

RESOLUTION NO. 2024-14

A RESOLUTION AUTHORIZING THE ACQUISITION AND LEASING OF REAL PROPERTY COMPRISING PORT AUTHORITY FACILITIES WITHIN THE CITY OF BLUE ASH, OHIO; AUTHORIZING ACCEPTANCE OF TITLE TO REAL PROPERTY; AUTHORIZING THE EXECUTION AND DELIVERY OF A COOPERATIVE AGREEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE GROUND LEASES; AUTHORIZING THE EXECUTION OF RELATED INSTRUMENTS; AND AUTHORIZING AND APPROVING RELATED MATTERS

WHEREAS, the Port of Greater Cincinnati Development Authority (the “Port Authority”) has been asked to assist in the cooperative redevelopment of an area (the “Project Site”) within the City of Blue Ash, Ohio (the “City”) pursuant to a Cooperative Agreement (the “Cooperative Agreement”), among the Port Authority, the City, and The Blue Development Company, LLC (the “Developer”); and

WHEREAS, the Developer seeks to redevelop the Project Site by undertaking the construction of a mixed-use development consisting of (i) approximately 250 market-rate apartment units, (ii) approximately 39,700 square feet of professional office space, and (iii) approximately 48,700 square feet of retail/restaurant space (the “Development”); and

WHEREAS, to finance a portion of the costs to construct the Development, the Developer is seeking transformational mixed use development tax credits (“TMUD Credits”) from the State of Ohio (the “State”) in accordance with Section 122.09 of the Ohio Revised Code (the “ORC”); and

WHEREAS, in order to apply to the State for TMUD Credits, the Developer must be an “Owner” of the entire Project Site within the meaning of Section 122.09 of the ORC, which defines “Owner” as “a person or persons holding a fee simple or leasehold interest in real property, including interests in real property acquired through a capital lease arrangement”; and

WHEREAS, a portion of the Project Site is currently owned by the City (the “City Site”) and a portion of the Project Site is currently owned by the Developer (the “Developer Site”); and

WHEREAS, each of the City and the Developer intend to convey to the Port Authority their respective interests in the Project Site, pursuant to deeds or instruments of similar effect acceptable to the Port Authority (each a “Deed” and together the “Deeds”), upon the condition that the Port Authority lease the Project Site to the Developer pursuant to the Ground Leases (as defined herein) in accordance with the Cooperative Agreement, so that the Developer may apply for TMUD credits; and

WHEREAS, the Developer intends to sublease the City Site to allow the City to continue operations of the City Site as a surface parking facility prior to construction of the Development; and

WHEREAS, under the circumstances described herein, and pursuant to the laws of the State, particularly Ohio Revised Code Sections 4582.21 through 4582.59 and the authorities

therein mentioned, including Article VIII, Sections 13 and 16, of the Ohio Constitution (collectively, "Port Act"), this Board has full authority to and desires to authorize and/or take those actions necessary to acquire, and lease to the Developer, the Project Site, including without limitation: (i) entering into the Cooperative Agreement, (ii) accepting an interest in the Project Site pursuant to the Deeds, and (iii) entering into the Ground Leases (together with the Cooperative Agreement, the "Port Agreements"); and

WHEREAS, the Port Authority, pursuant to the Port Act and in furtherance of its authorized purposes, wishes to authorize or take actions in connection with the acquisition of an interest in the Project Site and subsequent leasing of the Project Site to the Developer;

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

Section 1. This Board hereby finds and determines, based in part upon information provided by the Developer, and to the extent applicable, the City, that: (i) the Port Authority has full power and authority to participate in the acquisition and subsequent transfer of the Project Site pursuant to the Deeds, in accordance with Cooperative Agreement, and in the manner contemplated by this Resolution, (ii) the Project Site constitutes "port authority facilities" and the actions authorized herein constitute "authorized purposes" of the Port Authority, including the fostering, aiding, and promotion of "economic development" as that term is used in the Port Act, (iii) the redevelopment of the Project Site, is consistent with and will promote the purposes of Article VIII, Sections 13 and 16 of the Ohio Constitution, and is expected to create housing opportunities, create or preserve jobs and employment opportunities, and improve the economic welfare of the people of the City, the County of Hamilton, and the State, (iv) it is in the best interests of the Port Authority to: (a) enter into the Cooperative Agreement as consistent with the terms thereof and hereof, (b) accept fee title to the Project Site from the Developer and the City, (c) enter into the Ground Leases with the Developer consistent with the terms thereof and hereof, and (d) take such other actions as are consistent with and contemplated by this resolution and the agreements and instruments authorized hereby (collectively, items (iv)(a) through (d) above are referred to herein as the "Proposed Transaction"); provided, however, that the Port Authority shall only participate in the Proposed Transaction to the extent the President and Chief Executive Officer, in consultation with the legal counsel and Port Authority administration and staff, has determined that the legal and financial interests of the Port Authority are sufficiently protected and the Port Authority is sufficiently indemnified against potential liability.

