment Date designated by the Company as being the date on which the interest rate on the Bonds shall be converted from the Variable Interest Rate to the Fixed Interest Rate, such date being the first day of the Fixed Term.

“Conversion Option” means the option of the Company, which may be exercised only on the Conversion Date, to convert the interest rate on the Bonds from the Variable Interest Rate to the Fixed Interest Rate.

“Determination of Taxability” means a determination that the interest income on any of the Bonds is subject to Federal income taxation as a result of an Event of Taxability, which determination shall be deemed to have been made on the date on which the Company shall receive written notice from any Holder or former Holder that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice which claims in effect that the interest on any Bond is includable in the gross income for Federal income tax purposes of any Holder or former Holder due to the occurrence of an Event of Taxability; provided, however, that no Determination of Taxability shall be deemed to have occurred unless and until the Company has been afforded the opportunity, at its election and expense as hereinafter provided, to participate fully in a contest of such claim and such contest, if made, has been abandoned by the Company or has been finally determined adversely to the Company by a court of competent jurisdiction from which no further appeal exists. The Company shall not have the right to participate in any contest of such claim unless (i) within one hundred twenty (120) days after receipt of notice of such claim from any Holder or former Holder of any Bond, the Company makes a written request to such Holder or former Holder of the Bond involved in such claim that such claim be contested and furnishes a written opinion of its independent counsel, satisfactory to such Holder or former Holder as to the identity of such counsel and the substance of the opinion rendered, to the effect that a reasonable basis exists for contesting such claim, and (ii) the Company agrees in writing to pay on demand all costs and expenses (including attorney’s fees) which such Holder or former Holder and which the Issuer may incur in contesting such claim.

“Eligible Investments” means any of the following obligations or securities: (a) U.S. Treasury Bills, Notes, and Bonds; various federal agency securities including issues of Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), Student Loan Marketing Association (SLMA), Government National Mortgage Association (GNMA), and other agencies or instrumentalities of the United States. Eligible Investments include securities that may be “called” (by the issuer) prior to the final maturity date. Any Eligible Investment may be purchased at a premium or a discount. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities; (b) Commercial paper issues of companies incorporated under the laws of the United States or any state thereof, provided that such companies are rated “A” or better by at least one credit rating agency; (c) Bankers acceptances issued by any bank domiciled in the State of Ohio or bankers acceptances issued by any domestic bank rated in the highest category by one of two nationally recognized rating agencies; (d) Money market mutual funds, investing exclusively in the same types of eligible securities as defined above; (e) Repurchase agreements; (f) Fed Funds; (g) Certificates of deposit up to a maximum of \$100,000 per issuer; (h) Corporate bond issues of companies incorporated under the laws of the United States or any state thereof, provided that the issue is backed by an irrevocable direct pay Letter of Credit from a bank with a long-term debt rating of “A” or better by either Moody’s or Standard & Poor’s.

“Event of Taxability” means the occurrence of circumstances because of which a Determination of Taxability shall have been found to have occurred, or which shall constitute a Determination of Taxability, and which results in the interest payable on the Bonds becoming includable in the gross income for Federal income tax purposes of any Holder (other than an Holder who is a “substantial user” of the Project or a “related person” thereto as those terms are used in Section 147(a) of the Code), such occurrence of circumstances relating to a specific point in time.

“Executive” means the Chairperson, the Vice Chairperson or the President of the Issuer.

“First Fixed Redemption Date” is the first November 1 subsequent to the date after which 50% of the Fixed Term has expired.

“Fiscal Officer” means the Secretary or an Assistant Secretary of the Issuer.

“Fixed Interest Rate” means a fixed per annum interest rate to be borne by the Bonds pursuant to this Bond Legislation.

“Fixed Term” means the period from the date on which the Bonds commence to bear interest at the Fixed Interest Rate through the Maturity Date.

“Government Obligations” means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Indenture” means the Trust Indenture between the Issuer and the Trustee relating to the issuance of the Bonds, as amended or supplemented from time to time.

“Independent Counsel” means any attorney or firm of attorneys acceptable to the Trustee and to the Issuer and who is not an officer, partner or a full-time employee of the Issuer or the Company, and in the case of a firm, none of the attorneys or members of which is an officer, partner or a full-time employee of the Issuer or the Company.

“Interest Payment Date” means, as to the Project Bonds, the first day of each calendar month, and, as to Additional Bonds, the date or dates identified as such in the Bond Legislation authorizing such Additional Bonds.

“Interest Rate for Advances” means a rate per annum which is equal to the sum of the Prime Rate plus 2 percent, but in no event greater than the maximum rate allowable by law.

“Legislative Authority” means the Board of Directors of the Issuer.

“Letter of Credit” means (A) the irrevocable letter of credit to be issued by the Letter of Credit Bank and delivered to the Trustee on the same date as the delivery of the Bonds to the Original Purchaser thereof and being an irrevocable obligation to make payment to the Trustee of up to the amounts therein specified with respect to (a) the principal amount of the Project Bonds outstanding to enable the Trustee to pay (i) the principal amount of the Project Bonds when due at maturity or upon redemption or acceleration on the occurrence of an event of default, and (ii) an amount equal to the principal portion of the purchase price of any Project Bonds tendered for purchase by the holders thereof which cannot be remarketed by the Remarketing Agent, plus (b) the amount of interest due on the Project Bonds but not to exceed fifty-two (52) days maximum accrued interest (at the rate of ten percent (10%) per annum) to enable the Trustee to pay interest due on the Project Bonds as the same may be transferred, reissued, extended or replaced in accordance with the Indenture and the Letter of Credit and (B) upon the issuance thereof, any Alternate Letter of Credit.

“Letter of Credit Bank” means, as to the Project Bonds, U.S. Bank National Association and its successors under the Letter of Credit, and the issuer of any Alternate Letter of Credit.

“Letter of Credit Termination Date” means the expiration date of the Letter of Credit or any Alternate Letter of Credit.

“Loan” means the loan by the Issuer to the Company of the proceeds from the sale of the Project Bonds to the Original Purchaser as the same may hereafter be increased from the proceeds from the sale of Additional Bonds.

“Loan Payment Date” means each Bond Redemption Date, each Interest Payment Date, each Principal Payment Date, each Mandatory Redemption Date and the date upon which any advance payment of principal or interest is required by the provisions of Section 2.1 of the Agreement; and any date on which any principal of, premium, if any, or interest on the Bonds shall be due and payable upon mandatory redemption because of acceleration.

“Loan Payments” means the amounts required to be paid and/or prepaid by the provisions of Section 2.1 of the Agreement, as the same may hereafter be amended or supplemented.

