RESOLUTION NO. 2018-14

A RESOLUTION AUTHORIZING THE ACQUISITION OF AN INTEREST IN REAL PROPERTY IN THE CITY OF CINCINNATI, OHIO AND THE CONSTRUCTION THEREON OF "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE; AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF $3,000,000.00 TAXABLE LEASE REVENUE BONDS, SERIES 2018 (MADISON & WHETSEL REDEVELOPMENT PROJECT) (THE "SERIES 2018 BONDS") FOR THE PURPOSE OF FINANCING COSTS OF "PORT AUTHORITY FACILITIES" WITHIN THE MEANING OF SECTION 4582.21, OHIO REVISED CODE; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE OF SAID REAL PROPERTY TO MADISONVILLE PHASE I LLC; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT OF CONSTRUCTION CONTRACT, CONSTRUCTION MANAGER AT-RISK AGREEMENT, AN INDEMNITY AGREEMENT, A BOND PURCHASE AGREEMENT AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY OR DESIRABLE IN CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF SUCH PORT AUTHORITY FACILITIES.

WHEREAS, the Port of Greater Cincinnati Development Authority ("Port Authority"), a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, is authorized and empowered, by virtue of the laws of the State of Ohio, including, without limitation, Sections 13 and 16 of Article VIII, Ohio Constitution, and Sections 4582.21 through 4582.99 of the Ohio Revised Code to: (i) acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease to or from, or lease with an option to purchase, convey other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose; (ii) issue revenue bonds for the purpose of financing costs of acquiring, constructing, installing, equipping or improving "port authority facilities," as defined in Section 4582.21, Ohio Revised Code; and (iii) to adopt this resolution and to enter into the Ground Lease and the Project Lease, the Assignment of Construction Contract, the Construction Manager At-Risk Agreement, the Indemnity Agreement, and the Bond Purchase Agreement, each defined herein, upon the terms and conditions provided herein and therein; and

WHEREAS, Madisonville Phase I LLC ("Developer") is the owner of certain real property located on the southwest block at the intersection of Madison Road and Whetsel Street (the "Southwest Block Project Site") and intends to construct, install and equip a certain mixed-use development project upon the Southwest Block Project Site comprised of approximately 104 apartment units and approximately 24,850 square-feet of retail and office space (the "Southwest Block Project"); and

WHEREAS, this Board has determined that (a) the Southwest Block Project constitutes a "port authority facility" within the meaning of the Act, creating or retaining jobs and employment opportunities or otherwise supporting economic development and housing in Hamilton County, (b) the acquisition, construction, development, and improvement of the Southwest Block Project will be consistent with the purpose of Sections 13 and 16, of Article VIII, Ohio Constitution, to create or preserve jobs and employment opportunities, to improve the economic welfare of the people of the State of Ohio, and to create adequate housing within the jurisdiction of the Port Authority and (c) the Southwest Block Project will be consistent with the purposes of Section 4582.21(B)(1), Ohio Revised Code, by providing assistance to projects that enhance, foster, aid, or promote economic development and housing within Hamilton County, Ohio.

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

Section 1. Definitions. In addition to the words and terms elsewhere defined in this resolution, the following words and terms as used in this resolution, in the Bond Purchase Agreement and in the Bonds shall have the following meanings unless otherwise provided in those documents and unless the context or use indicates another or different meaning or intent:

"Act" means Sections 4582.21 to 4582.99, inclusive, Ohio Revised Code, as enacted and amended from time to time pursuant to Sections 13 and 16 of Article VIII of the Ohio Constitution.

"Assignment of Construction Contract" means the Assignment of Construction Contract, dated as of June 1, 2018, by and between the Authority and the Developer.

"Authorized Officer" means the Chair, Vice Chair, Secretary, President and CEO and any Assistant Secretary of this Board or of the Port Authority.

"Board" means the Board of Directors of the Port Authority.