Section 2. This Board hereby authorizes and approves the Cooperative Agreement in substantially the form on file with the Secretary of this Board. Any one or more of the Chairperson, the Vice Chairperson, and the President and Chief Executive Officer (each an "Authorized Officer"), alone or together with the Secretary or any Assistant Secretary of this Board (each a "Fiscal Officer"), are hereby authorized 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, are not substantially adverse to the Port Authority, and are consistent with this Resolution, such execution being conclusive evidence of approval of any

such changes and that they are necessary or desirable, in accordance herewith, are not substantially adverse to the Port Authority, and are consistent with this Resolution.

Section 3. This Board hereby authorizes and approves the acceptance of an interest in the City Site and Developer Site pursuant to the Deeds.

Section 4. This Board hereby authorizes and approves the Ground Lease between the Port Authority and the Developer for the City Site (the “City Ground Lease”) in substantially the form on file with the Secretary of this Board. Any one or more of the Authorized Officers, alone or together with a Fiscal Officer, are hereby authorized to execute the City Ground Lease 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 City Ground Lease, are not substantially adverse to the Port Authority, and are consistent with this Resolution, such execution being conclusive evidence of approval of any such changes and that they are necessary or desirable, are not substantially adverse to the Port Authority, and are consistent with this Resolution.

Section 5. This Board hereby authorizes and approves the Ground Lease between the Port Authority and the Developer for the Developer Site (the “Developer Ground Lease” and together with the City Ground Lease, the “Ground Leases”) in substantially the form on file with the Secretary of this Board. Any one or more of the Authorized Officers, alone or together with a Fiscal Officer, are hereby authorized to execute the Developer Ground Lease 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 Developer Ground Lease, are not substantially adverse to the Port Authority, and are consistent with this Resolution, such execution being conclusive evidence of approval of any such changes and that they are necessary or desirable, are not substantially adverse to the Port Authority, and are consistent with this Resolution.

Section 6. This President of the Port Authority, the Secretary of the Port Authority, the Chair of the Port Authority, the Vice Chair of the Port Authority, or any Assistant Secretary of the Port Authority, or any of them acting alone, are each authorized and directed to take such further actions and execute any certifications, financing statements, assignments, agreements, instruments, and other documents that are necessary or appropriate to consummate the Proposed Transaction in accordance with this Resolution, the Cooperative Agreement, the Deeds, the Ground Leases, or as may be required by the Act. The Port Authority may 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 or appropriate to consummate the Proposed Transaction in accordance with this Resolution, the Cooperative Agreement, the Deeds, the Ground Leases, or as may be required by the Act and shall comply with all requirements of law applicable to the Proposed Transaction.

Section 7. In order to facilitate the Proposed Transaction, and to the extent determined by the President and Chief Executive Officer to be appropriate and in the best interests of the Port Authority, the actions of the Port Authority authorized pursuant to this Resolution may be undertaken by the Hamilton County Land Reutilization Corporation (the “Landbank”). The extent of the Landbank involvement in the Proposed Transaction shall be as

determined by the President and Chief Executive Officer in consultation with Port Authority and Landbank legal counsel, administration, and staff, and is hereby approved by this Board.

Section 8. The Port Authority retains the law firm of Frost Brown Todd LLP as counsel to provide legal services in connection with the transactions contemplated by this resolution and the participation of the Port Authority in the redevelopment of the Project Site, including the preparation, negotiation, execution and delivery of the Port Agreements and the other instruments and agreements authorized hereby.

Section 9. 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 of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 10. This resolution shall take effect and be in force immediately upon its adoption.

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

Ayes: _____

Nays: _____



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. 2024 - __ passed on the 20 day of June, 2024, and has not been amended or rescinded as of this date.

**Port of Greater Cincinnati
Development Authority**



President and Chief Executive Officer

June 20, 2024