“Mandatory Redemption Date” means the first day of each November in each year beginning November 1, 2006 through and including November 1, 2025, and as to any Additional Bonds, the date or dates specified in the applicable Bond Legislation on which such Additional Bonds are to be retired prior to maturity pursuant to Mandatory Sinking Fund Requirements. As appropriate, the maturity date denoting a particular series of Project Bonds shall be used in conjunction with the term “Mandatory Redemption Date”.

“Mandatory Sinking Fund Requirements” means amounts required by this Bond Legislation to be deposited in the Bond Fund for the purpose of retiring, on a specified date, principal maturities of Bonds which by their terms are due and payable, if not called for prior to redemption, at a subsequent date.

“Maturity Date” means November 1, 2025.

“Net Proceeds” means, as to any insurance proceeds or any condemnation award, the amount remaining after deducting therefrom all expenses (including attorneys’ fees and any Extraordinary Expenses, as defined in the Indenture, of the Trustee) incurred in the collection of such proceeds or award.

“Note” or “Notes” means the promissory note constituting the promise of the Company to repay the Loan to the Issuer, which Note shall be in substantially the form attached to the Agreement as Exhibit A, and any additional promissory note or notes executed and delivered with respect to Additional Bonds.

“Notice Address” means:

(a) As to the Issuer: Port of Greater Cincinnati Development Authority
1014 Vine Street, Suite 1440
Cincinnati, OH 45202
Attn: President

(b) As to the Company: The Zoological Society of Cincinnati
3400 Vine Street
Cincinnati, OH 45220
Attn: President

(c) As to the Trustee: U.S. Bank National Association
425 Walnut Street
Cincinnati, Ohio 45202
Attn: Corporate Trust Department

- (d) As to the Original Purchaser and Remarketing Agent: Ross, Sinclaire & Associates, Inc.
700 Walnut Street, Suite 600
Cincinnati, Ohio 45202
Attn: President & CEO
- (e) As to the Letter of Credit Bank: U.S. Bank National Association
425 Walnut Street
Cincinnati, Ohio 45202
Attn: Commercial Lending Department

or such different address notice of which is given under Section 10.3 of the Agreement, but no such notice shall thereby be required to be sent to more than two addresses.

“Original Purchaser” means, as to the Project Bonds, Ross, Sinclaire & Associates, Inc., Cincinnati, Ohio, and, as to any Additional Bonds, the person or persons identified as such in the Bond Legislation providing for the issuance of such Additional Bonds.

“Outstanding Bonds” or “Bonds outstanding” or “outstanding” as applied to Bonds, means, as of any date, all Bonds which have been authenticated and delivered, or are then being delivered, by the Trustee under the Indenture except:

- (a) Bonds surrendered for and replaced upon exchange or transfer, or canceled because of payment or redemption, at or prior to such date;

- (b) Bonds which are deemed to have been paid and discharged pursuant to the provisions of Section 8.02 of the Indenture; provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee; and

- (c) Bonds in lieu of which others have been authenticated (or payment, when due, of which is made without replacement) under Section 2.05 of the Indenture;

and also except that

- (d) For the purpose of determining whether the holders of the requisite principal amount of Bonds have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or pursuant to the Indenture, Bonds owned by or for the account of the Company or any person owned, controlled by, under common control with or controlling the Company, but specifically excluding Bonds, if any, held or owned by, or pledged to, the Letter of Credit Bank, shall be disregarded and deemed to be not outstanding. The term “control” (including the terms “controlling”, “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. Ownership of 5% or more of a class of securities having general voting power to elect a majority of the

board of directors of a corporation shall be conclusive evidence of control of such corporation.

“Paying Agents” means U.S. Bank National Association and any successor Paying Agent designated pursuant to this Indenture. “Principal Office of the Paying Agent” means the office designated as such by the Paying Agent in writing to the Issuer, the Company, the Trustee, the Bank and the Remarketing Agent. The Paying Agent shall also act as Authenticating Agent on behalf of the Trustee.

“Person” means an individual, a partnership, a corporation, a trust, an unincorporated organization, a joint-stock company, an association and a government or any department or agency thereof.

“Plans and Specifications” means the plans and specifications for the Project now on file with the Letter of Credit Bank and the Issuer, as revised from time to time as provided in the Agreement.

“Pledged Receipts” means (a) the Loan Payments, including the payments of principal of and interest and any premium on the Note, (b) subject to the provisions of Sections 3.04, 4.02 and 8.02 of the Indenture with respect to the Trustee holding moneys for the benefit of the holders of particular Bonds, all other moneys received by the Issuer or the Trustee for the account of the Issuer, (c) the proceeds of the Bonds and any moneys deposited in the Construction Fund and the Bond Fund from whatever source, including any draws under the Letter of Credit, and (d) the income and profit from the investment of the Loan Payments and such moneys deposited in the Construction Fund and the Bond Fund. Moneys in the Rebate Fund shall not constitute Pledged Receipts.

“Prime Rate” shall have the meaning assigned to such term in the Reimbursement Agreement.

“Principal Payment Date” means, as to the Project Bonds the first day of each November in the years in which the Project Bonds mature (or are subject to redemption pursuant to Mandatory Sinking Fund Requirements) as provided in Section 3 of this Bond Legislation, and as to Additional Bonds, the date or dates identified as such in the Bond Legislation authorizing such Additional Bonds.

“Project” means the real, personal or real and personal property, including undivided or other interests therein, identified in Exhibits A and B of the Mortgage and Exhibits B and C of the Agreement, or in or pursuant to any amendments thereto or hereto or in the certificate of the Authorized Company Representative given pursuant to Section 3.3 of the Agreement, or acquired, constructed or installed as a replacement or substitution therefor or an addition thereto if financed from the proceeds of the Bonds, or as may result from a revision of the Plans and Specifications in accordance with the provisions of the Agreement.

“Project Bonds” means the Bonds initially issued by the Issuer pursuant to the Indenture and designated “Variable Rate Demand Port Authority Revenue Bonds, Series 2005 (Cincinnati Zoo Project)”.

“Project Purposes” means the purposes of a transportation, cultural and economic development facility as described in the Act.

“Project Site” means the real property described in Exhibit C of the Agreement.

“Rating Services” means Standard & Poor’s Ratings Group or Moody’s Investors Service or their successors and assigns, or if both are dissolved or no longer assigning credit ratings to long term debt, then such other nationally recognized service assigning credit ratings to long term debt designated by the Company and acceptable to the Remarketing Agent and the Letter of Credit Bank.

“Registered Bonds” means Bonds registered in the name of the holder.

“Regular Record Date” means, prior to conversion to the Fixed Interest Rate, the fifth (5th) day preceding any Interest Payment Date, and after such conversion, the fifteenth (15th) day of the month preceding any Interest Payment Date.

“Reimbursement Account” means the Reimbursement Account in the Bond Fund created pursuant to Section 4.01 of the Indenture.”

