RESOLUTION NO. 2019-32

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE BY THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY OF TAX INCREMENT FINANCING REVENUE BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF $28,000,000 IN MULTIPLE SERIES, FOR THE PURPOSES OF FINANCING COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING AND OTHERWISE DEVELOPING "PORT AUTHORITY FACILITIES"; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST AGREEMENT AND RELATED AGREEMENTS, INSTRUMENTS AND DOCUMENTS TO PROVIDE FOR THE TERMS OF AND THE SECURITY FOR THOSE BONDS AND FOR THE PAYMENT OF BOND SERVICE CHARGES ON, AND THE REPAYMENT OF, THOSE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT TO PROVIDE FOR THE SALE OF THOSE BONDS; AUTHORIZING A TAX REGULATORY AGREEMENT AND SUCH OTHER INSTRUMENTS AS ARE NECESSARY WITH THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A COOPERATIVE AGREEMENT AND CONSTRUCTION MANAGER-AT-RISK AGREEMENT PERTAINING TO THE PROJECT; AND AUTHORIZING THE SIGNING OF RELATED DOCUMENTS 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, Section 13 of Article VIII of the Ohio Constitution and Revised Code Sections 4582.21 to 4582.59 (collectively, within the authorities therein mentioned, the "Act"), among other things: (a) to issue its revenue bonds for the purpose of financing costs of acquiring, constructing, improving and otherwise developing "port authority facilities", as defined in the Act (as used herein, the terms "constructing" and "developing", alone or together and in any form derived from the root words "construct" and "develop", shall include acquisition, construction (including related demolition and excavation), improvement, furnishing, equipping, installation and development and activities related thereto); (b) to enter into a trust agreement or indenture, 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 bonds; (c) to acquire interests in real or personal property, or any combination thereof, and to construct and develop port authority facilities and enter into agreements with respect to the acquisition, construction, development, leasing, operation, use or management of such port authority facilities for "authorized purposes" as defined in the Act, including to aid, enhance, provide or promote transportation and economic development within Sycamore Township, Ohio ("Township") and the County of Hamilton, Ohio ("County"); (d) 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; (e) to provide for the construction, 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 Township, County and State; (f) to enter into a Cooperative Agreement by and among the

Authority, the Township, the Developer, Capital Investment Group (as defined in Section 1 herein) and any necessary additional parties; (g) to enter into a CMAR Agreement as provided herein; and (h) to adopt this resolution, to issue, sell and deliver the TIF Bonds (as defined in Section 1 herein) in the manner and for the purposes contemplated hereby, and to execute and deliver the Trust Agreement and the Bond Purchase Agreement (each as defined in Section 1 herein) and such other instruments and agreements as are provided for herein, all upon the terms and conditions provided herein and therein; and

WHEREAS, in order to finance the costs of the construction, equipping, and improvement of an approximately 633-space parking garage as well as related site improvements and infrastructure on a site located within a portion of the area generally bounded by Kenwood Road, Happiness Way, Frolic Drive, and Duneden Avenue (the "Project Site"), the Developer has requested that the Authority issue the TIF Bonds in two series as designated herein, pursuant to the Trust Agreement for the purposes described herein, as secured as described in the Trust Agreement, which security shall include the Service Payments; and the Lessee has agreed to assume the obligation to pay all Service Payments (as defined in the Cooperative Agreement) under the Service Agreement; and

WHEREAS, this Board has now determined that it is necessary and proper and in the best interest of the Authority to issue the TIF Bonds at this time, in two series as described herein and in the maximum aggregate principal amount of $28,000,000, for the purposes of financing costs of the Project, to enter into the Trust Agreement with the Trustee to provide for the issuance, delivery and terms of, and to secure the payment of the principal of and interest and any premium on, the TIF Bonds ("Bond Service Charges"), to authorize the distribution of the Offering Document relating to the sale of the TIF Bonds, to enter into the Bond Purchase Agreement for the purposes described herein, including, to provide for the sale of the TIF Bonds, the terms upon which proceeds of the TIF Bonds shall be disbursed pursuant to the Trust Agreement, to execute the Tax Regulatory Agreement and to execute and deliver such other agreements, instruments and documents as are necessary or desirable to provide for the financing of costs of the Project, and for the security of the TIF Bonds, all so as to promote the Project Purposes (defined in Section 1 herein), consistent with and pursuant to Section 13 of Article VIII, Ohio Constitution; and

WHEREAS, the TIF Bonds will be issued as tax-exempt bonds in an aggregate principal amount of up to $28,000,000, as finally set forth in the Bond Purchase Agreement (as hereinafter defined); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Greater Cincinnati Redevelopment 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 to this resolution, which are incorporated herein by reference, and terms defined by reference to the Trust Agreement, which definitions are incorporated herein by reference, the following capitalized terms shall, except as the context may otherwise require, mean:

"Act" means Chapter 4582 of the Ohio Revised Code as enacted and amended from time to time.

