

## RESOLUTION NO. 2004-22

### **A RESOLUTION ADOPTING A SCHEDULE OF FEES OF THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY FOR ITS SERVICES IN CONNECTION WITH THE FACILITATION OF COOPERATIVE REVENUE BOND FINANCINGS SECURED BY SERVICE PAYMENTS IN LIEU OF TAXES, SPECIAL ASSESSMENTS OR BOTH.**

WHEREAS, the Port of Greater Cincinnati Development Authority (“Port Authority”) was created pursuant to Ohio Revised Code Section 4582.21 through 4582.59 (“Act”), Ordinance No. 365-2000 passed on October 4, 2000 by the Council of the City of Cincinnati, Ohio (“City”), a Resolution adopted by the Board of Commissioners of Hamilton County, Ohio (“County”), and a certain Agreement for the Creation of the Port of Greater Cincinnati Development Authority (“Agreement”) dated as of October 20, 2000 among the City, the County, the Port Authority and the predecessor of the Port Authority (such Ordinance, Resolution and Agreement, as amended or supplemented, the “Formative Documents”); and

WHEREAS, pursuant to the Formative Documents, the Port Authority is charged with certain duties and responsibilities with respect to the Banks Redevelopment and Brownfields Redevelopment (both defined in and subject to the limitations and requirements of the Agreement) and other approved projects (collectively, “Mission”); and

WHEREAS, in furtherance of its Mission, the Port Authority’s assistance is often sought in connection with real estate and other development projects in which the Port Authority, in cooperation with other governmental agencies (“Cooperative Financing Projects”), issues port authority revenue bonds (“Bonds”) secured by service payments in lieu of taxes assigned to the Port Authority (commonly referred to as tax increment financing payments, or “TIF Payments”), special assessments imposed by such other governmental agency or agencies and assigned to the Port Authority (“Special Assessments”) or both, in order to finance improvements that are beneficial to the governmental agency or agencies and the developer or developers involved (“Benefited Parties”); and

WHEREAS, the Board has determined that it is in the best interest of the Port Authority to become self-supporting and, as the Port Authority has no power or authority to levy taxes or submit a tax levy for approval of the electorate, in order to become self-supporting, the Port Authority must charge fees for the services it provides; and

WHEREAS, the issuance of Bonds to finance Cooperative Financing Projects (“Issuance Services”), the structuring of the financing of such Cooperative Financing Projects with the Benefited Parties (“Structuring Services”) and the undertaking of administration, contracting, management, property ownership and other obligations and liabilities routinely required of the Port Authority in the context of Cooperative Financing Projects (“Related Obligations”) secured by either or both TIF Payments and Special Assessments are of significant value to the Benefited Parties, constitute services for which fees are charged by other port authorities in Ohio, including those that have the power to and do levy taxes to support their development activities, and constitute services for which the Port Authority has heretofore charged fees based on individual agreements reached with the Benefited Parties; and

WHEREAS, this Board has determined that, in order to promote consistency in the treatment of Benefited Parties and the ability of Benefited Parties to rely on and plan for the fees of the Port Authority in connection with Cooperative Financing Projects, to promote the orderly development and implementation of Cooperative Financing Projects, and to further assist the Port Authority's progress toward becoming self-supporting, it is now necessary and proper and in the best interests of the Port Authority to adopt a schedule of fees to be charged by the Port Authority for the Issuance Services, Structuring Services and Related Obligations (collectively, "Port Authority Services") provided or undertaken by the Port Authority in connection with Cooperative Financing Projects;

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

Section 1. This Board hereby finds and determines that it is necessary and proper, in order to (i) promote consistency in the treatment of Benefited Parties and the ability of Benefited Parties to rely on and plan for the fees of the Port Authority in connection with Cooperative Financing Projects, (ii) promote the orderly development of and implementation of Cooperative Financing Projects and thereby implement its Mission, (iii) promote the standing of the Port Authority in the communities within which it operates and which it serves, and (iv) to further the Port Authority's progress toward becoming self-supporting, for the Port Authority to adopt a schedule of standard fees to be charged by the Port Authority for the Port Authority Services provided or undertaken by the Port Authority in connection with Cooperative Financing Projects. This Board further determines that the benefit of the Port Authority's participation in any Cooperative Financing Project is generally related to the principal amount of the Bonds, and the fees of the Port Authority charged pursuant to this resolution should be generally related to the principal amount of the Bonds to be issued. Those fees shall include (I) a nonrefundable Application Fee payable not later than the time of the execution of an agreement by the Port Authority to undertake the Cooperative Financing Project or a Term Sheet with sufficient specificity as to the nature of the Cooperative Financing Project, the principal amount of the Bonds and the security for the Bonds to permit the drafting of financing documents providing for the issuance of the Bonds and, in any event, prior to authorizing bond counsel to undertake the preparation of financing documents or other significant legal work in the implementation of the Cooperative Financing Project (the "Application Fee"), (II) a contracting agent fee to be paid immediately upon issuance of the Bonds (the "Contracting Agent Fee"), subject to a credit for a portion of the Application Fee if and to the extent established pursuant to Section 2 of this resolution, and (III) an annual administrative fee to be paid in such manner as shall be set forth in the financing documents (the "Administration Fee"); and shall be as set forth in or pursuant to Section 2 of this Resolution.