“Reimbursement Agreement” means the Letter of Credit Loan and Reimbursement Agreement by and between the Company and the Letter of Credit Bank pursuant to which the Letter of Credit is to be issued, as from time to time replaced, supplemented or amended.

“Remarketing Agent” means the Remarketing Agent appointed in accordance with the Indenture, initially Ross, Sinclaire & Associates, Inc., Cincinnati, Ohio, and any Person meeting the qualifications of Section 5.19 of the Indenture and designated from time to time to act as Remarketing Agent under Section 5.19 of the Indenture.

“Remarketing Agreement” means the Remarketing Agreement by and among the Company, the Letter of Credit Bank, the Remarketing Agent and the Trustee.

“Security Agreement” means the Security Agreement from the Company to the Letter of Credit Bank.

“State” means the State of Ohio.

“Tax Regulatory Agreement” means the Tax Regulatory Agreement dated the dated date of the Bonds by and among the Company, the Issuer and the Trustee.

“Trustee” means the bank or trust company at the time serving as Trustee under the Indenture.

“Variable Interest Rate” means a per annum rate of interest established by the Remarketing Agent from time to time pursuant to this Bond Legislation.

Any reference herein to the Issuer, to the Legislative Authority, or to any officers thereof, shall include any person or entity which succeeds to its or their duties or responsibilities pursuant to or by operation of law. Any reference to a section or provision of the Ohio Constitution or the Act or to a section, provision or chapter of the Ohio Revised Code shall include such section or provision or chapter as from time to time amended, modified, revised, supplemented, or superseded; provided, however, that no such change in the Constitution or laws (a) shall alter the obligation to pay the Bond service charges in the amounts and manner, at the times, and from the sources provided in this Bond Legislation and the Indenture, except as otherwise herein permitted or (b) shall be deemed applicable by reason of this provision if such change would in any way constitute an impairment of the rights of the Issuer, the Trustee, the Letter of Credit Bank or the Company under the Agreement or the Indenture.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms “hereof”, “hereby”, “hereto”, “hereunder”, and similar terms, mean this Bond Legislation and the Indenture.

Section 2 Determinations of Legislative Authority. The Legislative Authority hereby determines:

(a) That the property to be acquired by the Company from the proceeds of the Loan (generally the costs of site improvements and new building construction consisting of primarily the construction of a new commercial parking facility) and the utilization of such property is in the best interests of the Issuer; and

(b) the Project is a “port authority facility” as that term is defined in Section 4582.21(E) of the Ohio Revised Code, is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution and the Act and will benefit the people of the Issuer by reducing vehicular congestion as a transportation facility, promoting the Company as a cultural facility and creating or preserving jobs and employment opportunities as an economic development facility within the Issuer; and

(c) the Project, in part, will be for the restoration and redevelopment of property within Hamilton County affected or perceived to be affected by environmental contamination.

Section 3 Authorization and Terms of Project Bonds.

(a) Authorization. It is hereby determined to be necessary to, and the Issuer shall, issue, sell and deliver, as provided and authorized herein and pursuant to the authority of the Act, \$750,000 aggregate principal amount of Project Bonds for the purpose of making a loan to assist the Company in the financing of costs of acquiring and constructing the Project to be owned by the Company and used by the Company for the Project Purposes, including costs incidental thereto and to the financing thereof. Said Project Bonds shall be designated “Variable Rate Demand Port Authority Revenue Bonds, Series 2005 (Cincinnati Zoo Project)”. The Issuer may also issue, sell and deliver

Additional Bonds on a parity with the Project Bonds for the purposes and in the manner provided in Section 8 of this Bond Legislation.

(b) Form, Denominations, Dates and Interest Rate. The Project Bonds shall be issued in fully registered form in the manner and on the terms provided in the Indenture, and shall be numbered from 1 upward. Project Bonds shall be in the denomination of \$100,000 or any integral multiple of \$5,000 in excess thereof. The Project Bonds shall mature on the date set forth below:

<u>Principal Amount</u>	<u>Maturity</u>
\$750,000	November 1, 2025

Project Bonds shall initially be dated as of the date of authentication and delivery thereof to the Original Purchaser and thereafter shall be dated as of the Interest Payment Date next preceding the date of their authentication, unless authenticated upon an Interest Payment Date in which case they shall be dated as of the date of their authentication; provided, however, that if at the time of authentication of any Bond interest thereon is in default, such Bond shall be dated as of the date to which interest has been paid.

Prior to conversion to the Fixed Rate, Project Bonds will bear interest at a Variable Interest Rate per annum, which shall be the lesser of (i) 10% per annum or (ii) a fluctuating per annum rate equal to the per annum rate for the one-week period commencing on a Thursday and ending on the Wednesday succeeding such Thursday (the "Accrual Period") determined by the Remarketing Agent as provided in the Indenture. Notwithstanding the foregoing, the Accrual Period beginning on the date of initial authentication and delivery of the Bonds shall commence on such date and end on the next following Wednesday. If for any reason the Variable Interest Rate is not determined on any Determination Date, the interest rate announced on the preceding Determination Date shall continue in effect. If for any reason the Variable Interest Rate is not determined for a second succeeding week or thereafter, the Variable Interest Rate shall thereafter be equal to 125% of the tax-exempt commercial paper index published in Credit Markets until the Variable Interest Rate is again determined in accordance with the above procedure. Interest at the Variable Interest Rate will be computed on the basis of a year of 365 or 366 days, as appropriate, for the actual number of days elapsed, and will be payable on the Interest Payment Date, or, if such day is not a Business Day, on the next succeeding Business Day.

With the prior written consent of the Bank, and upon receipt of an opinion of Bond Counsel (as defined in the Indenture) that such conversion will not adversely affect the excludability of interest on the Bonds from gross income for Federal income tax purposes, on the Conversion Date, the Company may elect to convert the rate on the Bonds and the Note to the Fixed Interest Rate. The Company may exercise its Conversion Option by giving the Trustee, the Bank and the Remarketing Agent written notice of its intention to convert the rate at least 50 days prior to the proposed Conversion Date.

The Remarketing Agent shall determine the Fixed Interest Rate to be that rate per annum which, if borne by all of the outstanding Bonds, would, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities in which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions), be the interest rate necessary (but which would not exceed the interest rate necessary) to produce as nearly as practical a par bid for each outstanding Bond on the Conversion Date. Anything herein to the contrary notwithstanding, in no event shall the Fixed Interest Rate exceed ten percent (10%) per annum. The Fixed Interest Rate shall be computed on the basis of a 360-day year of twelve 30-day months.