"Authority" means the Port of Greater Cincinnati Development Authority.

"Bond Legislation" means this resolution and the Certificate of Award, if any, as any or all may be amended or supplemented from time to time.

"Bond Purchase Agreement" means with respect to the TIF Bonds, the Bond Purchase Agreement and/or Bond Placement Agreement, as applicable, to be entered into between the Authority and the Original Purchaser, including a Certificate of Award, if any.

"Bond Service Charges" means, for any period or payable at any time, the principal of, premium, if any, and interest due on the TIF Bonds for that period or payable at that time whether due at maturity or upon acceleration or redemption or otherwise.

"Capital Investment Group" means Capital Investment Group, Ltd., an Ohio limited liability company.

"CMAR Agreement" means the Construction Manager At-Risk Agreement by and between the Authority and the Construction Manager.

"Code" means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of the Code, and all applicable regulations (whether temporary or final) under that Code and the statutory predecessor of the Code, and any official rulings and judicial determinations under the foregoing applicable to the TIF Bonds.

"Construction Manager" means the Authority's construction manager under and pursuant to the CMAR Agreement, together with any permitted successors and assigns, and means initially the Developer.

"Cooperative Agreement" means the Tax Increment Service and Cooperative Agreement by and among the Authority, the Township, the Developer, and Capital Investment Group.

"Developer" means Sycamore Creek II, LLC, an Ohio limited liability company, and its lawful successors and assigns.

"Development Plan" means the plans and specifications for the development of the TIF Improvements, as prepared by or on behalf of CIG or Sycamore Creek or their successors and assigns, and as changed by such parties from time to time.

"Executive" means the President and Chief Executive Officer of the Authority.

"Fiscal Officer" means the Secretary of the Authority, or any Assistant Secretaries of the Authority or the Board.

"Holder" or "Holder of a TIF Bond" or "Bondholder" means the Person in whose name a TIF Bond is registered on the Register.

"Interest Payment Date" means the same as that term is defined in the Trust Agreement.

"Offering Document" means a limited offering memorandum, private placement memorandum, official statement, or other disclosure document, as authorized by Section 11 hereof.

"Original Purchaser" means with respect to the Series 2019A Bonds, Nuveen, and any successors or assigns, and with respect to the Series 2019B Bonds, the Developer, or such other entity designated in the Bond Purchase Agreement.

"Paying Agent" or "Co-Paying Agent" means the Trustee and any national banking association, bank and trust company or trust company appointed by the Authority or the Trustee and meeting the applicable requirements under the Trust Agreement.

"Person" or words importing persons mean firms, associations, partnerships (including without limitation, general and nonprofit corporation), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

"Pledged Revenues" means the following receipts of or on behalf of the Port, (a) the Service Payments intended to be used for Bond Service Charges pursuant to the Service Agreement, (b) all other moneys received or to be received by or otherwise pledged to the Authority or the Trustee and intended to be used for Bond Service Charges under the Trust Agreement, including without limitation, all moneys in or to be credited to the Special Funds, (c) all moneys received or by be received by the Authority or the Trustee from the sale, lease, use or disposition of the Project Site or the TIF Improvements, and (d) all income and profit from the investment of the foregoing moneys. The term "Pledged Revenues" does not include any moneys or investments in the Rebate Fund created under the Trust Agreement, the Authority having no interest therein or in any moneys or investments therein.

"Project" means the costs of the acquisition, construction, equipping and installation the TIF Improvements.

"Project Purposes" means acquiring, constructing, furnishing, equipping, installing, improving and otherwise developing, and financing costs of, real and personal property, or any combination thereof, comprising "port authority facilities" for transportation, economic development and other authorized purposes of the Authority, including purposes authorized by Section 13 and Section 16 of Article VIII of the Ohio Constitution, in cooperation with the Township pursuant to and as described in the Cooperative Agreement, or as may otherwise be permitted by the Bond Legislation and the Trust Agreement.

