

## RESOLUTION NO. 2004-1

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF SPECIAL OBLIGATION DEVELOPMENT REVENUE BONDS, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$18,000,000, BY THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY FOR THE PURPOSE OF FINANCING COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING, EQUIPPING AND OTHERWISE DEVELOPING "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE, IN COOPERATION WITH THE CITIES OF FAIRFIELD AND FOREST PARK, OHIO; AUTHORIZING THE EXECUTION AND DELIVERY OF A TAX INCREMENT SERVICE AND COOPERATIVE AGREEMENT WITH THOSE CITIES AND CINCINNATI MILLS, LLC AND RELATED AGREEMENTS, INSTRUMENTS AND DOCUMENTS TO PROVIDE REVENUES TO PAY BOND SERVICE CHARGES; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE AND RELATED AGREEMENTS, INSTRUMENTS AND DOCUMENTS TO SECURE THOSE REVENUE BONDS AND THE PAYMENT OF BOND SERVICE CHARGES; AUTHORIZING THE ACQUISITION OF REAL PROPERTY OR INTERESTS THEREIN FROM CINCINNATI MILLS, LLC, PURSUANT TO CONVEYANCES THEREOF AND OF RELATED PERSONAL PROPERTY; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONSTRUCTION AGENCY AGREEMENT PERTAINING TO CONSTRUCTING, IMPROVING, EQUIPPING AND OTHERWISE DEVELOPING THE PROJECT, ONE OR MORE MANAGEMENT AGREEMENTS PERTAINING TO MANAGING AND OPERATING THE PROJECT, AND OTHER RELATED AGREEMENTS, INSTRUMENTS AND DOCUMENTS IN CONNECTION WITH THE FOREGOING; AND AUTHORIZING AND APPROVING RELATED MATTERS.

WHEREAS, the Port of Greater Cincinnati Development Authority (the "Authority"), a port authority and a body corporate and politic duly organized and validly existing under the laws of the State of Ohio (the "State"), is authorized and empowered by virtue of the laws of the State including, without limitation, Article VIII, Section 13 of the Ohio Constitution and Sections 4582.21 to 4582.59 of the Ohio Revised Code (collectively, the "Act"), among other things: (a) to issue its revenue bonds for the purpose of financing costs of acquiring, constructing, improving, equipping and otherwise developing "port authority facilities," as defined in the Act, (b) to enter into trust agreements, and to execute and deliver other instruments and agreements, to secure such revenue bonds, and to provide for the pledge or assignment of revenues sufficient, together with other amounts available therefor, to pay the principal of and interest and any premium on those revenue obligations, (c) to enter into cooperative agreements pursuant to Revised Code Sections 4582.43 and 4582.431 in the Act with other governmental agencies pertaining to the acquisition or construction of port authority facilities and providing for the respective contributions by the parties thereto and the ownership or control of the facilities by the Authority to the extent set forth therein and whereby the Authority may exercise any power,

perform any function, or render any service, on behalf of the other governmental agency or agencies, as that governmental agency (or agencies) is authorized to exercise, perform or render, (d) to acquire interests in real or personal property, or any combination thereof, and construct, improve, equip and otherwise develop port authority facilities and enter into agreements to construct and manage such port authority facilities for “authorized purposes,” as defined in the Act, including transportation and economic development purposes, including to remove hazards and obstructions to vehicular and pedestrian traffic and eliminate other hazards to the general welfare in order to promote commercial, transportation, distribution and economic development activities on, at or near the port authority facilities so acquired or otherwise developed, (e) to make and enter into such contracts and agreements, and to execute and deliver all such instruments, as may be necessary, proper, appropriate or otherwise included in or for the exercise of powers otherwise granted to the Authority under or pursuant to the Act, (f) to provide for the development, financing and use of port authority facilities to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, and (g) to adopt this resolution, issue and sell the Bonds (defined herein), and execute and deliver the Cooperative Agreement and the Indenture (both defined herein) and such other instruments and agreements as are provided for herein, all upon the terms and conditions provided herein and therein; and

WHEREAS, pursuant to authorities hereinabove mentioned and other applicable provisions of the Ohio Constitution, the Ohio Revised Code and their respective Charters, the City of Fairfield (Butler and Hamilton Counties), Ohio and the City of Forest Park (Hamilton County), Ohio (each a “City” and collectively, the “Cities”) have each:

(a) Taken preliminary steps necessary to: (i) jointly, and in cooperation with the Authority, undertake the acquisition, construction, equipping, improving and development of public infrastructure improvements under Section 5709.40 and related Sections of the Revised Code (the “TIF Act”), constituting “port authority facilities” within the meaning of the Act (collectively, the “Project”), that will meet direct additional demand placed and to be placed on the Project and other infrastructure available to the private retail facility generally known as the Forest Fair Mall (to be renamed Cincinnati Mills and, herein, the “Mall”) located in both Cities and in the Counties of Butler and Hamilton (the “Counties”) and in the School Districts known as Fairfield City School District, Winton Woods City School District and Northwest Local School District (each a “School District” and, collectively, the “School Districts”), which direct additional demand will result from certain private improvements (“Private Improvements”) being undertaken at the Mall by Cincinnati Mills, LLC, a Delaware limited liability company (“Developer”), the sole member of which is The Mills Limited Partnership, a Delaware limited partnership (“Mills”); (ii) declare improvements (within the meaning of Section 5709.40(B), Ohio Revised Code) to the parcels comprising the site of those Private Improvements to the Mall (the “Development Site”) to be a public purpose, exempt from real estate taxation for a period of up to 30 years on the condition that the owners of the Development Site agree, as a covenant running with the land, to pay service payments in lieu of taxes (together with any associated rollback payments, the “Service Payments”) to the Cities in amounts equal to the taxes (and rollback payments) otherwise exempted; and (iii) pursuant to petitions submitted by 100% of the

owners of the lots and lands specially benefited thereby and to be assessed therefor (the "Petitions"), assess the costs of the Project, including interest and administrative costs (collectively, the "Special Assessments") on the respective portions of the Development Site specially benefited by the Project (the "Assessed Properties") and located in the respective Cities, but subject to annual credits calculated in accordance with the Cooperative Agreement and the Indenture (the "Credits") for Service Payments received or anticipated to be received by or on behalf of the Cities; and

(b) Requested that the Authority assist them in implementing the Project pursuant to a Tax Increment Service and Cooperative Agreement by and among the Cities, the Authority and the Developer (as amended or supplemented, the "Cooperative Agreement"), in substantially the form now on file with the Secretary of this Board, pursuant to which (I) the Authority will issue the Bonds and undertake the implementation, financing and operation of the Project on behalf of the Cooperative Parties (defined therein as the Cities and the Authority) for authorized purposes (the "Project Purposes") including transportation and economic development purposes, including to remove hazards and obstructions to vehicular and pedestrian traffic and eliminate other hazards to the general welfare in order to promote commercial, transportation, distribution and economic development activities on, at or near the Project, and to create and preserve jobs and employment opportunities within both Cities, both Counties and the geographical jurisdiction of the Authority, and to improve the economic welfare of the residents of the State; (II) each City will collect, assign and transfer the Service Payments to the Authority, or a corporate trustee as assignee of the Authority, and will, subject to applicable Credits, levy and, if and as necessary, collect the Special Assessments and assign and transfer to the Authority, or a corporate trustee as assignee of the Authority, any amounts received pursuant to the Special Assessment proceedings (the "Special Assessment Collections" and, together with the Service Payments, the "City Contributions" and collectively, for both Cities, the "Cities Contributions"); and (III) the Developer will agree to implement the Private Improvements and will deliver from Mills a guaranty of completion (the "Completion Guaranty") in form and substance satisfactory to the Cooperative Parties and the Placement Agents (defined below); and

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio and the Council of the City of Cincinnati, Ohio, by legislation duly enacted by their respective legislative authorities, have authorized the Authority to undertake the implementation, financing and operation of the Project for the Project Purposes, and this Board on June 5, 2003 adopted a resolution authorizing an Agreement to Issue Bonds with the Developer with respect to the Project and agreeing, subject to conditions stated therein, to issue revenue bonds of the Authority in the maximum aggregate face amount of \$24,000,000 to finance costs of the Project; and

WHEREAS, this Board has now determined that it is necessary and proper and in the best interest of the Authority to issue special obligation development revenue bonds of the Authority, in the maximum principal amount of \$18,000,000 (the "Bonds"), at this time for the purpose of financing the costs of the acquisition, construction, equipping, improving and other development of the Project for the Project Purposes, to enter into the Indenture to provide for the issuance and

terms of, and to secure the payment of the principal of, and interest and any premium on, the Bonds (“Bond Service Charges”), and to enter into the Cooperative Agreement and such other agreements as are necessary or desirable to provide for the financing, acquisition, construction, improvement, equipping, development, operation and management of the Project, including the manner of entering into contracts therefor, all so as to promote the Project Purposes, consistent with and pursuant to Section 13 of Article VIII, Ohio Constitution;

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

Section 1. Captions; Definitions. The captions and headings in this resolution are solely for convenience of reference and do not define, limit or describe the scope or intent of any provisions or Sections of this resolution. In addition to terms defined in the recitals which are incorporated herein by reference, the following capitalized terms shall mean:

“Administration Agreement” means the Agreement for Administrative Services by and among the Trustee, the Authority and the Administrator, as amended or supplemented from time to time.

“Administrator” means the Administrator as defined in the Indenture, and means initially the Administrator appointed in the Certificate of Award.