"Bonds" or "Series 2018 Bonds" means the Taxable Lease Revenue Bonds, Series 2018 (Madison & Whetsel Redevelopment Project), which have been authorized by this resolution and are to be issued pursuant to the Bond Purchase Agreement.

"Bond Legislation" means this resolution.

"Bond Purchase Agreement" means the Bond Purchase Agreement by and among the Developer, the Port Authority, and the Original Purchaser relating to the original purchase of the Series 2018 Bonds, as the same may be amended from time to time.

"Closing Date" means the date on which the Transaction Documents are fully executed and delivered.

"Construction Manager At-Risk Agreement" means the Construction Manager At-Risk Agreement, dated as of the date of the Project Lease, between the Port Authority and the Developer, as construction manager at-risk.

"Developer" means Madisonville Phase I LLC, an Ohio limited liability company.

"General Contractor" means Al. Neyer, LLC.

"Ground Lease" means the lease of the Southwest Block Project Site dated as of June 1, 2018, by and between the Developer, as ground lessor and the Port Authority, as ground lessee.

"Holder" or "holder of a Series 2018 Bond" means the person in whose name a Series 2018 Bond is registered on the register maintained initially by the registrar.

"Indemnitors" means each of 625 Investments, LLC, an Ohio limited liability company, Ackermann Family Limited Partnership, an Ohio limited partnership, and Vision Real Estate II, LLC, an Ohio limited liability company.

"Indemnity Agreement" means the Indemnity Agreement, dated as of June 1, 2018, by and among the Port Authority, the Developer and the Indemnitors.

"Manager" means Madisonville Phase I, LLC, as construction manager for the Southwest Block Project.

"Original Purchaser" means First Financial Bank.

"Pledged Revenues" shall mean the Rent paid by the Project Lessee under the Project Lease, which shall be equal to the principal of and interest due on the Bonds.

"Port Authority" means the Port of Greater Cincinnati Development Authority, d/b/a Greater Cincinnati Redevelopment Authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, and its lawful successors.

"Project Documents" means the Ground Lease, the Project Lease, the Construction Manager At-Risk Agreement, the Assignment of Construction Contract and the Indemnity Agreement.

"Project Lease" means the lease of the Southwest Block Project Site dated as of June 1, 2018, by and between the Port Authority, as Project Lessor, and the Developer, as Project Lessee.

"Southwest Block Project" means a new mixed-use development comprised of approximately 104 apartment units and approximately 24,850 square feet of commercial retail space.

"Southwest Block Project Site" means the real property located at the intersection of Madison Road and Whetsel Avenue in the City of Cincinnati, Ohio, that shall be dedicated to the construction, development, and installation of the Southwest Block Project.

"State" means the State of Ohio.

"Transaction Documents" means each of the following documents if and to the extent entered into by the Port Authority in connection with the issuance of the Bonds: the Bond Purchase Agreement, the Ground Lease, the Project Lease, the Construction Manager At-Risk Agreement, the Indemnity Agreement, and Assignment of Construction Contract.

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. Words or terms used herein with initial capital letters and not defined herein shall have the meanings given to them in the Bond Purchase Agreement.

Section 2. Determinations by the Board as to the Bonds.

(a) It is necessary and proper and in the best interest of the Port Authority to, and the Port Authority shall, acquire a 15-year ground lease of and to the Southwest Block Project Site as provided and authorized herein and pursuant to the authority of the Act, for the purpose of constructing, improving and equipping the Southwest Block Project for lease to the Developer and in connection therewith the Port Authority shall, enter into the Ground Lease, the Project Lease and the other Project Documents as herein provided.

