

## RESOLUTION NO. 2006- 16

**A RESOLUTION SUPPLEMENTING RESOLUTION NO. 2004-2 AND AUTHORIZING THE EXECUTION OF A PRELIMINARY AGREEMENT WITH MILLWORKS TOWN CENTER, L.L.C. PERTAINING TO THE PARTICIPATION OF THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY IN ACQUIRING, CONSTRUCTING, IMPROVING, EQUIPPING AND OTHERWISE DEVELOPING AND FINANCING COSTS OF A PROJECT COMPRISED OF PUBLIC PARKING FACILITIES AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT WILL BENEFIT A MIXED-USE COMMERCIAL (OFFICE, RETAIL AND ENTERTAINMENT) AND RESIDENTIAL DEVELOPMENT WITHIN THE NORTH OAKLEY AREA OF THE CITY AND APPROVING A TAX INCREMENT FINANCING COOPERATIVE AGREEMENT WITH THE CITY RELATING TO THE FINANCING AND IMPLEMENTATION OF THE PROJECT.**

WHEREAS, at the request of Vision Land Development L.L.C., one of the members of Millworks Town Center, L.L.C. (“Developer”) and pursuant to the laws of the State of Ohio (“State”), particularly Revised Code Sections 4582.21 through 4582.59 and the authorities therein mentioned, including Ohio Constitution Article VIII, Sections 13 and 16 (collectively, “Act”), this Board adopted Resolution No. 2004-2 on January 8, 2004 (“Original Resolution”) pertaining to and authorizing preliminary actions of the Port of Greater Cincinnati Development Authority (“Port Authority”) with respect to the proposed issuance of special obligation development revenue bonds of the Port Authority (“Bonds”) in order to finance costs of a project comprised of certain public improvements to be undertaken by the Port Authority in cooperation with the City of Cincinnati (“City”), including (i) the acquisition and improvement by the Port Authority of a site or sites and the construction, equipping and development thereon of public parking facilities and public road improvements and (ii) the construction by or on behalf of the City of certain improvements to existing dedicated City streets (collectively, “Project”), which Project will be undertaken prior to or substantially concurrently with and will benefit the development of a mixed-use commercial (office, retail and entertainment) and residential development known as Millworks Town Center and to be located on a site in the North Oakley neighborhood of the City (“Development”); and

WHEREAS, United States Treasury Regulations Section 1.150-2 (“Reimbursement Regulations”) prescribes conditions under which proceeds of bonds, notes or other obligations used to reimburse advances made for certain expenditures paid before the issuance of such obligations will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (“Code”), so that upon such reimbursement the proceeds so used will not further be subject to requirements or restrictions under those sections of the Code, and (i) certain provisions of the Reimbursement Regulations require (A) that there be a Declaration of Official Intent not later than 60 days following payment of the expenditure expected to be reimbursed from proceeds of such obligations, and (B) that the reimbursement occur within prescribed time periods after the expenditure is paid or after the property is placed in service and (ii) the Original Resolution was adopted, in part, to comply with the Reimbursement Regulations with respect to the Project; and

WHEREAS, the Development and the Project have increased in scope and cost since the adoption of the Original Resolution and, at the request of the Developer, this Board has determined to adopt this resolution to supplement its “Declaration of Official Intent” under the Original Resolution and the Reimbursement Regulations in connection with the Project and to authorize other preliminary actions in connection with the Bonds and the Project including:

(i) the execution and delivery of an agreement with the Developer to set forth the current understandings and agreements of the Port Authority and the Developer pertaining to the Project, the Bonds and the Development and (ii) the approval of a Tax Increment Financing Cooperative Agreement with the City setting forth the agreements between the City and the Port Authority pertaining to the financing and implementation of the Project;

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

Section 1. This Board does hereby confirm its previous determinations, and hereby finds and determines, based upon the representations of the Developer, that (i) the Project will constitute “port authority facilities” within the meaning of the Act, and in furtherance of the authorized purposes of the Port Authority as set forth in the Act, including transportation, housing and economic development purposes as those terms are used or defined in Revised Code Section 4582.21, (ii) the Project and the Development are consistent with the purposes of Sections 13 and 16 of Article VIII, Ohio Constitution, will create or preserve jobs and employment opportunities available to the residents of the City and of Hamilton County and the State, and will improve the economic welfare of and housing options available to those residents, and (iii) the Project will be for the restoration and redevelopment of property within the County, redevelopment of which is affected or perceived to be affected by environmental contamination.