“Agreement” or “Cooperative Agreement” means the Cooperative Agreement, as amended or supplemented from time to time.

“Bond Legislation” means this resolution, together with the Certificate of Award, as either or both may be amended or supplemented from time to time.

“Bond Placement Agreement” means the Bond Placement Agreement among the Placement Agents, the Authority, the Cities and the Developer, as amended or supplemented from time to time.

“Bonds” means the revenue bonds to be issued by the Authority pursuant to the Bond Legislation and the Indenture and designated “Special Obligation Development Revenue Bonds (Cooperative Public Parking and Infrastructure Project)”.

“Certificate of Award” means the certificate executed by the Executive pursuant to Sections 3 and 4 of this Bond Legislation to provide certain terms of the Bonds and their sale and to make the additional designations or approvals authorized hereby.

“Collateral Assignment” means the Collateral Assignment of Easements and Other Interests from the Authority to the Trustee, as amended or supplemented from time to time.

“Construction Agency Agreement” means the Construction Agency Agreement between the Authority and the Construction Agent, as amended or supplemented from time to time.

“Construction Agent” means the Construction Agent, as defined in the Cooperative Agreement, and means initially the Construction Agent appointed in the Certificate of Award.

“Continuing Disclosure Agent” means the Continuing Disclosure Agent, as defined in the Cooperative Agreement, and means initially the Continuing Disclosure Agent appointed in the Certificate of Award.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement by and among the Cities, the Authority and the Continuing Disclosure Agent, as amended or supplemented from time to time.

“Conveyances” means the Deed of Garage and Grant of Air Rights and Ground Use Easements, the Deed of North Detention Pond and Grant of Air Rights and Ground Use Easements, the Deed of West Detention Pond and Grant of Air Rights and Ground Use Easements and the Deed of South Parking Lot and Ring Road and Grant of Air Rights and Ground Use Easements, each from the Developer, as grantor, to the Authority, as grantee, each as amended or supplemented from time to time.

“Documents” means, collectively, the Cooperative Agreement, the Indenture, the Bond Placement Agreement, the Management Contract, the Construction Agency Agreement, the Continuing Disclosure Agreement, the Administration Agreement, any Reciprocal Easement Agreement, the Conveyances, the Subordination and Release Agreement and the Collateral Assignment, all as defined herein and as the same may be further described in the Cooperative Agreement.

“Executive” means the Chair or Vice Chair of this Board or the President of the Authority.

“Fiscal Officer” means the Secretary or any Assistant Secretary of this Board.

“Fund” or “Funds”, as used herein, means, as applicable, the “Revenue Fund”, the “Bond Fund”, the “Bond Reserve Fund”, the “Administrative Expense Fund”, the “Project Fund”, the “Surplus Fund” and the “Rebate Fund”, all created in Article V of the Indenture and authorized hereby.

“Indenture” means the Trust Indenture between the Authority and the Trustee, as amended or supplemented from time to time.

“Management Contract” means the applicable Management Contract, as defined in the Cooperative Agreement.

“Manager” means the Manager as defined in the Cooperative Agreement, and means initially the Manager appointed in the Certificate of Award.

“Original Purchasers” means, individually or collectively, the Original Purchaser or Purchasers of the Bonds, as identified in the Certificate of Award.

“Placement Agents” means Seasongood & Mayer, LLC and A.G. Edwards & Sons, Inc.

“Pledged Revenues” means the Cities Contributions and any other payments or amounts received or to be received by or on behalf of the Authority pursuant to the Cooperative Agreement or other use, lease, sale or other disposition of the Project, all other moneys received or to be received by the Authority or the Trustee and intended to be used for Bond Service Charges, any moneys or investments in or to be credited to the Special Funds, and all income and profit derived from the investment of the foregoing. The term “Pledged Revenues” does not include any moneys or investments in the Funds except those that are in the Special Funds.

“Project Purposes” means the Project Purposes, as defined in the Recitals, including acquiring, constructing, equipping, improving, and otherwise developing real and personal property, or any combination thereof, comprising “port authority facilities” for transportation, economic development and other authorized purposes, in cooperation with the Cities pursuant to and as described in the Cooperative Agreement, including, without limitation, the acquisition and improvement of a multi-level public parking garage, a surface parking lot, two detention ponds and the ring road at the Mall, and as may otherwise be permitted by this Bond Legislation, the Indenture and the Cooperative Agreement.

“Project Site” means the site of the Project an interest in which is to be conveyed by the Developer to the Authority pursuant to the Conveyances.

“Reciprocal Easement Agreement” means any Reciprocal Easement Agreement between the Authority, the Developer and such other parties, if any, as may be necessary or appropriate, as the same may be amended or supplemented from time to time.