Anything in this Bond Legislation to the contrary notwithstanding, to the extent the Letter of Credit Bank either holds or is pledged the Project Bonds or any portion thereof, the interest rate on such Project Bonds shall be the Letter of Credit Bank Rate (as such term is defined in Exhibit A to the Indenture).

(a) Extraordinary Optional Redemption. In the event the Company exercises its option to prepay the Loan as provided in Section 8.2(a) and 8.2(b) of the Agreement, the Project Bonds are subject to extraordinary optional redemption by the Issuer prior to stated maturity at any time in whole at a redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date.

The exercise of any such prepayment option by the Company shall be conditioned on the deposit by the Company of sufficient funds with the Letter of Credit Bank in accordance with Section 2.1 of the Agreement or waiver of such requirement by the Letter of Credit Bank.

Notice from the Company to the Trustee pursuant to Section 8.4 of the Agreement that the Company shall exercise its option to prepay the Loan pursuant to Section 8.2 of the Agreement, shall constitute the direction from the Issuer to the Trustee to call all of the then outstanding Project Bonds for extraordinary optional redemption pursuant to this paragraph, and no separate notice from the Issuer to the Trustee shall be required.

(b) General Optional Redemption. Prior to conversion to the Fixed Interest Rate, the Bonds are subject to redemption in whole or in part (in integral multiples of \$5,000, provided that the unredeemed portion of any Bond redeemed in part shall be \$100,000 or more) by the Issuer, at the Company's option on any Interest Payment Date, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, but without penalty or premium.

If the Bonds bear interest at the Fixed Interest Rate, the Bonds shall be subject to optional redemption by the Issuer in whole or in part in integral multiples of \$5,000 (provided that the unredeemed portion of any Bond redeemed in part shall be \$100,000 or more), at the direction of the Company, on an Interest Payment Date at the following times and redemption prices:

<u>Redemption Date</u>	<u>Redemption Price</u>
Conversion Date through and including the day next	Not Redeemable

preceding the First Fixed
Redemption Date

First Fixed Redemption Date
through and including the day
next preceding the first
anniversary of the First Fixed
Redemption Date

101% of the
principal
amount
redeemed

First anniversary of the
First Fixed Redemption Date
and thereafter

100% of the
principal
amount redeemed

The exercise of any such prepayment option by the Company shall be conditioned on the deposit by the Company of sufficient funds with the Letter of Credit Bank in accordance with Section 2.1 of the Agreement or waiver of such requirement by the Letter of Credit Bank.

Notice from the Company to the Trustee pursuant to Section 8.4 of the Agreement that the Company shall exercise its general option to prepay the Loan pursuant to Section 8.2 of the Agreement, shall constitute the direction from the Issuer to the Trustee to call all or part of the then outstanding Project Bonds for general optional redemption pursuant to this paragraph, and no separate notice from the Issuer to the Trustee shall be required.

(c) Special Mandatory Redemption Upon Unenforceability or Taxability. The Project Bonds are also subject to special mandatory redemption by the Issuer prior to stated maturity at any time in whole if and when (i) the Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed in the Agreement by reason of any changes in the Constitution of the State or the Constitution of the United States of America or by reason of legislative or administrative action (whether state or Federal) or any final decree, judgment or order of any court or administrative body (whether state or Federal) entered after the contest thereof by the Issuer (at the request and expense of the Company) or the Company in good faith to the effect that the Note and the obligations evidenced thereby are no longer enforceable by the holder thereof, or (ii) interest on the Project Bonds shall have become subject to Federal income tax because of a Determination of Taxability. The redemption price in any such events shall be 100% of the principal amount of the Project Bonds outstanding plus accrued interest to the redemption date. Any such redemption shall be made not more than 120 days following the effective date of such constitutional amendment, legislation, administrative action or decree, judgment or order, or following the date of the Determination of Taxability (excluding any final determination that interest is subject to Federal income tax with respect to any Project Bond because such Project Bond is held by a “substantial user” of the Project or by a “related person”, as those terms are used in Section 147(a) of the Code). Notice from the Company to the Trustee pursuant to Section 8.4 of the Agreement that the Company shall prepay the Loan in full as required under Section 8.3 of the Agreement, shall constitute the direction from the Issuer to the Trustee to call all the then outstanding Project Bonds

for special mandatory redemption pursuant to this paragraph, and no separate notice from the Issuer to the Trustee shall be required.

(d) Mandatory Sinking Fund Redemption. The Project Bonds are subject to mandatory sinking fund redemption, prior to maturity, on each November 1 in each year beginning November 1, 2006 through November 1, 2025, at the redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date, as provided in Section 7 hereof.

(e) Special Mandatory Redemption Upon Expiration of Letter of Credit. The Bonds are subject to mandatory redemption by the Issuer in whole on any Interest Payment Date which next precedes a Letter of Credit Termination Date (as defined in the Indenture) or a subsequent date to which the Letter of Credit Termination Date shall have been extended (or if the Letter of Credit Termination Date is on an Interest Payment Date, then such date), at a redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date unless, at least fifty-two (52) days prior to such Interest Payment Date (a) the Letter of Credit Bank shall have agreed to an extension or further extension of the Letter of Credit Termination Date to a date not earlier than one (1) year from the Letter of Credit Termination Date being extended or (b) the Company shall have obtained an Alternate Letter of Credit with a termination date not earlier than one (1) year from the Letter of Credit Termination Date for the Letter of Credit it replaces.

(f) Method of Redemption. Notice of the call for any redemption of Project Bonds, identifying by designation, letters, numbers, or other distinguishing marks, the Project Bonds to be redeemed, the redemption price to be paid, the date fixed for redemption and the place or places where the amounts due upon such redemption are payable, shall be given by the Trustee on behalf of the Issuer by mailing a copy of the redemption notice by first class mail at least thirty days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Trustee; provided, however, that failure to give such notice by mailing, or any defect in such notice, shall not affect the validity of any proceedings for the redemption of the Project Bonds.

If less than the entire unmatured portion of the Project Bonds be called for redemption at any time or from time to time, the Project Bonds to be redeemed shall be selected in the inverse order of their maturities, and within any maturity the selection of such Project Bonds or portion of fully registered Project Bonds shall be made by lot in such manner as may be designated by the Trustee; provided, however, that if Project Bonds have been pledged to the Letter of Credit Bank as a result of a Remarketing Drawing (as defined in the Letter of Credit) or purchased by the Letter of Credit Bank pursuant to the Remarketing Agreement, Project Bonds so held by the Letter of Credit Bank will be selected for redemption by the Trustee prior to any selection by lot.

