

RESOLUTION NO. 2005-10

A RESOLUTION AUTHORIZING AN AMENDMENT, ASSIGNMENT AND ASSUMPTION AGREEMENT RELATING TO THE PORT AUTHORITY OF CINCINNATI AND HAMILTON COUNTY VARIABLE RATE DEMAND INDUSTRIAL DEVELOPMENT REVENUE BONDS (FOURTH STREET LIMITED PARTNERSHIP PROJECT) AND RELATED MATTERS.

WHEREAS, on or about May 30, 1985, in order to finance a loan to Fourth Street Limited Partnership ("4th Street") for the acquisition and renovation of condominium units I through 3, 5 through 13 and 17 through 19 in the building commonly known as the Bartlett Building located at the northwest corner of Fourth and Walnut Streets in the City of Cincinnati ("Project"), the Port Authority of Cincinnati and Hamilton County ("PACHC"): (i) issued its Variable Rate Demand Industrial Development Revenue Bonds (Fourth Street Limited Partnership Project) ("Bonds") in the original principal amount of \$7,450,000. (ii) entered into a Trust Indenture ("Indenture") dated as of May 1, 1985 with The Provident Bank, as trustee ("Original Trustee") and a Loan Agreement ("Loan Agreement") dated as of May 1, 1985 with 4th Street, and (iii) appointed a Remarketing Agent (as defined in the Indenture) for the Bonds; and

WHEREAS, pursuant to an amendment to its formative agreement, the Port Authority for Brownfields Redevelopment in Cincinnati and Hamilton County ("Brownfields Authority") was designated the successor in interest to PACHC with respect to the Bonds, the Indenture and the Loan Agreement and, as such, designated a successor Remarketing Agent as of September 1, 1997; and

WHEREAS, pursuant to the Agreement for the Creation of the Port of Greater Cincinnati Development Authority, the assets and liabilities of the Brownfields Authority were transferred to and assumed by the Port of Greater Cincinnati Development Authority ("Authority"); and

WHEREAS, the Bonds are currently secured by a letter of credit issued by U.S. Bank, National Association ("Bank") and by an Open-End Real Estate Mortgage, Assignment of Rents and Security Agreement dated as of May 1, 1985 pertaining to the Project ("Mortgage"), both in favor of The Huntington National Bank, as successor to the Original Trustee ("Trustee"); and

WHEREAS, 4th Street and Sterling Phoenix Development VI, LLC, an Illinois limited liability company ("Sterling"), have represented to the Authority that they have entered into a Purchase and Sale Agreement dated as of October 13, 2005 ("Purchase Agreement"), pursuant to which 4th Street has agreed to sell, and Sterling has agreed to purchase, the Project, and have requested that the Authority authorize and, subject to receipt of certain consents including those of the Trustee and the Bank (unless an "Alternate Letter of Credit" is delivered to the Trustee in accordance with the Indenture), execute an amendment of the Loan Agreement pursuant to which 4th Street will assign its rights to Sterling, and Sterling will assume 4th Street's obligations under the Loan Agreement and with respect to the Bonds;

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

Section 1. The Board hereby determines that it is in the best interests of the Authority to assist 4th Street and Sterling in consummating the transactions contemplated by the Purchase Agreement, and this Board does hereby authorize execution of an amendment of the Loan Agreement in order to effect the assignment and assumption contemplated hereby. This Board

hereby authorizes the President of the Authority or, in the absence of the President, the Chair or Vice Chair of this Board (each a "Responsible Official") to execute an Amendment, Assignment and Assumption Agreement by and among 4th Street, Sterling, and the Authority ("Amendment"). substantially in the form on file with the Secretary of this Board, with such changes as are approved by the Responsible Official executing the Amendment and are not materially adverse to the Authority, subject to receipt of such consents as are deemed necessary or appropriate by that Responsible Official; provided that the execution of the Amendment by a Responsible Official shall be conclusive as to the approval of any changes, that such changes are not materially adverse to the Authority and that the consents obtained are those deemed necessary or appropriate.

Section 2. The Responsible Officials and the Secretary of this Board are each further authorized and directed to execute and deliver such other documents and to take such other actions as may be necessary or appropriate in connection with the execution and delivery of the Amendment and the consummation of the transactions contemplated thereby, consistent with this resolution.

Section 3. 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 of this Board, that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: December 8, 2005

Yeas: 10

Nays: 0

Chair

Attest: _____

Secretary