“Special Funds” means all of the Funds except the Surplus Fund and the Rebate Fund and further excluding therefrom the “Fairfield Project Revenue Account” and the “Forest Park Project Revenue Account”, both within the Revenue Fund.

“Subordination and Release Agreement” means the Subordination and Release Agreement between the Construction Lender (defined in the Cooperative Agreement) and the Authority, as the same may be amended or supplemented from time to time.

“TIF Agreements” means the agreements between the Cities, the Developer and the overlapping School Districts, all as further described in the Cooperative Agreement.

“Trustee” means the Trustee under the Indenture and means initially the Trustee approved in the Certificate of Award.

Section 2. Determinations by Board. This Board of Directors hereby finds and determines that at this time and pursuant to the authority of the Act, including Article VIII, Section 13 of the Ohio Constitution: (i) the Project constitutes “port authority facilities,” within the meaning of the Act, and it is necessary and proper and in the best interest of the Authority to acquire, construct, equip, improve and develop the Project, and to finance the costs thereof in

accordance herewith and to cause the implementation, operation and management of the Project in accordance herewith; (ii) the acquisition and financing of the Project by the Authority is consistent with the purposes of the Act and with the authorization heretofore given by the City of Cincinnati and Hamilton County to the Authority, will further the Project Purposes and will benefit the people of the State, including those within the jurisdiction of the Authority, by, among other benefits, preserving jobs and employment opportunities and improving the economic welfare of the people of the State, improving transportation facilities in the Cities affected, which have, as described in the Recitals to the Cooperative Agreement and this resolution (all of which are hereby approved and incorporated herein by reference), requested that the Authority undertake the Project in cooperation with and on behalf of each of them; (iii) the acquisition of the Project will require the issuance of the Bonds, and it is necessary and proper and in the best interest of the Authority to, and the Authority shall, issue, sell and deliver the Bonds, in an aggregate principal amount not to exceed \$18,000,000, as provided and authorized herein for the purpose of financing the costs of the acquisition, construction, equipping, improvement and development of the Project for the Project Purposes; (iv) the Cooperative Agreement is necessary and appropriate to promote effective cooperative action among the Cities and the Authority with respect to the Project and the implementation thereof and to safeguard their respective interests, including the interest of the Authority in the Cities Contributions which, together with any interest earned thereon, are to be deposited into special funds of the Cities upon the collection thereof, pledged to pay the applicable City Contribution in accordance with and pursuant to Revised Code Sections 4582.43 and 4582.431, as implemented pursuant to the Cooperative Agreement; (v) the terms of the Bonds contained in or authorized by the Bond Legislation and included in the Indenture are satisfactory and are hereby approved and the Bonds shall be secured by the Indenture and as otherwise provided herein and therein, and all such provisions are reasonable and proper for the security of the holders of the Bonds; (vi) the Authority may, pursuant to the Act, the Bond Legislation, the Cooperative Agreement, the Indenture, the Construction Agency Agreement and the Management Contract, and this Board does hereby authorize and the Authority shall acquire, construct, equip, improve and develop the Project and operate, manage and use the Project, all for the Project Purposes and in accordance with the terms of the Cooperative Agreement; and (vii) the agreements contemplated hereby, including the agreements with respect to the acquisition, construction, improvement, equipping, development, management, operation and use of the Project will further the purposes of the Act, including the purposes of Article VIII, Section 13, of the Ohio Constitution.

### Section 3. Issuance of Bonds.

(a) Bonds Generally. The Bonds (i) shall be issued only in fully registered form, substantially in the form set forth in or as Exhibit A to the Indenture, the form of which is now on file with the Fiscal Officer, and in the aggregate principal amount provided in the Certificate of Award and authorized hereby; (ii) shall bear interest at the interest rates established in the Certificate of Award, payable on each Interest Payment Date, until the principal amount has been paid or provided for; and (iii) shall mature, subject to optional and mandatory redemption on the terms set forth in or pursuant to the Certificate of Award, on the date or dates set forth in the Certificate of Award; provided, that no interest rate applicable to any Bond shall exceed nine percent (9%) per year, the first principal retirement (whether at maturity or by mandatory sinking fund redemption) shall occur not later than December 15, 2011, the final principal maturity shall

occur not later than December 15, 2034 and the principal maturities and interest rates shall be such that the anticipated Special Assessments will, in each year and assuming that no Special Assessments are prepaid and that no credits are available for Service Payments received, be sufficient to pay all scheduled Bond Service Charges together with estimated Administrative Expenses (as defined in the Indenture). The Bonds shall be dated as of January 15, 2004 or such later date as is determined in the Certificate of Award and shall be designated "Port of Greater Cincinnati Development Authority Special Obligation Development Revenue Bonds (Cooperative Public Parking and Infrastructure Project)" or as otherwise provided in the Certificate of Award, and shall be exchangeable for Bonds of any authorized denomination or denominations, as provided in the Indenture, and may be subject to any transfer restrictions determined in the Certificate of Award and provided in the Indenture. The Bonds shall be numbered in such manner as is determined by the Trustee in order to distinguish each Bond from any other Bond, shall be of such denominations as are authorized by the Indenture, and the Bonds shall bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date.