(g) Purchase Provisions

(A) Mandatory Purchase Upon Replacement of Letter of Credit. The Bonds are subject to mandatory purchase by the Remarketing Agent on behalf of

Notice of any such mandatory purchase shall be given by the Trustee 30 days prior to the date of purchase in the same manner as notice of redemption. Except to the extent a Holder has directed the Remarketing Agent not to purchase Bonds on behalf of such Holder, as described below, upon notice of any mandatory purchase described in the first paragraph of this Section 3(i), each Holder shall undertake to deliver its Bonds to the Remarketing Agent at or prior to 9:30 a.m., Cincinnati, Ohio time, at the principal office of the Remarketing Agent, one Business Day prior to the date of mandatory purchase.

If a Holder fails to deliver any Bond on or prior to the applicable tender date specified in the preceding paragraph, such untendered Bond shall be deemed to have been properly tendered for purchase to the Remarketing Agent and, to the extent that there shall be on deposit with the Remarketing Agent and available therefor an amount sufficient to pay the Purchase Price thereof, such untendered Bond shall on such purchase date cease to bear interest and no longer shall be outstanding under the Indenture and the owner thereof shall thereafter be entitled only to the payment of the Purchase Price, without interest thereon, upon presentation and surrender of such untendered Bond.

(B) Direction Not to Purchase Bonds Upon Replacement of Letter of Credit. Upon and in connection with a mandatory purchase upon replacement of the Letter of Credit with an Alternate Letter of Credit as described above, a Holder may direct the Remarketing Agent not to purchase on behalf of the Issuer all or a portion (in an authorized denomination) of any Bond held by him by delivering to the Remarketing Agent at its principal office on or before the seventh day preceding the date fixed for such purchase an instrument or instruments in writing executed by such Holder (a) specifying the numbers and denominations of Bonds held by him, (b) acknowledging receipt of notice of the matters set forth in clauses (i) through (iv) of Section 4.16 of the Indenture and (c) directing the Remarketing Agent not to purchase such Bonds or portions thereof; provided, however, that a Holder who makes such a direction must continue to own such Bonds at least through the date fixed for such mandatory purchase.

Any instrument delivered to the Remarketing Agent in accordance herewith shall be irrevocable with respect to the purchase for which such instrument was delivered and shall be binding upon subsequent Holders of the Bonds including Bonds issued in exchange therefor or upon the registration of transfer thereof, but such instrument shall have no effect upon any subsequent purchase of Bonds.

(C) Purchase of Bonds Upon Demand of Holder. While the Bonds bear interest at the Variable Interest Rate, on any Business Day (a “Bond

Purchase Date”), any Bonds owned by a Holder shall be purchased by the Remarketing Agent, but only from the sources described in Section 5.21 of the Indenture, on the demand of the Holder thereof, at a Purchase Price equal to 100% of the principal amount thereof plus (if such Bond Purchase Date is not an Interest Payment Date) accrued interest to the date of purchase, upon delivery to the Remarketing Agent at its principal office of a demand for purchase properly completed and executed, which states (i) the principal amount of such Bonds which will be delivered for purchase (which amount must be an authorized denomination), (ii) the date on which such Bonds shall be purchased pursuant to this subsection (c), which date shall be a Business Day not prior to the seventh day next succeeding the date of delivery of such demand for purchase of the Bonds to the Remarketing Agent, (iii) that the demand for purchase is an irrevocable request, (iv) that the Holder will undertake to deliver the Bonds to the Remarketing Agent at or prior to 9:30 a.m., Cincinnati, Ohio time, at the principal office of the Remarketing Agent, one Business Day prior to the date on which purchase is demanded and (v) the name of the Holder of such Bonds, the number of such Bonds and the CUSIP number thereof. By delivering such notice the Holder irrevocably agrees to deliver such Bonds and, if the purchase date specified is before an Interest Payment Date but after the Regular Record Date relating thereto, a due-bill check, in form satisfactory to the Remarketing Agent for interest due on such Interest Payment Date to the principal office of the Remarketing Agent at or prior to 9:30 a.m., Cincinnati, Ohio time, one Business Day prior to the date specified in the demand for purchase.

(D) Mandatory Tender. If at any time the Company shall convert the interest rate on the Bonds to the Fixed Interest Rate, on the Conversion Date all Bonds shall be subject to mandatory tender by the Holders thereof. Notwithstanding such mandatory tender, any Holder may elect to retain such Holder’s Bonds by delivering to the Trustee a written notice no less than ten Business Days prior to such Conversion Date which notice shall state that (a) such Holder realizes that the Bonds are being converted to bear interest at the Fixed Interest Rate, (b) that such Bonds may no longer be tendered for purchase, and (c) such Holder affirmatively elects to hold his Bonds and receive interest at the Fixed Interest Rate. Project Bonds with respect to which the Trustee shall not have received such written notice shall be deemed to have been tendered whether or not the Holders thereof shall have delivered such Bonds to the Trustee.

(h) Place of Payment. Bond service charges on Project Bonds shall be payable, without deduction for services of the Paying Agent, in the manner provided in the Project Bonds.

(i) Execution. The Project Bonds shall be executed by either or both of the Executive and the Fiscal Officer of the Issuer, provided that either or both of such signatures may be facsimiles.

(j) Appointment of Remarketing Agent. The Issuer hereby appoints Ross, Sinclair & Associates, Inc. as the initial Remarketing Agent under the Indenture.

Section 4 Terms of all Bonds. All Bonds shall bear such designation as may be necessary to distinguish them from Bonds of any other series. Bond service charges on all Bonds shall be payable in lawful money of the United States of America. Bonds shall be issued as fully registered Bonds. All Bonds shall be negotiable instruments, subject to applicable provisions for registration, and shall express on their faces the purpose for which they are issued and such other statements or legends as may be required by law.

All Bonds shall be executed in the manner provided in the Bond Legislation authorizing their issuance or in the manner provided by the applicable law in effect at the time of their issuance. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the issuance, authentication or delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until that time.

Unless otherwise provided in the Bond Legislation authorizing the issuance of Additional Bonds, notice of call for redemption of all Bonds shall be given in the manner provided in Section 3 hereof for the notice of call for redemption of the Project Bonds. If Bonds or portions of fully registered Bonds are duly called for redemption and if on such redemption date moneys for the redemption of all the Bonds to be redeemed, together with accrued interest to the redemption date, shall be held by the Trustee or Paying Agents so as to be available therefor, then from and after such redemption date such Bonds or portions of fully registered Bonds shall cease to bear interest.

Section 5 Security Pledged for Bonds. As provided herein, the Project Bonds shall be equally and ratably payable solely from the Pledged Receipts and secured by a pledge of and lien on moneys deposited in the Construction Fund and the Bond Fund, and a pledge and assignment of other moneys constituting Pledged Receipts, and further secured by the Indenture and by the pledge and assignment of the Note; and anything in this Bond Legislation, the Bonds, the Agreement or the Indenture to the contrary notwithstanding, neither this Bond Legislation, the Bonds, the Agreement nor the Indenture shall constitute a debt or a pledge of the faith and credit of the Issuer or of the State or any political subdivision thereof and the holders or owners of the Bonds shall have no right to have taxes levied by the General Assembly of the State or the taxing authority of the Issuer or of any other political subdivision of the State for the payment of the principal of, premium, if any, or interest on the Bonds, but such Bonds are payable solely from the Pledged Receipts and the Bonds shall contain on the face thereof a statement to that effect.