(b) This Board determines that: (i) It is necessary and proper and in the best interest of the Port Authority to, and the Port Authority shall, issue, sell and deliver the Series 2018 Bonds in the maximum aggregate principal amount of $3,000,000.00 at this time, as provided and authorized herein and in the Bond Purchase Agreement and pursuant to the authority of the Act, all for the purpose of financing the costs of acquiring, constructing, and equipping the Southwest Block Project and to pay

certain costs of issuance and related costs a paying portion of the costs of the Southwest Block Project; (ii) the Southwest Block Project constitutes "port authority facilities" as defined in the Act, and is consistent with the purposes of the Act and Sections 13 and 16 of Article VIII, Ohio Constitution; (iii) the utilization of the Southwest Block Project Site for the Southwest Block Project is in furtherance of the purposes of the Act and will enhance, foster, aid, provide and promote economic development, and commerce and will benefit the people of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the State; and (iv) the acquisition, construction, and equipping of the Southwest Block Project requires the issuance, sale and delivery of the Series 2018 Bonds.

Section 3. Ground Lease of the Southwest Block Project Site. It is hereby determined by this Board to enter into the Ground Lease with the Developer to acquire a 15 year leasehold interest in and to the Southwest Block Project Site, in substantially the form now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to this resolution, subject only to those encumbrances which shall not interfere with the use of the Southwest Block Project Site and the Southwest Block Project for "authorized purposes," as such term is defined in the Act. Each Authorized Officer is authorized to take all steps necessary to effect due execution and delivery of the Ground Lease under the terms of this resolution. The ground rent for the Southwest Block Project Site shall be $100.00, to be paid in advance, which this Board determines is in the best interests of the Port Authority and is in compliance with all legal requirements.

Section 4. Construction and Ownership of Southwest Block Project. It is hereby determined by the Board that the construction of the Southwest Block Project and of any improvements in connection with it has been and shall continue to be undertaken by the Port Authority in the manner provided in the Construction Manager At-Risk Agreement. The Board hereby approves the appointment of the Manager as its agent under the Construction Manager At-Risk Agreement for purposes of acquisition, construction, equipping, installation and improvement of the Southwest Block Project, together with public improvements necessary therefor. In addition, each Authorized Officer, alone or together, in order to provide for the acquisition, construction, equipping, installation and improvement of the Southwest Block Project, is authorized and directed to execute and deliver, for and in the name of the Port Authority and on its behalf, subject to the certification of availability of funds therefor from monies available or to be available to pay costs of the Southwest Block Project, such contracts and agreements, including the Assignment of Construction Contract (collectively, "Construction Agreements") as may be necessary for the acquisition, construction, equipping, installation and improvement of the Southwest Block Project.

Based on information furnished to it, this Board has determined that the manner in which the Construction Agreements for acquisition, construction, equipping, installation and improving of the Southwest Block Project should be made is to negotiate the terms of the Construction Agreements, and this Board hereby finds and determines that such negotiation best carries out the public purpose to be fulfilled by the Southwest Block Project.

Section 5. Lease of the Southwest Block Project Site and Southwest Block Project. Upon acquisition of the Southwest Block Project Site pursuant to the Ground Lease, it is hereby determined by this Board to enter into the Project Lease with the Developer in substantially the form now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to this resolution. Pursuant to the Project Lease, the Developer, as Project Lessee, shall pay Initial Rent, Annual Rent, Additional Rent, and all expenses associated with the ongoing leasing, management and operation of the Southwest Block Project, as exist from time to time. Each Authorized Officer is authorized to take all steps necessary to effect due execution and delivery of the Ground Lease and the Project Lease under the terms of this resolution. It is determined by this Board that the rent to be paid under the Lease, as

provided in this resolution, is in the best interests of the Port Authority and are in compliance with all legal requirements.

Section 6. Construction Manager At-Risk Agreement. Each Authorized Officer is hereby authorized and directed, for and in the name of the Port Authority and on its behalf, alone or together with any other Authorized Officer, to execute and deliver to the Developer the Construction Manager At-Risk Agreement in substantially the form now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to this Resolution and the requirements under the term sheet for the Project Lease. The form of the aforesaid document is approved with such changes therein as are not inconsistent with this resolution and not substantially adverse to the Port Authority and which are approved by the officer executing those documents. The approval of such changes, and that such changes are not substantially adverse to the Port Authority, shall be conclusively evidenced by the execution of those documents by that officer.

