

It was moved by D. SMITH and seconded by S. WRIGHT that the following resolution be adopted:

RESOLUTION NO. 2019-07

A RESOLUTION (I) AUTHORIZING AND APPROVING A TRANSACTION CONCERNING THE ACQUISITION, CONSTRUCTION, DEVELOPMENT, AND IMPROVEMENT OF A NOT FOR PROFIT COMMUNITY FACILITY AND APPURTENANCES RELATED THERETO CONSTITUTING "PORT AUTHORITY FACILITIES" TO BE LOCATED ON CERTAIN REAL PROPERTY TO BE ACQUIRED BY THE AUTHORITY; (II) AUTHORIZING THE ACCEPTANCE OF CERTAIN REAL PROPERTY BY DEED OF CONVEYANCE; (III) APPROVING THE EXECUTION AND DELIVERY OF A CONSTRUCTION MANAGER AT-RISK AGREEMENT, A PROJECT LEASE AGREEMENT, A DEVELOPMENT AGREEMENT, A FEE MORTGAGE, A SUBORDINATION AGREEMENT, A RECOGNITION AGREEMENT, AND AN INDEMNITY AGREEMENT IN CONNECTION WITH THE TRANSACTION; (IV) APPROVING THE PROVISION OF OHIO SALES AND USE TAX EXEMPTION CERTIFICATES FOR THE PURCHASE OF BUILDING AND CONSTRUCTION MATERIALS INCORPORATED INTO THE PROJECT; (V) APPROVING THE TERMS OF A TERM SHEET IN CONNECTION THEREWITH; AND (VI) AUTHORIZING AND APPROVING RELATED MATTERS.

WHEREAS, the Port of Greater Cincinnati Development Authority (the "Authority") is authorized to promote education and economic development within the City of Cincinnati, Ohio (the "City") and Hamilton County, Ohio (the "County") by providing assistance to projects that promote education and culture and create and preserve jobs and employment opportunities within the City and the County; and

WHEREAS, PH Masonic Lodge LLC, or an affiliate thereof (referred to herein as the "Company"), has acquired or will acquire a fee ownership in approximately 1.074 acres of certain real property and improvements thereon located in the historic Price Hill neighborhood of Cincinnati, Ohio, as further described in Exhibit A (collectively, the "Project Site"); and

WHEREAS, the Company intends to remodel the historic structures located on the Project Site into an approximately 20,919 square foot office, community and arts education space, and necessary appurtenances related thereto on the Project Site (collectively, the "Project"); and

WHEREAS, the Authority desires to assist the Company with the acquisition, construction, development, and improvement of the Project in order to fulfill the shared economic development, education, and urban redevelopment goals of the City, the County and the Authority; and

WHEREAS, the Company and the Authority have entered into a Term Sheet (the "Term Sheet") which describes the roles and responsibilities of the parties with respect to the Project; and

WHEREAS, the Authority, by virtue of the laws of the State of Ohio, particularly Ohio Revised Code Sections 4582.21 through 4582.59 (the "Act") and the authorities therein mentioned, is authorized (i) to acquire a fee interest in the Project Site by operation of one or more Deeds of Conveyance (collectively, the "Deed"); (ii) to cause the construction of the Project on the Project

Site, and to appoint the Company as its construction manager at-risk in order to construct the Project on the Project Site pursuant to a Construction Manager At-Risk Agreement (the "Construction Manager At-Risk Agreement"); (iii) to lease the Project and the Project Site to the Company pursuant to one or more Project Lease Agreements (collectively, the "Project Lease Agreement"); (iv) to enter into a development agreement with the Company (the "Development Agreement") regarding the Project; (v) to execute one or more fee mortgages, if required (collectively, the "Fee Mortgage"), one or more subordination of fee interest agreements, if required (collectively, the "Subordination Agreement"), and one or more recognition and attornment agreements and acknowledgments of mortgage (collectively, the "Recognition Agreement") to support the Company's private financing of the initial acquisition of the Project Site and the construction of the Project; (vi) to enter into an indemnification agreement (the "Indemnity Agreement") by and among the Authority, the Company and Price Hill Will; (vii) to execute any additional agreements, documents, or certifications to cause the proper acquisition, construction, development, and improvement of the Project and the protection of the Authority's interests in connection with the Project and (viii) enter into the Term Sheet (collectively, items (i) through (viii) above are referred to herein as the "Proposed Transaction"); and

WHEREAS, the Company intends to start soliciting contracts for construction of the Project and has requested that the Authority provide certificates evidencing the exemption from State of Ohio sales and use taxes of purchases of building and construction materials for incorporation into the Project, and the Authority is willing to provide such certificates upon acquisition by the Authority of the Project Site and the execution of an agreement by the Company to convey ownership of the Project upon its completion; and

WHEREAS, upon execution of the Deed, the Construction Manager At-Risk Agreement, and the Project Lease Agreement (a) the Project will constitute one or more "port authority facilities" within the meaning of that term as defined in Ohio Revised Code Section 4582.21(E); (b) the acquisition, construction, development, improvement, and operation of the Project will be consistent with the purposes of Ohio Constitution Article VIII, Section 13, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people within the jurisdiction of the Authority and within the State of Ohio; and (c) the Project will be consistent with the purposes identified in Ohio Revised Code Section 4582.21(B) because the Project is expected (i) to create jobs and employment opportunities and thereby to enhance the economic welfare of the people within the jurisdiction of the Authority, and (ii) to enhance, foster, aid, provide, or promote economic development, education, and culture within the jurisdiction of the Authority.