Section 6 Sale of Project Bonds; Allocation of Purchase Price. The Executive is hereby authorized and directed to offer for sale the Project Bonds to the Original Purchaser for purchase by the Original Purchaser at the price set forth in the Bond Purchase Agreement, plus accrued interest, in accordance with the terms and provisions of this Bond Legislation, and to make the necessary arrangements on behalf of the Issuer with the Original Purchaser to establish the date, location, procedure and conditions for the delivery of the Project Bonds to the Original

Purchaser. The Executive further is hereby authorized and directed to take all steps necessary to effect due authentication, delivery and security of the Project Bonds under the terms of this Bond Legislation and the Indenture, and it is hereby determined that the aforesaid purchase price and the interest rate for the Project Bonds and the manner of sale, as provided in this Bond Legislation, are in compliance with all legal requirements. The Executive or Fiscal Officer shall furnish to the Original Purchaser a true transcript of proceedings had with reference to the issuance of the Project Bonds, certified by him or her, along with such information from his or her records as is necessary to determine the regularity and validity of the issuance of said Bonds.

The distribution of a Preliminary Offering Circular relating to the Project Bonds is ratified and approved hereby. The use and distribution of a final Offering Circular, relating to the original issuance of the Bonds, substantially in the form now on file with the Issuer and any supplements thereto is authorized hereby. The Issuer has not confirmed, and assumes no responsibility for the accuracy, sufficiency or fairness of, any statements in the Preliminary Offering Circular or the final Offering Circular or any supplements thereto, or in any reports, financial information, offering or disclosure documents or other information in any way relating to the Project, the Company, the Letter of Credit Bank, the Remarketing Agent or the Original Purchaser.

At the time of issuance, delivery of and payment for the Project Bonds, the Bond Fund Payment shall be deposited from the purchase price for the Project Bonds into the Bond Fund.

There is hereby created by the Issuer and ordered maintained as a separate deposit account (except when invested as hereinafter provided) in the custody of the Trustee a trust fund to be designated "Port Authority - Cincinnati Zoo 2005 Construction Fund" (herein called the "Construction Fund"). The Bond proceeds, after payment of bond discounts, shall be used to fund the Bond Fund with the Bond Fund Payment and the balance to fund the Construction Fund. Moneys in the Construction Fund shall be disbursed by the Trustee in accordance with the provisions of the Agreement, and the Trustee is hereby authorized and directed to issue its check for each disbursement required by the provisions of the Agreement. The Issuer covenants and agrees promptly to take whatever action, if any, is necessary in approving and ordering all such disbursements.

The moneys to the credit of the Construction Fund shall pending application thereof as above set forth, be subject to a lien and charge in favor of the holders of the Project Bonds, but only to the extent of their interest therein.

Moneys in the Construction Fund shall be applied to payment of the costs of constructing and equipping the Project in accordance with the Agreement. Any moneys remaining in the Construction Fund after payment of such costs will be applied as provided in Section 4.2(g) of the Agreement.

Moneys in the Construction Fund can be disbursed by the Trustee only in accordance with the Agreement.

There is hereby also created by the Issuer and ordered maintained as a separate deposit account in the custody of the Trustee, a trust fund to be designated "Port Authority, -- Cincinnati Zoo 2005 Rebate Fund" (the "Rebate Fund") and therein a Principal Subaccount and an Interest Subaccount as provided in the Indenture.

Section 7 Source of Payment - Bond Fund. As provided in the Agreement, moneys sufficient in time and amount to pay the Bond service charges as they come due are to be drawn by the Trustee on the Letter of Credit Bank pursuant to the Letter of Credit (or paid by the Company directly to the Trustee, including payments received on the Note) for the account of the Issuer and deposited in the Bond Fund. Under the provisions of the Agreement, payments with respect to the Note received by the Trustee shall be deposited into the Reimbursement Account in the Bond Fund for the account of the Issuer and shall constitute Loan Payments.

There is hereby created by the Issuer and ordered maintained, as a separate deposit account (except when invested as hereinafter provided) in the custody of the Trustee, a trust fund to be designated "Port Authority -- Cincinnati Zoo Revenue Bond Fund" (herein called the "Bond Fund"). The Bond Fund (and accounts therein provided for in the Indenture or in the Agreement) and the moneys and investments therein are hereby pledged to and shall be used for the payment of Bond service charges, all as provided herein and in the Indenture and the Agreement, provided that no part thereof (except as may otherwise be provided for herein and in the Indenture or the Agreement) shall be used to redeem or purchase, prior to maturity, any Bonds.

On or before each date when Bond service charges are due and payable, the Trustee shall transmit from moneys in the Bond Fund applicable thereto to any other Paying Agents, as appropriate, amounts sufficient to meet payments to be made by them of Bond service charges then to be due and payable; provided that to the extent that the amount needed by any other Paying Agent is not sufficiently predictable, the Trustee may make such credit arrangements with such Paying Agent as to permit meeting such payments.

There shall be deposited into the Bond Fund (and credited, if required by the Indenture or the Agreement, to appropriate accounts therein), as and when received, (a) all Loan Payments, (b) all moneys drawn by the Trustee under the Letter of Credit for the payment of principal or interest on the Project Bonds, and (c) all other Pledged Receipts, except those amounts required by the Indenture or the Agreement to be deposited in the Construction Fund or any other separate insurance or condemnation proceeds account.

As and for the Mandatory Sinking Fund Requirements for the retirement, by mandatory redemption pursuant to Section 3 hereof, of the Project Bonds the aggregate of the Loan Payments specified in Section 2.1 of the Agreement which are to be deposited in the Bond Fund on or before each Loan Payment Date (as defined in the Agreement) shall include amounts sufficient to redeem on each corresponding Mandatory Redemption Date the principal amount of Project Bonds set opposite the appropriate year in the Bond Purchase Agreement and Exhibit A to the Indenture. For the purpose of effecting said mandatory redemption the Trustee, on behalf of the Issuer, and without necessity for further action by the Company, shall cause to be redeemed, in the manner provided in Section 3 hereof, on each Mandatory Redemption Date

such an aggregate principal amount of the Project Bonds as equals the Mandatory Sinking Fund Requirements as provided for above in this Section 7 for the applicable Mandatory Redemption Date; provided, however, that Loan Payments shall be decreased by credits for the Bond Fund Payment, for the proceeds of business interruption insurance deposited in the Bond Fund, for the amount of any penalties or liquidated damages received or withheld under construction contracts and deposited in the Bond Fund, and for certain Project Bonds theretofore redeemed by the Trustee or delivered to the Trustee by the Company, all in accordance with Sections 2.1 and 2.10 of the Agreement.