(b) Execution. The Bonds shall be signed by an Executive and one other member of this Board or Fiscal Officer, in the name of the Authority and in their official capacities, provided that one or both of such signatures may be a facsimile and those officials are hereby authorized and directed to execute and deliver the Bonds in accordance herewith and with the Indenture, but subject to satisfaction or waiver of any conditions stated therein or in the Bond Placement Agreement. The Bonds shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this resolution or the Indenture unless and until a certificate of authentication on the Bonds is signed by the Trustee, as registrar and authenticating agent, or other registrar or authenticating agent appointed pursuant to the Indenture.

(c) Payment. Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of any paying agent, in accordance with the Indenture.

(d) Depository. The Bonds shall be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds shall be issued in the form of a single registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (ii) the beneficial or book entry interest owners shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial or book entry interests shall be shown by book entry on the system maintained and operated by the Depository and its participants, and transfers of the ownership of beneficial or book entry interests shall be made only by book entry by the Depository and its participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Authority.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Executive or the Fiscal Officer and the Trustee may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Executive or the Fiscal Officer and Trustee do not or are unable to do so, the Executive or the

Fiscal Officer and Trustee, after making provision for notification of the beneficial or book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver registered Bond certificates to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of Authority action or inaction, of those persons requesting such issuance.

The Executive or the Fiscal Officer or either of them are each authorized and directed to the extent necessary or required to enter into any agreements determined necessary in connection with the book entry system for the Bonds, after determining (as evidenced by their signing) that the signing thereof will not endanger the funds or securities of the Authority under the Indenture.

Section 4. Sale and Delivery of Bonds. The Bonds are awarded and sold to the Original Purchasers at a purchase price to be established in the Certificate of Award to be signed by the Executive or the Fiscal Officer; provided, that such purchase price, expressed as a percentage of the principal amount of the Bonds, shall be not less than 98% of the principal amount of the Bonds as established in the Certificate of Award, and provided that any discount shall be original issue discount for federal income tax purposes, all as determined in the Certificate of Award, which determination shall be in accordance with the best interests of and binding on the Authority. The Executive or Fiscal Officer shall, in the Certificate of Award, fix the principal amount of the Bonds to be issued, which will provide the moneys necessary, together with other money available or to be available therefor to pay costs of the Project, including the prices to be paid for each of the Conveyances, which prices shall be established in the Certificate of Award and may distinguish between the price for the land and the price for the improvements thereon, none of which shall exceed appraised fair market value and otherwise shall be such as are deemed to be in the best interest of the Authority, together with those amounts required to make any deposits and payments required hereby, or by the Cooperative Agreement and the Indenture, to be made from the Bond proceeds. The Certificate of Award shall fix the prices, the interest rate or rates, the maturity or maturities and any mandatory sinking fund redemption provisions of the Bonds so as to provide to the Authority the lowest feasible interest cost in light of the conditions and provisions hereof, but within the amounts that can be realized from amounts received or receivable under the Cooperative Agreement as Cities Contributions expected to be used to pay Bond Service Charges on the Bonds. The procedures, credits and conditions for the satisfaction of any mandatory sinking fund requirements shall be as set forth in the Indenture.

Other terms of the Bonds and the sale thereof may be specified in the Certificate of Award including, without limitation, optional and mandatory redemption provisions, whether all or any portion of the Bonds are to be secured by or payable from a municipal bond insurance policy or bank letter or line of credit (collectively, "Credit Enhancement"), the purchase price for the Bonds, the amount of any original issue discount or premium, the compensation payable to the Placement Agents, the amount and manner of funding of the Bond Reserve Fund, the amount of capitalized interest, if any, to be paid from Bond proceeds or other sources, the amount of the Authority's fees, if any, to be paid from the proceeds of the Bonds or other sources, the designation of the bank or trust company (qualified under Revised Code Section 4582.50 and the Indenture) to serve as Trustee and the designation of the Construction Agent, the Continuing Disclosure Agent, the Manager and the Administrator. All matters determined in the Certificate

of Award, as the same may be amended from time to time, shall be conclusive and binding on the Authority. Any fees payable in connection with the issuance and sale of the Bonds, including, without limitation, any counsel fees and any fees to be paid in connection with the structuring and sale of the Bonds may be paid and are hereby appropriated from the proceeds of the sale of the Bonds.

