

## **WHY A PORT AUTHORITY?**

### ***Description of Unique Attributes of Ohio Port Authorities***

The question is asked in many forms in communities all throughout Ohio:

- What are the advantages of a port authority to the municipality and county that create it, and the region it serves?
- What makes port authorities unique ... what value does this form of government add?
- What do these organizations do and what products are uniquely available to port authorities?
- Do the laws guiding municipalities permit counties, cities, townships, special districts, community improvement, and other economic development corporations to provide the same value?

The answers are many, varied and different depending on context, but some answers are:

**1. Unique Economic Development Financing Products:** A port authority can offer economic development financing products that are not shared by counties, cities, townships, special districts, community improvement corporations, etc., such as:

**a. Common Bond Fund Financing:** Common bond fund programs utilize a system of common reserves and pooled loan payments to provide credit enhancement and capital market access for small and medium-sized borrowers. These funds are typically established through reserves funded from a combination of local and state governmental sources matched with bank letters of credit. Port authorities are uniquely positioned to provide this service at the local level, often complementing similar state level programs.

**b. Structured Lease Financings:** Port authority power to own and lease property serves as basis for both capital, operating, and off-balance sheet lease financings. A properly structured port authority lease financing, unlike similar financings structured through other political subdivisions, will allow construction materials and select services to be exempt from Ohio sales and use tax. Examples of capital lease transactions are quite numerous including Queen City Square in Cincinnati. Examples of off-balance sheet lease deals include: Cleveland (Avery Dennison: Division HQ and R&D facility; Marine Mechanical: Office and Production Facility); and Toledo (BAX Global, Owens Corning, HCRA, Brush Wellman, and other facilities).

**c. Special Assessment (and Assessment-Backed TIF) Revenue Bonds:** Through cooperative powers, port authorities may accept an assignment of special assessments ("SA") and/or tax increment financing ("TIF") service payments and issue revenue bonds secured by those payments to provide public improvements supporting economic development. Port authority special assessment revenue bonding capacity is unique as municipalities generally must support special assessment obligations with their full faith and credit and general taxing power. And, even if special assessments are not used to provide the backup security necessary in a TIF context, municipalities and other political subdivisions often have other reasons for wanting a third party governmental financing agency to issue the revenue bonds and take responsibility for construction, operation, and management. Examples in Cincinnati include Queen City Square, Cincinnati Mills, Pictoria Center, Red Bank Village, and Kenwood Towne Place. Other prominent examples include University Square (Cleveland), Crocker Park (Cleveland/Toledo), and Levis Commons (Toledo).



**d. Facilities for Education, Culture, Recreation and Governmental Operations:**

Port authorities have express statutory authority to promote and finance facilities for education, culture, recreation, and governmental operations, facilities that may be vital to economic and community development, but which do not fit neatly within the authorizations granted to other political subdivisions or economic development entities. Examples include: Cincinnati (Freedom Center, Cincinnati Zoo & Botanical Garden, and Sisters of Mercy); Cleveland (Playhouse Square, Rock and Roll Hall of Fame, Art Museum, and numerous private schools); Summit County (Akron Civic Theatre); Southern Ohio (Portsmouth Athletic Complex); and Columbus Regional (Lazarus Building Lease to Ohio EPA and Pooled Financings with OASBO for Educational Facilities throughout State).

**2. Cross-Jurisdictional, Cooperative, Extraterritorial Features Provide Regional Focus:**

Port authorities are often created by more than one political subdivision and can be joined by others. Board members are appointed by the municipalities which form the port authority, providing cross-jurisdictional perspectives. Cooperative powers animate both port authorities and political subdivisions, permitting others to work through port authorities, including: (a) members may subsidize operations and authorized purposes of port authority, (b) any political subdivision may

transfer property to/from port authority on mutually agreeable terms, (c) governmental agencies may cooperate in, and provide contributions (including taxes, assessments, and borrowed money) for port authority facilities, (d) power-sharing arrangements are authorized with other political subdivisions, and (e) overlapping or adjacent political subdivisions may enter into an agreement to accomplish authorized purposes. In addition, port authorities have extraterritorial jurisdiction over transportation facilities, the express authority to act outside territory to promote authorized purposes and to obtain additional extra-territorial power through cooperative agreements or by designation of the Ohio Director of Development. Powers of port authorities are unique in that a port authority can pool the powers of other public and private economic development organizations and/or permit a more flexible use of those powers.

**3. Land Assembly and Redevelopment:** Port authority powers place it in a unique position to assemble and/or redevelop sites for a multiplicity of uses. In addition to a full panoply of powers relating to ownership, use, and disposition of property, and a very broad range of “authorized purposes,” important powers include the unique ability to transfer property to/from other political subdivisions and, subject to full protections implemented in state law, to exercise eminent domain. And, until and unless leased for a period longer than one year, land acquired and held by the port authority should generally not be subject to real estate taxes. Expertise in brownfield redevelopment adds value in this context. The ability to acquire land for economic development can also be used to assist governmental projects of other political subdivisions or special districts with limited powers like transportation improvement districts.

**4. Aggregation/Coordination of Capital:** Because of the unique ability of port authorities to own and lease property and raise capital through specialty economic development financing products, and status as governmental bodies, port authorities are uniquely situated to issue bonds (including “tax-exempt” bonds where permitted), accept governmental grants and loans, and implement projects with multiple sources of public and private funding. Often, several port authority products (including multiple common bond funds), one or more state grant, loan and bond programs, and various local economic development incentive programs can be combined with private credit and financing to provide comprehensive financing on terms not otherwise available.



**5. Transportation and Economic Development:** Ohio port authorities were originally established to promote water commerce (and economic development perceived to follow). Port powers were first expanded to include air transportation, then economic development and all transportation activities, with extended jurisdiction to follow air and rail facilities, the authority to operate foreign trade zones, and the express authority to locate port facilities outside Ohio. The potential to promote transportation, including intermodal transportation facilities, is apparent, particularly when combined with broad economic development powers.

**6. Public-Private Focus:** While the products that are available to or through a port authority are important, equally important are (1) the breadth and flexibility of the powers granted to port authorities under state law, and (2) the quality and breadth of experience of the board of directors. Statutory powers are broad, including powers coextensive with the housing and economic development amendments enabling public-private interaction under the Ohio Constitution, and are flexible enough that port authorities are often a suitable fall-back solution to seemingly intractable issues for creative development professionals. Port authorities are typically led by a board of directors drawn from key sectors of the community who bring a broad mix of expertise including business, development, design, and finance, as well as a private-sector perspective. That combined with the governmental powers of a fully-empowered Ohio port authority provide an economic development tool that has no equivalent at the local level under Ohio law.