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

Section 1. This Board does hereby find and determine that, based upon the representations of the Company and upon execution of the Deed, the Construction Manager At-Risk Agreement, the Project Lease Agreement, and related agreements:

(a) The Project constitutes one or more "port authority facilities" within the meaning of that term as defined in Ohio Revised Code Section 4582.21(E); and

(b) The Project is consistent with, related to, useful for, and in furtherance of the activities contemplated by (i) Ohio Constitution, Article VIII, Section 13, including to create or preserve jobs and employment opportunities and to improve the economic welfare of the

people within the jurisdiction of the Authority and within the State of Ohio, and (ii) Ohio Revised Code Section 4582.21(B), including to enhance, foster, aid, provide, or promote economic development, education, and culture within the jurisdiction of the Authority and within the State of Ohio.

Section 2. This Board hereby approves the participation of the Authority in the Proposed Transaction.

Section 3. This Board hereby approves the Deed, the Construction Manager At-Risk Agreement, the Project Lease Agreement, the Development Agreement, the Recognition Agreement, and the Indemnity Agreement in forms currently on file with the Board, with such changes as may be necessary to conform those forms to the Proposed Transaction and with such changes as shall not be materially adverse to the Authority and as may be approved by the officer or officers of the Authority executing such documents. The Fee Mortgage and the Subordination Agreement, if required, shall be entered into by the Authority, if required by the lender for the Project, upon the advice of counsel to the Authority. The President of the Authority, the Fiscal Officer of the Authority, the Chair of the Authority, the Vice Chair of the Authority, or any Assistant Secretary of the Authority, or any of them, are hereby authorized and directed to execute and deliver, for and in the name and on behalf of the Authority the Deed, the Construction Manager At-Risk Agreement, the Project Lease Agreement, the Development Agreement, the Fee Mortgage, the Subordination Agreement, the Recognition Agreement, and the Indemnity Agreement, with such changes thereto as shall not be materially adverse to the Authority. The execution of the Deed, the Construction Manager At-Risk Agreement, the Project Lease Agreement, the Development Agreement, the Fee Mortgage, the Subordination Agreement, the Recognition Agreement, and the Indemnity Agreement by a duly authorized officer or officers of the Authority shall evidence conclusively that any such changes are necessary to conform the documents to the Proposed Transaction, that any such changes are not materially adverse to the Authority, and that any conditions to the execution and delivery of such documents have been satisfied.

Section 4. The President of the Authority, the Fiscal Officer of the Authority, the Chair of the Authority, the Vice Chair of the Authority, or any Assistant Secretary of the Authority, or any of them, 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 Deed, the Construction Manager At-Risk Agreement, the Project Lease Agreement, the Development Agreement, the Fee Mortgage, the Subordination Agreement, the Recognition Agreement, and the Indemnity Agreement, or as may be required by the Act or Ohio Revised Code Chapter 5739. The Authority shall, 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 or appropriate to consummate the Proposed Transaction in accordance with this Resolution, the Deed, the Construction Manager At-Risk Agreement, the Project Lease Agreement, the Development Agreement, the Fee Mortgage, the Subordination Agreement, the Recognition Agreement, and the Indemnity Agreement, or as may be required by the Act or Ohio Revised Code Chapter 5739 and shall comply with all requirements of law applicable to the Proposed Transaction.

Section 5. This Board hereby authorizes the President of the Authority, the Fiscal Officer of the Authority, the Chair of the Authority, the Vice Chair of the Authority, or any Assistant Secretary of the Authority, or any of them, upon the execution of the Deed, the Construction

Manager At-Risk Agreement, and the Project Lease Agreement by the parties thereto, to provide the Company or its nominees with appropriate certificates ("Exemption Certificates") to support the claim of an exemption from Ohio sales and uses taxes that might otherwise apply with respect to the purchase of building and construction materials incorporated into structures or improvements to real property, within the meaning of Ohio Revised Code Section 5739.02(B)(13), that constitute Project improvements. The provision of the Exemption Certificates shall not be construed as a guarantee by the Authority of the availability or of the amount of any such tax savings, and the Authority shall not be required to pay any such taxes.

Section 6. 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 full compliance with applicable legal requirements.

Section 7. This Resolution shall be in full force and effect upon its adoption.

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The foregoing motion having been put to vote, the result of the vote was as follows:

Ayes: 6

Nays: 0

Adopted: March 13, 2019

Dated: March 13, 2019

Certified As Adopted By: MCR
Name: Manuel Chow
Title: Vice Chair

The undersigned, Secretary of the Board of Directors of the Port of Greater Cincinnati Development Authority, does hereby certify that the foregoing is a true and correct copy of a resolution of the Port of Greater Cincinnati Development Authority, duly adopted March 13, 2019, and appearing upon the official records of that Board.

Attest: James Brown
Secretary, Board of Directors
Port of Greater Cincinnati Development Authority

EXHIBIT A – Project Parcels

<u>Address</u>	<u>Parcel ID</u>
3301 Price	175-0017-0094-00
3309 Price	175-0017-0082-00
812 Elberon	175-0017-0083-00
818 Elberon	175-0017-0158-00