The Executive, Fiscal Officer or any member of this Board, or any one or more of them, are authorized and directed to make the necessary arrangements with the Placement Agents to establish the date, location, procedure and conditions for the delivery of the Bonds in accordance with the Bond Placement Agreement and to execute and deliver the Bond Placement Agreement in substantially the form now on file with the Fiscal Officer and with such changes therein as are not inconsistent with this Bond Legislation, are permitted by the Act, are approved by the officer executing the Bond Placement Agreement and are not substantially adverse to the Authority, which approval, and that the approved changes are not substantially adverse to the Authority, shall be conclusively evidenced by the execution of the Bond Placement Agreement. It is determined by this Board that the price for and the terms of the Bonds and the sale thereof, all as provided in this resolution, the Certificate of Award, the Bond Placement Agreement, the Indenture and other related instruments, are in the best interests of the Authority and are in compliance with all legal requirements.

The preparation and distribution of a Preliminary Limited Offering Memorandum or other preliminary official statement or offering circular or document with respect to the Bonds are hereby authorized and approved. A final Limited Offering Memorandum or other official statement or offering circular or document with respect to the Bonds shall be prepared, and shall be executed by the Executive on behalf of the Authority, in form and substance suitable for the purposes thereof, as such officer executing the same on behalf of the Authority shall approve, with such execution to be conclusive evidence of such approval. The Placement Agents' use and distribution of any such preliminary and final offering document and any supplements thereto, in accordance with the terms of the Bond Placement Agreement, are hereby authorized and approved.

For the benefit of the holders of the Bonds, the Executive, the Fiscal Officer and other officers or employees of the Authority as are deemed appropriate are authorized and directed to execute the Continuing Disclosure Agreement, in substantially the form on file with the Fiscal Officer, setting forth the Authority's undertaking to provide annual reports and notices of certain events, in accordance with SEC Rule 15c2-12(b)(5). The Executive and the Fiscal Officer are each further authorized and directed to establish procedures in order to ensure compliance by the Authority with the Continuing Disclosure Agreement, including the timely provision of information and notices.

Section 5. Application of Proceeds of Bonds; Creation of Funds. The Funds are hereby authorized and directed to be created, and the proceeds from the sale of the Bonds shall be deposited in accordance with the Indenture and the written direction of an Executive or Fiscal Officer to pay costs of acquiring, constructing, equipping, improving and otherwise developing the Project, costs of issuance of the Bonds, including any fee of the Authority payable on the date of issuance of the Bonds, costs of funding an initial deposit to, or of procuring a letter of

credit or other credit facility to fund, the Bond Reserve Fund and costs of funding any permitted capitalized interest on and costs of the Bonds, all as provided in the Indenture, and the proceeds from the sale of the Bonds, and any other moneys provided to or on behalf of the Authority for those purposes, are appropriated for those purposes. Disbursement and application of amounts deposited in the Funds shall be in accordance with the Cooperative Agreement, the Construction Agency Agreement and the Indenture.

Section 6. Security for the Bonds. Notwithstanding anything to the contrary herein or in the Bonds, the Bonds do not and shall not pledge the general credit or taxing power of the Authority or the Cities or of the State or any political subdivision, municipality or other local agency thereof, and nothing herein or in the Bonds or the Indenture, shall constitute a general obligation, debt or bonded indebtedness of the Authority, the Cities or the State or any political subdivision thereof; and further, nothing herein or therein gives the holders or owners of the Bonds, and they do not have, the right to have excises or taxes levied by this Board, or by the Cities or the State, or the taxing authority of any other political subdivision, municipality or other local agency thereof, for the payment of Bond Service Charges or any other charges on the Bonds or any obligations under the Bonds, the Cooperative Agreement or the Indenture. The Bonds shall be payable solely from the Pledged Revenues and the Funds, as provided herein and in the Indenture, and shall contain a statement to that effect. Nothing herein or in the Indenture shall be deemed to prohibit the Authority, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Bond Legislation, the Indenture or the Bonds.

Section 7. Covenants of Authority. In addition to the covenants and agreements of the Authority herein and in the Cooperative Agreement, the Indenture or the other Documents to which it is a party, the Authority, by issuance of the Bonds, covenants and agrees with each holder or owner of the Bonds:

(a) That the Authority will use, or cause the use of, the proceeds of the Bonds to pay costs of the Project including, without limitation, costs of acquisition, construction, equipping, improving and otherwise developing the Project and costs of issuance of the Bonds;

(b) That the Authority will segregate, or cause to be segregated, for accounting purposes, the Pledged Revenues and the Funds established under the Indenture from all other revenues and funds of the Authority;

(c) That the Fiscal Officer will furnish to the Trustee a true transcript of proceedings, certified by the Fiscal Officer, of all proceedings had by the Authority with reference to the issuance of the Bonds, together with such information from the Authority's records as is available and necessary to determine the regularity and validity of such issuance;

(d) That the Authority will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purposes of the Bonds and this Bond Legislation, or as may be required or authorized by the Act or the Cooperative Agreement, and will comply with all requirements of law applicable to the Bonds;

