

RESOLUTION 2020-29

A RESOLUTION EXPRESSING THE CONDITIONAL INTENTION OF THE PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY TO PROVIDE FOR A DECLARATION OF OFFICIAL INTENT UNDER FEDERAL TAX REGULATIONS WITH RESPECT TO REIMBURSEMENT OF TEMPORARY ADVANCES FROM TAX-EXEMPT OBLIGATIONS; AND RELATED MATTERS.

WHEREAS, Oakley Yards Land LLC together with certain affiliated entities (collectively, the “Developer”) has acquired approximately thirty (30) acres of real property located at 2800 Robertson Avenue (the “Project Site”) in the Oakley neighborhood of the City of Cincinnati, Ohio (the “City”), County of Hamilton (the “County”) and proposes to construct or caused to be constructed on the Project Site certain public improvements on behalf of the City, including public streets, stormwater detention improvements, walking and biking trails, public parks and open space and related improvements (collectively, the “Public Improvements”), and to construct or cause to be constructed on a portion of the Project Site a residential development comprised of multi-family apartment units, townhomes, single-family dwelling units, and senior-living facilities (collectively, the “Residential Project” and together with the Public Improvements, the “Project”). The Port of Greater Cincinnati Development Authority (the “Port”) proposes to support the Project by issuing Development Revenue Bonds (subject to the conditions specified herein) to finance eligible costs of the Public Improvements; and

WHEREAS, the City has agreed to create a tax increment financing district in and around the Project Site in order to pay for a portion of the costs of the Public Improvements that once made will directly benefit the Project and the Project Site; and

WHEREAS, the Developer will agree to make service payments in lieu of taxes (“Service Payments”) in an amount equal to the real property taxes the Developer would have paid with respect to the Project Site had the Project Site not been exempted from real property taxation pursuant to the tax increment financing ordinance; and

WHEREAS, the Developer has requested that the Port issue its Development Revenue Bonds in one or more series under the authority of Sections 4582.21 *et seq.* of the Ohio Revised Code (collectively, the “Act”), in an amount presently expected not to exceed \$13,000,000, to be payable from Service Payments paid by the Developer and its successor owners of the Project Site to the City and pledged by the City to the Port Authority, the proceeds of which Development Revenue Bonds would be used to pay for a portion of the costs of the Public Improvements; and

WHEREAS, the Development Revenue Bonds shall not represent or constitute a general obligation, debt or bonded indebtedness, or a pledge of the faith and credit of the Port, and the holders of the Bonds shall not be given and shall not have any right to have excises or

taxes levied by this Board, for the payment of bond service charges or any other costs of the Project; and

WHEREAS, United States Treasury Regulation §1.150-2 (the “Reimbursement Regulations”) prescribe conditions under which proceeds of the Development Revenue Bonds used to reimburse advances made for certain expenditures paid before the issuance of the Development Revenue Bonds 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 (the “Code”); and

WHEREAS, certain provisions of the Reimbursement Regulations require that there be a Declaration of Official Intent not later than 60 days following payment of the expense expected to be reimbursed from proceeds of bonds, and that the reimbursement occur within certain prescribed time periods after an expense is paid or after the property resulting from that expenditure is placed in service; and

WHEREAS, the Developer wishes to proceed with the necessary actions for the development of the Project and the structuring of its financing program and has requested an expression of this Board’s willingness to authorize the issuance of the Development Revenue Bonds at a future date after the documentation relating to the financing, including the creation of a tax increment financing district established to finance a portion of the Public Improvements, has been prepared and completed; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Port, that:

1. This Board hereby agrees to authorize and issue the Development Revenue Bonds in one or more series, pursuant to a plan of finance, pursuant to the Act, and to use the proceeds to pay the costs of the Public Improvements pursuant to a cooperative agreement among the Port, the Developer (or its designee) and the City and such other parties as are necessary thereto (the “Financing Agreement”); provided, however, that prior to the issuance of the Bonds (A) the Port shall have received evidence satisfactory to the President and CEO (i) that the City has established the tax increment financing district necessary for the financing of the Public Improvements to be financed with the Development Revenue Bonds, (ii) that the Port’s interests are appropriately represented and protected, and that all documents, certificates and related materials are in form satisfactory to the President, and (iii) of the compliance by the Developer (or its designee) and other necessary parties with applicable requirements of federal, State and local laws and regulations, including without limitation Chapter 5709 of the Ohio Revised Code, federal income tax law and federal securities law, (B) that the Bond documents meet with the approval of the President, and (C) the President is satisfied with all other aspects of the proposed Bond issues. Developer will release, indemnify and hold harmless the Port, its directors, officers and employees for any loss, cost, expense, claims or actions connected with this resolution, the Bonds or the Project, including without limitation the Port’s failure or refusal to issue the Bonds.

2. The President and CEO and the Developer (or its designee) shall negotiate a Term Sheet that is acceptable to the President and CEO in her sole discretion, consistent with the best interest of the Port.

3. This Resolution is a Declaration of Official Intent under the Reimbursement Regulation. Based upon the representations of the Developer, the Port reasonably expects that certain of the costs of the Public Improvements will be reimbursed with the proceeds of the Development Revenue Bonds. The maximum principal amount of the Bonds to be issued as tax-exempt bonds is expected to be \$13,000,000.

4. 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.

5. This Resolution shall be in full force and effect immediately upon its adoption.

On motion of WIDEMAN, seconded by DOFFY, the foregoing Resolution was duly adopted.

Ayes:


Nays:

Resolution Adopted.

The undersigned, Secretary of the Board of Directors of the Port of Greater Cincinnati Development Authority, certifies that the foregoing is a true and correct excerpt from the minutes of the regular meeting of the Board on 7/16, 2020 showing the adoption of the Resolution set forth above.



Chair



Secretary