Section 2. Subject to adjustment as provided below in this Section 2, the fees of the Port Authority for Port Authority Services provided or undertaken by the Port Authority in connection with Cooperative Financing Projects shall be as set forth in Schedule A attached hereto, which Schedule A is incorporated herein by reference (the "Fee Schedule"). The fees set forth in the Fee Schedule shall be standard for Cooperative Financing Projects in which TIF Payments are the primary source of revenues securing the Bonds, regardless of whether Special Assessments are also imposed and collected. For a Cooperative Financing Project in which Special Assessments are the primary source of revenues securing the Bonds (and no TIF Payments are being collected), the Application Fee and Administration Fee shall be based on the Fee Schedule, but the Contracting Agent Fee shall be equal to two-thirds of the Contracting Agent Fee that would otherwise be imposed pursuant to the Fee Schedule, it being determined by this Board that the benefit (to the developer or developers included in the Benefited Parties) of Cooperative Financing Projects supported only by Special Assessments is less than that provided by Cooperative Financing Projects secured by TIF Payments. Anything herein to the contrary notwithstanding, the attached Fee Schedule is not intended to establish fees for any issue of port

authority revenue bonds that are not part of a Cooperative Financing Project secured by either or both TIF Payments and Special Assessments. The Chair or the President is authorized to negotiate any of the fees set forth in the Fee Schedule, subject to final approval by this Board, if special circumstances exist that justify either increasing or decreasing the applicable fees, which special circumstances may include, by way of example and not limitation, the provision of off-balance sheet, synthetic or other lease financing requested by a Benefited Party, credit enhancement through a common bond fund or otherwise, the use of a tax increment financing incentive district approach, the elimination of any Port Authority Services customarily provided or the addition of other services or benefits, negotiation of a blanket agreement governing more than one transaction, and any other circumstances deemed appropriate by the official approving the same.

Section 3. The President of the Port Authority is hereby authorized and directed to provide copies of the Fee Schedule to any Benefited Parties hereafter seeking Port Authority Services, to provide copies of the Fee Schedule to any Benefited Parties with whom agreements currently exist or are being negotiated and to make appropriate adjustments downward of any fees quoted to Benefited Parties and not heretofore agreed to if the fees quoted are in fact higher than the fees determined pursuant to the Fee Schedule, and to generally make the Fee Schedule available upon request.

Section 4. This Board finds and determines that all formal actions of this Board and of any committees or other public bodies of the Port Authority concerning and relating to the adoption of this resolution were taken in an open meeting and that all deliberations of this Board and of any committees or other public bodies that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: November 11, 2004

Yeas: 10

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Chair

Nays: 0

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Attest: \_\_\_\_\_  
Secretary

**SCHEDULE A**

**Port of Greater Cincinnati Development Authority  
Fee Schedule for TIF-Payment Secured Cooperative Financing Projects**

<b>Principal Amount of Bonds Issued</b>	<b>Application Fee</b>	<b>Contracting Agent Fee<sup>1</sup></b>	<b>Credit Against Contracting Agent Fee</b>	<b>Administration Fee</b>
Less than \$2,500,000	\$10,000	1.5% of Principal Amount of Bonds but in no event less than \$20,000	-0-	0.25% of Outstanding Principal Amount at Beginning of Year
\$2,500,000-\$4,999,999	\$15,000	1.5% of \$2,500,000 plus 0.5% of Principal Amount in excess of \$2,500,000	\$7,500	0.25% of Outstanding Principal Amount at Beginning of Year
\$5,000,000-\$9,999,999	\$20,000	1.0% of Principal Amount of Bonds	\$10,000	0.25% of Outstanding Principal Amount at Beginning of Year
\$10,000,000-\$14,999,999	\$25,000	1.0% of Principal Amount of Bonds	-0-	0.25% of Outstanding Principal Amount at Beginning of Year
\$15,000,000-\$29,999,999	\$25,000	1.0% of \$15,000,000 Plus 0.5% of Principal Amount in Excess of \$15,000,000	-0-	0.25% of Outstanding Principal Amount at Beginning of Year
\$30,000,000 and above	\$25,000	0.75% of Principal Amount of Bonds	-0-	0.25% of Outstanding Principal Amount at Beginning of Year, Capped at \$100,000 per Year

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<sup>1</sup> For Cooperative Financing Projects secured only by Special Assessments, the Application Fee and Administration Fee shall be as set forth in the Fee Schedule, and the Contracting Agent Fee shall be two-thirds of the amount determined pursuant to Fee Schedule.