The Issuer hereby covenants and agrees that so long as any of the Bonds are outstanding it will deposit or cause to be deposited in the Bond Fund, Pledged Receipts sufficient in time and amount to pay the Bond service charges as the same become due and payable, and to this end the Issuer covenants and agrees that, so long as any Bonds are outstanding, it will diligently and promptly proceed in good faith and use its best efforts to enforce the Agreement, and that, should there be an event of default under the Agreement, the Issuer shall fully cooperate with the Trustee and with the Bondholders to protect fully the rights and security of the Bondholders hereunder. Nothing herein shall be construed as requiring the Issuer to use or apply to the payment of Bond service charges any funds or revenues from any source other than Pledged Receipts.

The Issuer covenants and agrees, whenever the moneys and investments in the Bond Fund (or otherwise held by the Trustee for such purpose) are sufficient in amount to redeem all of the Bonds then outstanding and to pay interest to accrue thereon to the date or dates of such redemption, to take and cause to be taken, at the direction of the Company, the necessary steps to redeem all of said Bonds on the next succeeding redemption date or dates for which the required notice of call for redemption may be given.

Section 8 Additional Bonds. At the request of the Company with the prior written consent of the Letter of Credit Bank, which consent may be withheld in its absolute discretion, if the Company is not then in default under the Agreement, upon delivery to the Trustee of an irrevocable letter of credit, substantially in the form of the Letter of Credit, the Issuer, to the extent permitted by law (including the Act) then in effect, for purposes consistent with the Act and to the extent determined by the Legislative Authority to be in its best interest, shall use its best efforts to issue Additional Bonds from time to time to provide loans to the Company for: (i) completion of the Project, including additional costs incurred in constructing and equipping the Project, or (ii) restoring or repairing the Project following any condemnation thereof or damage thereto to the extent the Net Proceeds of any insurance or condemnation award are insufficient to pay for same, or (iii) constructing improvements to the Project, (iv) refunding the Project Bonds or any one or more series of Additional Bonds, or (v) any combination of the foregoing; provided, that the proceeds of any Additional Bonds shall, except to the extent issued for the purpose described in clause (iv), be used solely to pay permissible costs under the Act. Such Additional Bonds shall be on a parity with the Project Bonds and any Additional Bonds theretofore or thereafter issued, except with respect to any moneys drawn by the Trustee under the Letter of Credit and deposited in the Bond Fund, which shall be used only for the payment of principal of and interest on the Project Bonds. Before any Additional Bonds are authenticated there shall be delivered to the Trustee the items required by Section 2.08 of the Indenture and (a)

any necessary amendment of the Agreement to provide for increased Loan Payments so that the aggregate of the Loan Payments thereafter payable under the Agreement shall be sufficient in amount to make all required payments into the Bond Fund in order to pay when due Bond service charges on all Bonds then to be outstanding, and for all Additional Payments (as defined in the Agreement) by the Company under the provisions of the Agreement and the Bond Legislation, and (b) either the opinion of nationally recognized bond counsel or a ruling of the Internal Revenue Service of the United States Department of Treasury that the issuance of such series of Additional Bonds will not adversely affect the exemption from Federal income taxation of the interest paid or payable on any outstanding Bonds.

Section 9 Covenants of Issuer. In addition to other covenants of the Issuer contained in this Bond Legislation and the Indenture, the Issuer further covenants and agrees as follows:

(a) Payment of Bond Service Charges. The Issuer will, solely from Pledged Receipts pay or cause to be paid the Bond service charges on each and all Bonds on the dates, at the places and in the manner provided herein, in the applicable Bond Legislation and in the Bonds.

(b) Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Bond Legislation, the Agreement, the Indenture and in any and every Bond executed, authenticated and delivered under the Indenture, and in all proceedings of the Issuer pertaining to the Bonds, the Indenture or the Agreement. The Issuer warrants and covenants that it is, and upon delivery of the Project Bonds will be, duly authorized by the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Project Bonds and to execute the Indenture, the Agreement and the Bond Purchase Agreement, to provide the security for payment of the Bond service charges in the manner and to the extent herein and in the Indenture set forth; that all actions on its part for the issuance of the Project Bonds and execution and delivery of the Indenture, the Agreement and the Bond Purchase Agreement have been or will be duly and effectively taken; and that the Project Bonds in the hands of the holders thereof will be valid and enforceable special obligations of the Issuer according to the terms thereof. Each provision of this Bond Legislation, the Indenture, the Agreement, the Bond Purchase Agreement and the Bonds is binding upon each such officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duties required by such provision; and each duty of the Issuer and of its officers undertaken pursuant to such proceedings for the issuance of the Bonds is established as a duty of the Issuer and of each such officer having authority to perform such duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of Section 2731.01 of the Ohio Revised Code, providing for enforcement by writ of mandamus.

(c) Pledged Receipts. Except as otherwise provided in this Bond Legislation, the Indenture and the Agreement, the Issuer will not create or suffer to be created any debt, lien or charge thereon, or make any pledge or assignment of or create any debt, lien or charge thereon, or make any pledge or assignment of or create any lien or

encumbrance upon the Pledged Receipts, including the moneys in the Bond Fund and Construction Fund, other than the pledge and assignment thereof under this Bond Legislation, the Indenture and the Agreement.

(d) Recordings and Filings. The Issuer will, at the request of the Trustee or the Company and expense of the Company, sign (to the extent required by the laws of the State to perfect such instruments and/or the lien created thereby) all necessary financing statements, amendments thereto, continuation statements and instruments of similar character relating to the pledges and assignments made by it to secure the Bonds in order to fully preserve and protect the security of the holders of the Bonds and the rights of the Trustee under the Indenture.

(e) Inspection of Project Books. All books and documents in the Issuer's possession relating to the Project or the Pledged Receipts shall at all times be open to inspection by such accountants or other agents of the Trustee or the Letter of Credit Bank as the Trustee or the Letter of Credit Bank may from time to time designate.

(f) Rights under Agreement. The Trustee, in its name or in the name of the Issuer, may, for and on behalf of the Bondholders, enforce all rights of the Issuer and all obligations of the Company under and pursuant to the Agreement and Note, whether or not the Issuer is in default of the pursuit or enforcement of such rights and obligations.

(g) Maintenance of Agreement. The Issuer shall do all things and take all actions on its part necessary to comply with the obligations, duties and responsibilities on the part of the Issuer under the Agreement, and will take all actions within its authority to maintain the Agreement in effect in accordance with the terms thereof and to enforce and protect the rights of the Issuer thereunder, including actions at law and in equity, as may be appropriate.