"Register" means the books kept and maintained by the Registrar for registration and transfer of Bonds pursuant to Section 2.03 of the Trust Agreement.

"Series 2019A Bonds" means the Authority's Special Obligation Development TIF Revenue Bonds, Series 2019A (Gallery at Kenwood Project), authorized in Section 5 of this Bond Legislation and Section 2.02 of the Trust Agreement, in the form attached to the Trust Agreement.

"Series 2019B Bonds" means the Authority's Subordinate Special Obligation Development TIF Revenue Bonds, Series 2019B (Gallery at Kenwood Project), authorized in Section 5 of this Bond Legislation and Section 2.02 of the Trust Agreement, in the form attached to the Trust Agreement .

"Special Funds" means, collectively, the Administrative Expense Fund, the Bond Fund, the Bond Reserve Fund, the Surplus Fund and the Port Authority Pledged Revenue Account in the Revenue Fund, all created in the Trust Agreement and authorized hereby, or any other fund or account established under the Trust Agreement and identified as a Special Fund.

"State" means the State of Ohio.

"Tax Regulatory Agreement" means the Certificate Regarding Use of Proceeds and Arbitrage Compliance, or tax documentation of similar effect, dated as the date of issuance of the TIF Bonds, as amended or supplemented from time to time.

"TIF Bonds" means collectively the Series 2019A Bonds and the 2019B Bonds.

"TIF Improvements" means generally the acquisition, construction, equipping, and improvement of an approximately 633-space public parking garage.

"Trust Agreement" means the Trust Agreement between the Authority and the Trustee providing for the issuance and terms of, and the security for, the TIF Bonds, authorized by Section 10 hereof, as the same may be amended or supplemented with the approval of this Board (unless such approval is not needed pursuant to other express terms thereof) and in accordance with the terms thereof consistent with the Bond Legislation.

"Trustee" means the Trustee under the Trust Agreement and means initially The Huntington National Bank, acting through its Cincinnati, Ohio corporate trust office or such other qualified successor Trustee as shall be named in accordance with the Trust Agreement.

Section 2. **Determinations by the Board.** This Board of Directors hereby finds and determines that (i) the TIF Improvements constitute "port authority facilities" within the meaning of the act, and it is necessary and proper and in the best interest of the Authority to construct and develop the TIF Improvements on the Project Site in the manner determined in the CMAR Agreement and the Trust Agreement, and to finance a portion of the costs of the Project in accordance herewith, (ii) the Project Site is within the geographic jurisdiction of the Authority and the implementation and financing of the Project by the Authority is consistent with the purposes of the Act 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, the County and the Township; (iii) the Authority has full power and authority to participate in the redevelopment of

the Project Site pursuant to the Cooperative Agreement, in accordance with the Development Plan and in the manner contemplated by this Resolution; (iv) it is in the best interests of the Authority to, and the Authority shall, enter into the CMAR Agreement as soon as practicable consistent with the terms thereof and hereof, and enter into the Cooperative Agreement; (v) the financing of costs of the TIF Improvements, as contemplated hereby, will require the issuance of the TIF 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 TIF Bonds, in the maximum aggregate principal amount of $28,000,000 for the purposes of financing costs of the acquisition, construction, improvement and development of the Project, consistent with and to further the purposes for which the Authority has executed and delivered the CMAR Agreement; (vi) the execution and delivery of the Bond Purchase Agreement is necessary and appropriate and in the best interest of the Authority to provide for the terms of the sale of and payment for the TIF Bonds; (vii) the terms of execution and delivery of the TIF Bonds, and the provisions for payment of Bond Service Charges thereon and the security therefor, as contained in or authorized by the Bond Legislation and included in the Trust Agreement are satisfactory and are hereby approved, and the TIF Bonds shall be secured by the Trust Agreement and as otherwise provided therein and herein, and all such provisions are reasonable and proper for the security of the Bondholders and are hereby approved; and (viii) the instruments, agreements and actions contemplated or authorized hereby will further the purposes of the Act, including the purposes of Article VIII, Sections 13 and 16, of the Ohio Constitution and other authorized purposes of the Authority.