(e) That the Authority will observe and perform all of its agreements and obligations provided for by the Bonds and this Bond Legislation, the Cooperative Agreement, the Indenture and the Documents to which it is a party, and that all of the obligations thereunder are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Authority within the meaning of Section 2731.01, Ohio Revised Code;

(f) That, so long as the Bonds are outstanding, the Authority will use its best efforts to comply with all of its obligations and agreements under this Bond Legislation, the Bonds, the Indenture and the Cooperative Agreement and to keep the same in full force and effect;

(g) That the Authority will, solely from the Pledged Revenues and the Special Funds, pay or cause to be paid the Bond Service Charges on the dates, at the places and in the manner provided herein and in the Bonds;

(h) That the Authority will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (i) the Bonds will not (A) constitute arbitrage bonds or hedge bonds under Section 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the "Code") or (B) be treated other than as obligations to which Section 103 of the Code applies and (ii) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code; and

(i) That the Authority: (A) will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (B) will not take or authorize to be taken any actions that would adversely affect that exclusion, and (C) will, or persons acting for it will, among other acts of compliance, (I) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (II) restrict the yield on investment property, (III) make timely and adequate payments to the federal government, (IV) maintain books and records and make calculations and reports, and (V) refrain from certain uses of the proceeds of the Bonds and of any property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

Section 8. Indenture and Cooperative Agreement; Conveyances. To provide for the issuance of and security for the Bonds, the Executive and any other member of this Board and the Fiscal Officer, are hereby authorized, for and in the name of the Authority and on its behalf, to execute the Indenture and the Cooperative Agreement, in substantially the forms thereof now on file with the Fiscal Officer, with such changes therein as are not inconsistent with this Bond Legislation and not substantially adverse to the Authority and which are permitted by the Act and shall be approved by the officer or officers executing those documents. The approval of such changes, and that such changes are not substantially adverse to the Authority, shall be conclusively evidenced by the execution of those Documents by the officer or officers executing the same.

This Board hereby determines that it is necessary, proper and in the best interest of the Authority, and hereby authorizes and directs the Executive, on behalf of the Authority, to acquire

by the Conveyances an interest or interests in the Project Site and title to any improvements thereon and, in connection therewith, to execute or accept the Conveyances, in substantially the form or forms now on file with the Fiscal Officer, together with such other agreements, instruments (including any bills of sale necessary or desirable to transfer title to any existing personal property included in the Project), leases, deeds, easements and releases as the Executive may deem necessary or appropriate to carry out this provision; provided, that if all of the Conveyances are not currently on file with the Fiscal Officer, the Conveyances not on file shall be in substantially the same form or forms (but not necessarily for the same term or otherwise on the same terms) as the Conveyance or Conveyances that is or are on file with the Fiscal Officer, with such changes as are reasonably necessary to provide for the differences in the nature of the respective portions of the Project being acquired; and provided, further, that in any event the Conveyances may be executed with such changes therein as are approved by the officer or officers executing or accepting the Conveyances and as are permitted by the Act and are not inconsistent with the Bond Legislation and not substantially adverse to the Authority; and provided, further, that the approval of the forms of the Conveyances, and the approval of changes to the form or forms on file, the necessity of those changes and that any such changes are not substantially adverse to the Authority, shall be conclusively evidenced by the execution or acceptance of the respective Conveyance.

Section 9. Other Documents and Further Actions. The Executive, any other member of this Board and the Fiscal Officer are further authorized and directed to execute each Document to which the Authority is a party, together with any certifications, financing statements, assignments, agreements and instruments, and to take such further actions as are necessary or appropriate to implement the transactions contemplated in the Bonds and the Documents and to consummate the transactions contemplated in this resolution and the Documents, and to undertake, complete and finance the acquisition of the Project in cooperation with the Cities and in accordance herewith and with the Indenture and the Cooperative Agreement, and the Documents, to the extent on file with the Fiscal Officer, shall be executed in substantially the form on file but with such changes as are not inconsistent with this Bond Legislation and are not substantially adverse to the Authority and which are permitted by the Act and shall be approved by the official or officials executing those Documents, with the approval of such changes, and that such changes are not substantially adverse to the Authority, to be conclusively evidenced by the execution of those documents by that official or those officials; provided that if any Documents are not on file with the Fiscal Officer in substantially final form, the Executive or other official executing the same shall determine that such Document is authorized hereby, complies with the requirements of the Cooperative Agreement with respect thereto and is satisfactory in form and substance to the Authority, which determination shall be conclusive and binding on this Board and the Authority, and shall be conclusively evidenced by the execution of the applicable Document. All actions heretofore taken by the officers and officials of the Authority and of this Board in connection with the acquisition of the Project and the financing thereof are hereby ratified and approved.