Section 7. Other Lease Documents. Each Authorized Officer is authorized and directed to execute the other Project Documents and any certifications, agreements, assignments, amendments, supplements and other instruments and documents to take such further actions, as are necessary or appropriate to provide for the Ground Lease and Project Lease of the Southwest Block Project Site and the construction of the Southwest Block Project and to consummate the transactions contemplated in this resolution, the Ground Lease and the Project Lease. All actions heretofore taken by the officers and officials of the Port Authority and of this Board in connection with the Ground Lease and the Project Lease are hereby adopted, ratified and approved.

Section 8. Terms and Provisions of the Series 2018 Bonds. The Series 2018 Bonds shall be dated the Closing Date. The Series 2018 Bonds shall (i) be stated to mature on the date specified therein; (ii) shall bear interest on the principal amount thereof from time to time outstanding at interest rates determined as provided, and payable as specified, therein; (iii) be payable solely from the Pledged Revenues as to principal and interest as provided therein; (iv) be subject to redemption as provided therein; and (v) require payment of other amounts as provided therein. The registrar of the Series 2018 Bonds shall initially be the Fiscal Officer of the Port Authority, and following the initial Advance, shall be the Original Purchaser.

Section 9. Security for the Series 2018 Bonds. As provided in the Transaction Documents, the Series 2018 Bonds shall be payable solely from the Pledged Revenues. Nothing in the Bond Legislation, the Series 2018 Bonds or the Transaction Documents shall constitute a general obligation, debt or bonded indebtedness of the Port Authority; neither the general resources of the Port Authority shall be required to be used, nor the general credit of the Port Authority pledged, for the performance of any duty under this Bond Legislation or the Series 2018 Bonds; and further, nothing therein gives the Holders of the Series 2018 Bonds, and they do not have, the right to have excises or taxes levied by this Legislative Authority, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Series 2018 Bonds, but the Series 2018 Bonds are payable solely from the Pledged Revenues as provided herein and in the Bond Purchase Agreement, and each Series 2018 Bond shall contain a statement to that effect; provided, however, that nothing in this Bond Legislation shall be deemed to prohibit the Port 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 this Bond Legislation or the Series 2018 Bonds.

Section 10. Transaction Documents. To secure the repayment of the principal of and interest on the Bonds as the same shall become due and payable and the performance by the Port Authority as provided in the Bond Legislation and in the Transaction Documents to which it is a party, and to provide

for the issuance and sale of the Series 2018 Bonds, each Authorized Officer is authorized to execute and deliver the Transaction Documents to which the Port Authority is a party in substantially the forms thereof now on file with the Secretary, but with such completions, revisions and modifications as are necessary to conform to the Bond Legislation.

Section 11. Other Documents and Further Actions. Each Authorized Officer is authorized and directed to execute any certifications, financing statements, assignments, agreements and instruments, to accept on behalf of the Port Authority such additional security, and to take such further actions as are necessary or appropriate to effect the transactions contemplated in the Transaction Documents and to consummate the transactions contemplated in the Bond Legislation and the Transaction Documents and to undertake, complete and finance the Southwest Block Project in accordance therewith, so long as such actions are not inconsistent with the Bond Legislation and not materially adverse to the Port Authority and are permitted by the Act and which shall be approved by the officers executing those documents. The determination that such actions and any documents executed pursuant to those actions are not materially adverse to the Port Authority shall be evidenced conclusively by the taking of those actions or execution of those documents by those officials. All actions heretofore taken by the officers and officials of the Authority in connection with the Southwest Block Project and the financing thereof are hereby ratified and approved.

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. This Board finds and determines that all formal actions of this Board and any of its committees concerning and relating to the adoption of this resolution were taken in an open meeting of this Board or its committees 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 14. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.

Adopted: June 20, 2018

Yeas: 8
Chair
Nays:
Secretary
Abstentions: Ø