Section 3. **Cooperative Agreement.** This Board is hereby authorized and approves the Cooperative Agreement in substantially the form on file with the Secretary of this Board. The Executive, alone or together with the Fiscal Officer, are hereby authorized and directed to execute the Cooperative Agreement, substantially in that form, but with such changes as are necessary or desirable to reflect the intended terms of the transactions contemplated by this resolution and finalized by the parties to the Cooperative Agreement, such execution being conclusive evidence of approval of any such changes and that they are necessary or desirable, in accordance herewith, and are not adverse to the Authority.

Section 4. **CMAR Agreement.** Based on information furnished to the Authority by the Developer, and the findings and determinations made by this Board in Section 2 above, this Board hereby determines that the manner in which the contracts for the development of the Project should be made is to enter into the CMAR Agreements and, in accordance therewith, and subject to the terms of the Cooperative Agreement, authorize the Developer to act as its agent for and manager of the development of the Project. The Developer, or an affiliate of the Developer approved by the Authority, under the CMAR Agreements (the "Construction Manager") shall be authorized to negotiate the terms of the construction contract or contracts, including any subcontract or subcontracts and all contracts for the supply of materials (collectively, "Construction Contracts") and all agreements with respect to the design, landscape design, engineering, architecture or similar services with respect to the development of the Project (the "Professional Contracts") necessary or desirable in connection therewith, all subject to applicable provisions of the Cooperative Agreement and the CMAR Agreements, as applicable.

This Board hereby specifically finds and determines that such manner of negotiation and contracting with respect to the Construction Contracts and the Professional Contracts (collectively, "Contracts" and each a "Contract") will best carry out the public purposes of the Project, including the public purposes of Article VIII, Section 13 of the Ohio Constitution and, accordingly, the Contracts shall not be subject to any requirement of competitive bidding or selection unless and except to the extent specified in the Cooperative Agreement. This Board hereby authorizes and approves the appointment of the Developer, or an affiliate of the Developer approved by the Authority, as Construction Manager under the CMAR Agreements for the purpose of undertaking, managing and completing, on behalf of the Authority, the construction of the TIF Improvements, including the construction of the Project Improvements.

Notwithstanding anything to the contrary in the Cooperative Agreement or the CMAR Agreements, the obligations of the Authority under or pursuant to the CMAR Agreements and the Contracts shall not be a general obligation, bonded indebtedness or a pledge of the general credit of the Authority but shall be payable solely from the proceeds of the TIF Bonds, the proceeds of any other revenue bonds of the Authority issued for that purpose and any other money that may be made available to the Authority for that purpose, including any moneys provided by the Developer, and the CMAR Agreements and each Contract shall so state, by addendum or otherwise. Further, until and unless the TIF Bonds have been issued by the Authority, all monetary or pecuniary obligations of the Authority under or with respect to the CMAR Agreement or the Contracts shall be conditioned on the issuance of the TIF Bonds (except to the extent if any funded by the Developer), and the CMAR Agreements and each Contract shall so state, by addendum or otherwise. Subject to the foregoing, this Board hereby authorized and approves the CMAR Agreement in substantially the form on file with the Secretary of this Board. The Executive, alone or together with any Fiscal Officer, is hereby authorized and directed to execute and deliver the CMAR Agreements, in substantially that form, but with those changes as are not substantially adverse to the Authority and as are approved by the officer or officers executing the CMAR Agreements as being necessary or desirable and in the best interest of the Authority, that execution being conclusive evidence of approval of any such changes as being necessary or desirable and in the best interest of the Authority and that they are not substantially adverse to the Authority.

Section 5. <u>Issuance of the TIF Bonds</u>.

(a) <u>TIF Bonds Generally</u>. The TIF Bonds shall be issued in fully registered form, in substantially the form as set forth in Exhibits to the Trust Agreement, the form of which is now on file with the Fiscal Officer and is hereby approved. In order to appropriately segregate the senior Series 2019A Bonds and subordinate Series 2019B Bonds, the TIF Bonds shall be issued in two series, designated respectively, "Special Obligation Development TIF Revenue Bonds, Series 2019A (Gallery at Kenwood Project)" and "Subordinate Special Obligation Development TIF Revenue Bonds, Series 2019B (Gallery at Kenwood Project)" in the maximum aggregate principal amount authorized hereby, and provided that the TIF Bonds of either or both series may carry additional descriptive designations authorized by the officers executing the same (evidenced conclusively by the execution thereof). The TIF Bonds shall bear interest at a fixed or variable annual rate to be established in a certificate or certificates signed by the