Section 10. Construction; Management. Based on information furnished to it, and pursuant to the cooperative arrangements with the Cities, this Board has determined that the manner in which the contracts for the acquisition, construction, equipping, development, improvement, operation and management of the Project should be made is to negotiate the terms

of and enter into (1) the Construction Agency Agreement and, in accordance therewith, negotiate the terms of the Construction Agreements (defined below) and (2) one or more Management Contracts; and this Board hereby finds and determines that such negotiation best carries out the Project Purposes, including the public purposes of Article VIII, Section 13 of the Ohio Constitution. The construction, improvement, equipping and development of the Project shall be undertaken by the Authority, on behalf of the Cooperative Parties, pursuant to the Construction Agency Agreement and this Board hereby approves the appointment of the Developer as its agent under the Construction Agency Agreement for purposes of the acquisition, construction, improvement and development of the Project, with such compensation for serving as that agent, and as construction manager of the Project, as that Construction Agency Agreement shall provide. This Board hereby finds and determines that the operation, management and maintenance of the Project, and of any repairs and improvements in connection with it, shall be provided in the Management Contract in accordance with the Cooperative Agreement. This Board hereby approves the appointment of the Manager, as its manager under the Management Contract for purposes of the operation, management and maintenance, including making any necessary repairs and improvements, of the Project. Notwithstanding anything to the contrary herein or in any Document, the obligations of the Authority under any Document or any Construction Agreement shall not be a general obligation of the Authority but shall be payable solely from Pledged Revenues, or any other moneys provided by the Developer, and each Construction Agreement shall so state.

The Executive, any other member of this Board and the Fiscal Officer, alone or together, in order to provide for the construction, improvement, equipping and development of the Project, are hereby authorized, for and in the name of the Authority and on its behalf, to execute and deliver, subject to the certification of availability of funds therefor from proceeds of the Bonds, the Construction Agency Agreement designating the Developer as the agent for the Authority and authorizing the Developer to enter into such contracts and agreements with such AIA-qualified contractors and/or construction managers as the Developer may determine (collectively, "Construction Agreements") are necessary for the development of the Project, with such changes therein as are not inconsistent with this resolution and not substantially adverse to the Authority and which are permitted by the Act and shall be approved by the officer executing the Construction Agency Agreement; provided that the total Project cost under the Construction Agreements shall not be greater than \$5,000,000, that the Project, as built, will comply with all applicable building, safety and zoning codes of the Cities and all other applicable jurisdictions, and that the Construction Agreements shall provide that the contractor or construction manager shall provide insurance coverage against all perils and/or builders risks in the amount of 100% of the replacement cost of the Project or, if the policy is written on a co-insurance basis, the policy must contain an agreed amount endorsement as evidence that the coverage is in an amount sufficient to insure the full stated amount of the Bonds, and the "Port of Greater Cincinnati Development Authority and its successors and assigns", the "City of Fairfield, Ohio and its successors and assigns", the "City of Forest Park, Ohio and its successors and assigns" and the Trustee (and its successors and assigns) shall all be named as "Loss Payees", as their respective interests may appear.

The Authority hereby directs that wages paid to laborers and mechanics employed on the Project shall be not less than 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, Ohio Revised Code, for determination of prevailing wages; provided that should a nonpublic user of the Project undertake, as part of the Project, construction to be performed by members of its regular bargaining unit who are covered under a collective bargaining agreement that was in existence prior to the date of the commitment instrument undertaking to issue the Bonds, then, in that event, the rate of pay provided under the collective bargaining agreement may be paid to those employees.

Section 11. Additional Tax Authorizations. The Executive, the Fiscal Officer or any other officer of the Authority having responsibility for issuance of the Bonds, is hereby authorized: (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the Authority with respect to the Bonds as the Authority is permitted to or required to make or give under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer; (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the Authority, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds; and (c) to give one or more appropriate certificates of the Authority, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Authority regarding the amount and use of all of the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

Section 12. Appointment of Bond Counsel and Authority Counsel. The Authority 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 Authority, in each case to provide legal services in connection with the authorization, sale, issuance and delivery of the Bonds and the implementation of the transactions contemplated by this resolution through the date of 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.

Section 13. Severability. Each section of this resolution and each subdivision or paragraph of any section hereof and each sentence of a paragraph hereof is hereby declared to be independent and the finding or holding of any section or any subdivision, paragraph or sentence hereof to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision, paragraph or sentence of this resolution.

Section 14. Compliance with Open Meeting Law. It is found and determined 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 of its committees or subcommittees, or any other public bodies of the Authority, that resulted in such formal actions, were in meetings open to the public, in compliance with the law.

Section 15. Effective Date. This resolution shall be in full force and effect upon its adoption.

ADOPTED: January 8, 2004

Yeas: 12

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EXECUTIVE

Nays: 0

Abstention: 0

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FISCAL OFFICER