(h) Arbitrage Provisions. The Issuer will, to the extent that it is in a position to control or direct such matters and at the direction of the Trustee or the Company, restrict the use of the proceeds of the Project Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Project Bonds are delivered to the Original Purchaser, so that they will not constitute "arbitrage bonds" under Section 148 of the Code, and the regulations promulgated under that section. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the Project Bonds, is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, consultant or agent of the Legislative Authority, or any officer of the Company, and upon receipt of satisfactory indemnities and based upon representations made by the Company, to give an appropriate certificate on behalf of the Issuer, for inclusion in the transcript of proceedings for the Project Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and regulations thereunder. The Issuer also will, to the extent it is in a position to control or direct such matters, comply with Section 148 of the Code.

Section 10 Investment of Bond Fund and Construction Fund. Except as otherwise provided in the Indenture, moneys in the Bond Fund and the Construction Fund shall be invested and reinvested by the Trustee in Eligible Investments, in accordance with and subject to the orders (if verbal, to be confirmed in writing) of the Authorized Company Representative, provided that investments of moneys in the Bond Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide moneys hereunder to pay Bond service charges as they fall due at stated maturity or by redemption or pursuant to any Mandatory Sinking Fund Requirements, and further provided that moneys in the Reimbursement Account in the Bond Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to reimburse the Letter of Credit Bank for draws under the Letter of Credit, and provided that each investment of moneys in the Construction Fund shall in any event mature or be redeemable at the option of the Trustee at such time as may be necessary to make timely payments from said Construction Fund. Any such investments may be purchased from the Trustee or its affiliates. In the absence of written direction from the Company with respect to investment of moneys held in the Funds, the Trustee is hereby directed to invest funds in money market mutual funds of the Trustee or its affiliates that qualify as Eligible Investments under the Indenture. The Trustee shall sell or redeem investments standing to the credit of the Bond Fund to produce sufficient moneys hereunder at the times required for the purpose of paying Bond service charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any such order. For purposes of the Indenture and this Bond Legislation, such investments shall be valued at face amount or market value, whichever is less.

Section 11 Indenture, Agreement, Tax Regulatory Agreement and Bond Purchase Agreement. In order better to secure the payment of the Bond service charges as the same shall become due and payable, the Executive and/or the Fiscal Officer of the Issuer are hereby authorized and directed, on behalf of the Issuer, to execute and deliver the Indenture, the Agreement, the Tax Regulatory Agreement and the Bond Purchase Agreement in substantially the forms submitted to the Issuer, and to endorse upon the Note the assignment thereof to the Trustee, which instruments are hereby approved, with such changes therein not inconsistent with this Bond Legislation and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same. The approval of such changes by said officers, and that such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution of the Indenture, the Agreement, the Tax Regulatory Agreement and the Bond Purchase Agreement, respectively, and by endorsement of the Note, by such officers.

This Bond Legislation shall constitute a part of the Indenture as therein provided and for all purposes of said Indenture, including, without limitation thereto, application to this Bond Legislation of the provisions in the Indenture relating to amendment, modification and supplementation, and provisions for severability.

Section 12 Other Documents. The Executive and/or the Fiscal Officer are hereby further authorized and directed to execute financing statements, other assignments and any other instruments as are, in the opinion of bond counsel to the Issuer, necessary to perfect the pledges set forth in the Indenture and to consummate the transactions provided for in the Indenture, the Agreement and the Bond Purchase Agreement.

Section 13 Compliance with Section 121.22, Ohio Revised Code. It is hereby found and determined that all formal actions of this Legislative Authority concerning and relating to the adoption of this Bond Legislation were taken in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority and of any of its committees, if any, that resulted in such formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 14 Construction. It is hereby determined by the Legislative Authority that the acquisition, construction and improvement of the Project, and of any improvements in connection with it, including those paid from the proceeds of the Bonds, shall be undertaken by the Company or its agents. The Issuer directs that all laborers and mechanics employed on the Project shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the Project, which wages shall be determined in accordance with the requirements of Chapter 4115 of the Ohio Revised Code, for determination of prevailing wages, provided that should the Company or other nonpublic user beneficiary of the Project undertake, as part of the Project, construction to be performed by its regular collective bargaining unit employees who are covered under a collective bargaining agreement which was in existence prior to the date of the commitment instrument undertaking to issue the Project Bonds, then, in that event, the rate of pay provided under the collective bargaining agreement may be paid to such employees. The Executive or the Fiscal Officer shall appoint a prevailing wage coordinator for the Project who shall be a representative or agent of the Company or its construction contractor.

Section 15 Temporary Project Bonds. Pending the preparation of definitive Project Bonds, the Issuer may execute and the Trustee shall authenticate and deliver temporary Project Bonds in printed or typewritten form. Temporary Project Bonds shall be issuable in fully registered form, of any denomination, and substantially in the form of the definitive Project Bonds but with such omissions, insertions and variations as may be appropriate for temporary Project Bonds, all as may be determined by the Fiscal Officer, his execution of any such temporary Project Bonds to be conclusive evidence of his determinations as aforesaid. Every temporary Project Bond shall be executed on behalf of the Issuer, and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Project Bonds. If one or more temporary Project Bonds are issued, then without unnecessary delay the Issuer shall execute and furnish definitive Project Bonds and thereupon temporary Project Bonds may be surrendered to the Trustee in exchange therefor without charge to the holder thereof, and the Trustee shall authenticate and deliver in exchange for such temporary Project Bonds an equal aggregate principal amount of definitive Project Bonds. Until so exchanged the temporary Project Bonds shall be entitled to the same benefits under the Indenture as definitive Project Bonds.

Section 16 Approval Pursuant to Section 147(f) of the Code. For purposes of complying with Section 147(f) of the Code, the Legislative Authority hereby requests that the Executive or his designee, following reasonable notice, conduct a public hearing with respect to the Bonds and cooperate with Bond Counsel in obtaining the “applicable elected representative” approval required by that Section.

Section 17 Effective Date. This resolution shall take effect immediately upon its adoption.

Adoption:

November 10, 2005.

BOARD OF DIRECTORS PORT OF GREATER
CINCINNATI DEVELOPMENT AUTHORITY

Yeas: 9

Nays: 0

Abstain: 2

Chairperson

Attest: _____

Secretary

CERTIFICATE

The undersigned, Secretary of the Board of Directors of the Port or Greater Cincinnati Development Authority, hereby certifies that the foregoing is a true and complete copy of Resolution No. _____ adopted on the ____ day of _____, 2005, and has not been amended or rescinded as of this date.

_____, 2005

By: _____
Secretary

1526475.2