Executive or the Fiscal Officer upon the execution and delivery of the Bond Purchase Agreement, which rate shall be acceptable to the Original Purchaser (as evidenced by their execution and delivery of the Bond Purchase Agreement). The TIF Bonds of each series shall mature as provided for in the Trust Agreement, subject to extraordinary optional redemption and mandatory sinking fund redemption on the terms set forth in or pursuant to the Trust Agreement; provided that the principal retirement schedule shall be finally established pursuant to the Trust Agreement such that the anticipated Service Payments under the Service Agreement in each year will be sufficient to pay all scheduled Bond Service Charges together with scheduled Administrative Expenses (as defined in the Trust Agreement). The procedures, credits and conditions for the satisfaction of any mandatory sinking fund requirements shall be as set forth in the Trust Agreement. The TIF Bonds shall be subject to redemption prior to maturity, at the option of the Authority exercised in accordance with the requirements of the Trust Agreement, at the times and prices (which may include "make-whole" or other premiums) provided in the Trust Agreement. The TIF Bonds shall be dated as of their date of issuance. The TIF Bonds shall be exchangeable for TIF Bonds of the same series in any authorized denomination or denominations, as provided in the Trust Agreement, but the TIF Bonds shall be subject to the transfer restrictions provided in the Trust Agreement. The TIF Bonds of each series shall be numbered in such manner as is determined by the Trustee in order to distinguish each TIF Bond from any other TIF Bond. The TIF Bonds shall be in denominations of $100,000 and any integral multiples of $5,000 in excess thereof. The principal amount of the TIF Bonds outstanding (as determined in accordance with the Trust Agreement) 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 the date of issuance of the TIF Bonds. 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 Trust Agreement.

(b) Interest Rate Terms; Initial Term; Interest Rates. The TIF Bonds shall bear interest from time to time at the rates and for the periods established from time to time in accordance with the Trust Agreement.

(c) Execution. The TIF Bonds shall be signed by the Executive and one other member of this Board or a 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 TIF Bonds in accordance herewith and with the Trust Agreement, but subject to satisfaction or waiver of any conditions stated herein or therein. The TIF Bonds shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Legislation or the Trust Agreement unless and until a certificate of authentication on the TIF Bonds is signed by the Trustee, as registrar and authenticating agent, or other registrar or authenticating agent appointed pursuant to the Trust Agreement.

(d) The TIF Bonds shall initially be issued in fully registered form; provided, however, that at the times and under the circumstances, if any, established in the Trust Agreement, the TIF Bonds may be issued to a Depository for use in a book-entry system and, if and so long as a book entry system is so utilized: (i) the TIF Bonds shall be issued in the form of a TIF Bond numbered R-1 and up 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 TIF 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 TIF 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 or on behalf of the Authority. If any such Depository determines not to continue to act as a Depository for the TIF Bonds, or any portion thereof, for use in a book entry system, the Executive or the Fiscal Officer, on behalf of the Authority, are authorized to establish a securities depository/book entry system relationship with another qualified Depository. If the Executive or the Fiscal Officer does not or is unable to do so, the Executive and the Fiscal Officer, on behalf of the Authority, together with the Trustee, after the Trustee makes provision for notification of the beneficial or book entry interest owners by notice to the then Depository, shall permit withdrawal of the TIF Bonds, or the applicable portion thereof, from that Depository, and execute, authenticate and deliver registered TIF 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 and the Fiscal Officer, or either or any of them, are each authorized and directed to the extent necessary or required to enter into any agreements determined necessary in connection with a book entry system for the TIF Bonds, after determining (as evidenced by their signing) that the signing thereof will not endanger the funds or securities of the Authority under the Trust Agreement.

Section 6. **Sale and Delivery of the TIF Bonds.** The TIF Bonds are awarded and sold to the Original Purchaser pursuant to the Bond Purchase Agreement. Execution and delivery of the Trust Agreement shall be a condition to the issuance of the TIF Bonds. Other terms of the TIF Bonds and the sale and delivery thereof may be specified in the Bond Purchase Agreement, which is hereby authorized consistent with this resolution, or in the Trust Agreement or Bond Purchase Agreement, including the amount of the Authority's fees to be paid from the proceeds of the TIF Bonds or other sources, the amounts (or manner of calculation or determination of the amounts) of capitalized interest to be paid from the proceeds of the TIF Bonds and the other costs of or related to the issuance of the TIF Bonds to be paid therefrom. All matters determined in the Bond Purchase Agreement or the Trust Agreement shall be conclusive and binding on the Authority. Any fees payable in connection with the issuance and sale of the TIF Bonds, including, without limitation, any counsel fees and any other fees to be paid in connection with the structuring and sale of the TIF Bonds may be paid and are hereby appropriated from the proceeds of the sale of the TIF Bonds.