Section 2. In order to finance costs of the Project, this Board hereby agrees to exercise its reasonable best efforts to authorize and issue the Bonds, pursuant to the Act and in cooperation with the City, in one or more series and in an estimated maximum aggregate face amount of \$32,000,000, subject to satisfaction of the conditions and pursuant to the provisions contained in the form of Preliminary Project and Revenue Bond Agreement by and between the Port Authority and the Developer and on file with the Secretary of this Board (“Preliminary Agreement”), the form of which is hereby approved. The Chairperson, the Vice Chairperson or the President (including anyone acting in any such capacity on an interim or temporary basis) is hereby authorized and directed to execute the Preliminary Agreement in substantially such form, but with such changes as are not adverse to the Port Authority and as the officer executing the Preliminary Agreement may approve, such execution being conclusive evidence of approval of any such changes and that such changes are not adverse to the Port Authority. The Bonds are expected to be paid from service payments to be made in lieu of taxes exempted by the City with respect to improvements to the site of the Development, and from such other security as may seem necessary or desirable in connection with the marketing of the Bonds, including any special assessments levied (and, to the extent necessary, collected) by the City on parcels included in the site of the Development, all as further described in the Preliminary Agreement and the other agreements referred to therein.

Section 3. This Board, hereby declares that the Port Authority reasonably expects that capital and other expenditures relating to the Project made by the Port Authority, the Developer, the City or others on the parcels included in the site of the Project, will be reimbursed from the proceeds of “bonds” (as defined in Section 150 of the Code), and that the maximum principal amount of Bonds expected to be issued for the Project is \$32,000,000. This resolution is, in all respects, supplemental to the Original Resolution and constitutes a supplemental Declaration of Official Intent under the Reimbursement Regulations.

Section 4. Consistent with and contingent upon satisfaction of the conditions to the issuance of the Bonds contained in the Preliminary Agreement, this Board hereby approves the execution of a Tax Increment Financing Cooperative Agreement with the City (“TIF Cooperative Agreement”) in substantially the form now on file with the Secretary of this Board, for the purpose of setting forth the respective responsibilities of the City and the Port Authority in the acquisition, construction, equipping, improvement, development and financing of the Project,

including (i) provision of a source of revenues for the repayment of the Bonds through the assignment by the City to the Port Authority of a portion of the Service Payments and (ii) provisions for the implementation of the Project by the City and the Port Authority, all as further provided therein. The Chairperson, the Vice Chairperson and the President (including anyone acting in any such capacity on an interim or temporary basis), alone or together with the Secretary or an Assistant Secretary of this Board, are hereby authorized and directed, upon satisfaction of all applicable conditions, to execute and deliver the TIF Cooperative Agreement, substantially in such form, but with such changes as are necessary or desirable to reflect the final terms of the implementation of the Project, as are not adverse to the Port Authority and as are approved by the officer executing the Cooperative Agreement, such execution being conclusive evidence of approval of any such changes and that they are necessary or desirable to reflect the final terms of the implementation of the Project and are not adverse to the Port Authority.

Section 5. Except to the extent, if any, inconsistent herewith, the Original Resolution and the findings, determinations, declarations and authorizations therein are, as supplemented hereby, ratified and confirmed.

Section 6. 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 that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 7. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: November 21, 2006

Yeas: 8

Nays: 0

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Chairperson

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