The Executive and the Fiscal Officer, or any one or more of them, are authorized and directed to make the necessary arrangements with the Original Purchaser and the Trustee to establish the date, location, procedure and conditions for the delivery of the TIF Bonds in accordance with the Trust Agreement and Bond Purchase Agreement, and subject to the conditions stated therein, including delivery of investor acknowledgement letters, in form and substance satisfactory to counsel to the Original Purchaser and the Authority, including Bond Counsel. It is determined by this Board that the price for and the terms of the TIF Bonds and the

sale thereof, all as provided in or pursuant to this resolution, the Bond Purchase Agreement and the Trust Agreement and other related instruments, are in the best interests of the Authority and are in compliance with all legal requirements.

Section 7. **Application of Proceeds of TIF Bonds, Creation of Special Funds.** The Special Funds are hereby authorized and directed to be created, and the proceeds from the sale of the TIF Bonds shall be advanced, deposited and disbursed in accordance with the Bond Purchase Agreement, the Trust Agreement, the CMAR Agreement and the written direction of the Executive or Fiscal Officer to pay costs of acquiring and constructing the TIF Improvements and costs of issuance of the TIF Bonds, and any administrative fees, including fees of the Authority, payable pursuant to the Trust Agreement, all as provided in the Bond Purchase Agreement or the Trust Agreement, and the proceeds from the sale of the TIF Bonds, and any other moneys provided to or on behalf of the Authority for those purposes, are appropriated for those purposes. Disbursement, investment and application of amounts deposited in the Special Funds, and the creation and uses of Accounts and Subaccounts therein, shall be in accordance with the Trust Agreement. In addition to the Special Funds, the Trustee may from time to time establish other funds under the Trust Agreement which shall, when funded, be subject to the lien of the trust under the Trust Agreement. Disbursement, investment and application of amounts deposited in any such funds, and the creation and uses of accounts and subaccounts therein, shall be in accordance with the Trust Agreement.

Section 8. **Security for the TIF Bonds.** The TIF Bonds shall be secured by the Trust Agreement and the assignments therein made, including the assignment of the Service Payments to the Trustee. Notwithstanding anything to the contrary herein or in the TIF Bonds, the TIF Bonds do not and shall not pledge the general credit or taxing power of the Authority, or of the Township, the County or the State or any political subdivision, municipality or other local agency thereof, and nothing herein or in the TIF Bonds or the Trust Agreement, or any other agreement, instrument or document pertaining to the TIF Bonds shall constitute a general obligation, debt or bonded indebtedness of the Authority, the Township, the County or the State or any political subdivision thereof; and further, nothing herein or therein gives the holders or owners of the TIF Bonds, and they do not have, the right to have excises or taxes levied by this Board, or by the Township, the County 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 TIF Bonds or any obligations under or with respect to the TIF Bonds, the CMAR Agreement, the Trust Agreement or any other agreement, instrument or document pertaining to the TIF Bonds or the redevelopment of the Project Site. The TIF Bonds shall be payable solely from the Pledged Revenues and the Special Funds, as provided herein and in the Trust Agreement, and shall contain a statement to that effect. Nothing herein or in the Trust Agreement 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 Trust Agreement or the TIF Bonds.

Section 9. **Covenants of Authority.** In addition to the covenants and agreements of the Authority herein and in the Trust Agreement or the other TIF Bond documents

to which it is a party, the Authority, by issuance of the TIF Bonds, covenants and agrees with each holder or owner of the TIF Bonds:

(a) That the Authority will use, or cause the use of, the proceeds of the TIF Bonds to finance costs of the Project including, without limitation, costs of constructing and otherwise developing the TIF Improvements, paying capitalized interest, funding a debt service reserve and paying or reimbursing costs and fees payable in connection with the issuance of the TIF Bonds;

(b) That the Authority will segregate, or cause to be segregated, for accounting purposes, the Pledged Revenues and the Special Funds established under the Trust Agreement 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 TIF 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 restrict the proceeds of the TIF Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the TIF Bonds are initially delivered under the Bond Purchase Agreement, so that such bonds will not constitute "arbitrage bonds" under Sections 103(b)(2) and Section 148 of the Code. The Executive or the Fiscal Officer or any other officer having responsibility with respect to the issuance of the TIF Bonds is authorized and directed to give an appropriate certificate on behalf of the Authority, on the date of delivery of the TIF Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 of the Code and regulations thereunder;

(e) 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 TIF Bonds and the Bond Legislation, or as may be required or authorized by the Act, the Trust Agreement or the Bond Purchase Agreement, and will comply with all requirements of law applicable to the TIF Bonds;

(f) That the Authority will observe and perform all of its agreements and obligations provided for by the TIF Bonds and the Bond Legislation, the Trust Agreement, the Bond Purchase Agreement and the other agreements, instruments and documents relating to the TIF Bonds and 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;

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

(h) 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 TIF Bonds; and

(i) That the Authority will, initially from the proceeds of the TIF Bonds and thereafter at the expense of the Lessee, cause (to the extent required by the laws of the State to perfect such instruments and/or the lien created thereby) all necessary financing statements, amendments thereto, continuation statements and instruments of similar character relating to the pledges and assignments made by it to secure the TIF Bonds, to be recorded and filed in such manner and in such places and to the extent required by law in order to fully preserve and protect the security of the holder and the rights of the Trustee under the Trust Agreement.

Section 10. Trust Agreement, Tax Regulatory Agreement and Bond Purchase Agreement. To provide for the issuance and terms of, and the security for the payment of Bond Service Charges on, and the repayment of, the TIF Bonds, the Executive and a Fiscal Officer, alone or together, are hereby authorized, for and in the name of the Authority and on its behalf, to execute the Trust Agreement in substantially the form thereof now on file with the Fiscal Officer, with such changes therein as are not inconsistent with the 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 the Trust Agreement. To provide for the sale of the TIF Bonds, the Executive and a Fiscal Officer, alone or together, are hereby authorized, for and in the name of the Authority and on its behalf, to execute the Bond Purchase Agreement, in substantially the form thereof now on file with the Fiscal Officer, with such changes therein as are not inconsistent with the 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. The Executive and a Fiscal Officer, alone or together, are hereby authorized, for and in the name of the Authority and on its behalf, to execute the Tax Regulatory Agreement, in substantially the form thereof now on file with the Fiscal Officer, with such changes therein as are not inconsistent with the 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.

Section 11. Other Documents and Further Actions. The Executive and the Fiscal Officer are further authorized and directed, alone or together, to execute each other agreement or document, including any agreement related to continuing disclosure requirements under the TIF Bonds, relating to the issuance, sale and delivery of the TIF Bonds, and to which the Authority is a party, together with all reasonably related certifications, notices, financing statements, assignments, agreements, applications and instruments required in connection therewith, and to take such further actions as are necessary or appropriate to implement the transactions contemplated in the TIF Bonds and herein or in the documents authorized hereby and to consummate the transactions contemplated in this resolution and those documents, and to undertake, complete and finance the construction and development of the Project consistent with the CMAR Agreement and the Preliminary Development Term Sheet executed by the Authority and the Developer.

Section 12. **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 13. **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 14. **Counsel.** The Authority has retained the law firm of Frost Brown Todd LLC ("FBT") as bond counsel to provide legal services in connection with the transactions contemplated by this resolution.

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

[Remainder of Page Left Intentionally Blank]

A roll call being had upon the question of the passage of the foregoing resolution, the vote thereon resulted as follows:

Ayes: 9

Nays: Ø

CHAIRPERSON

Attest:

SECRETARY

CERTIFICATE

The undersigned, President of the Port of Greater Cincinnati Development Authority, hereby certifies that the foregoing is a true and complete copy of Resolution No. 2019-32 passed on the 11 day of December, 2019, and has not been amended or rescinded as of this date.

Port of Greater Cincinnati Development Authority

12/11, 2019

FISCAL OFFICER CERTIFICATE

The undersigned, fiscal officer of the Authority, hereby certifies that the moneys required to meet the obligations of the Authority during the year 2019 under the foregoing resolution have been lawfully appropriated by the Authority for such purposes and are in the treasury of the Authority or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: 12/11, 2019