

It was moved by B. FISHER and seconded by P. BAKER that the following resolution be adopted:

RESOLUTION NO. 2019-09_

A RESOLUTION (I) AUTHORIZING AND APPROVING A TRANSACTION CONCERNING THE ACQUISITION, CONSTRUCTION, DEVELOPMENT, REDEVELOPMENT AND IMPROVEMENT RELATED TO A MIXED USE DEVELOPMENT 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 FEE MORTGAGE, A SUBORDINATION AGREEMENT, A RECOGNITION AGREEMENT, AND AN INDEMNITY AGREEMENT IN CONNECTION WITH THE TRANSACTION; (IV) APPROVING THE TERMS OF A TERM SHEET IN CONNECTION THEREWITH; AND (V) AUTHORIZING AND APPROVING RELATED MATTERS.

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

WHEREAS, Uptown SEQ Holdings, LLC (the "Company") has acquired or will acquire a fee ownership in approximately 5.8 acres of certain real property and improvements thereon located within the Uptown neighborhood of Cincinnati, Ohio, as further described in Exhibit A (collectively, the "Project Site"); and

WHEREAS, the Company intends to develop or cause to be developed within the Project Site (i) an approximately 180,000 sq. ft. office building to be leased to the University of Cincinnati to accommodate its UC Digital Futures facility, (ii) an approximately 180,000 sq. ft. speculative office building, and (iii) an approximately 158-room hotel, and necessary appurtenances related to such facilities (collectively, the "Private Project"), and

WHEREAS, the Company intends to develop or cause to be developed within the Project Site an approximately 1,400-space public parking structure, and related public infrastructure improvements, to support the operation of the Private Project (the "Public Project" and together with the Private Project, the "Project"); and

WHEREAS, the plan for the development of the Project within the Project Site (the "Development Plan") includes, without limitation, the following:

- (i) acquisition of title to the Project Site by the Authority pursuant to one or more limited warranty deeds, or other form of deed acceptable to the Authority (collectively, the "Deed"), from the Company, or an affiliate thereof;

(ii) the lease of the Project Site to the Company from the Authority pursuant to a project lease agreement (the "Project Lease Agreement");

(iii) the re-plat of the Project Site into multiple parcels to facilitate development of the respective elements of the Project;

(iv) engagement by the Authority of the Company, or an affiliate of the Company approved by the Authority, to grade and otherwise prepare the Project Site for development of the Project thereon (the "Site Improvements") pursuant to a construction manager-at-risk agreement, the form of which is on file with the Secretary of this Board (the "CMAR Agreement");

(v) upon approval by the Authority of definitive plans and specifications for construction of the Public Improvements, a termination of the Project Lease Agreement with respect to the portion of the Project Site on which the Public Project will be constructed;

(vi) in order to finance costs of the Public Project and related costs including costs of issuance, issuance by the Authority of special obligation port authority tax increment financing revenue bonds in amount sufficient to pay costs of the Public Project;

(vii) upon approval by the Authority of definitive plans and specifications for construction of the Private Improvements, an amendment to the Project Lease Agreement to require construction of the Private Project in accordance with such plans and specifications;

(viii) in order to finance a portion of the costs of the Private Project, issuance by the Authority of special obligation port authority lease revenue bonds;

(ix) engagement by the Authority of the Company, or an affiliate of the Company approved by the Authority, for construction of the Public Project and the Private Project pursuant to separate construction manager-at-risk agreements; 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, and urban redevelopment goals of the City, the County and the Authority; and

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

WHEREAS, under the circumstances described herein, and pursuant to the laws of the State of Ohio (the "State"), particularly Ohio Revised Code Sections 4582.21 through 4582.59 and the authorities therein mentioned, including Article VIII, Section 13 of the Ohio Constitution (collectively, the "Act"), this Board has full authority to and desires to authorize or take those actions necessary to undertake the redevelopment of the Project Site by implementing the Development Plan, including the acquisition and construction of the real and personal

property comprising the Project, and further including (i) accepting the conveyance of the Project Site, (ii) leasing the Project Site to the Company pursuant to the Project Lease Agreement, (iii) causing the construction of the Site Improvements on the Project Site, and to appoint the Company as its construction manager at-risk in order to construct the Site Improvements on the Project Site, (iv) executing 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, if required (collectively, the "Recognition Agreement") to support the Company's private financing of the initial acquisition of the Project and the construction of the Site Improvements, (v) entering into an indemnification agreement (the "Indemnity Agreement") by and among the Company, and any other parties as required or approved by the Authority, (vi) executing 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 interest in connection with the Project and (vii) entering into the Term Sheet (collectively, items (i) through (vii) above are referred to herein as the "Proposed Transaction"); and

WHEREAS, upon execution of the Deed, the Project Lease Agreement, and the CMAR 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 Site Improvements 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 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 CMAR 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 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 CMAR Agreement, the Project Lease 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, the Subordination Agreement, and the Recognition Agreement, if required, shall be entered into by the Authority, if required by the lender for the Site Improvements, 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, any Assistant Secretary of the Authority, or any of them alone, are hereby authorized and directed to execute and deliver, for and in the name and on behalf of the Authority the Deed, the CMAR Agreement, the Project Lease 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 CMAR Agreement, the Project Lease 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. Based on information furnished to the Authority by the Company, and the findings and determinations made by this Board in Section 1 above, this Board hereby determines that the manner in which the contracts for the construction of Site Improvements should be made is to enter into the CMAR Agreement and, in accordance therewith, authorize the Company to act as its agent for and manager of the initial redevelopment of the Project Site comprised of the Site Improvements. The Company, or an affiliate of the Company approved by the Authority, under the CMAR Agreement (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 Site Improvements (the "Professional Contracts") necessary or desirable in connection therewith, all subject to applicable provisions of the CMAR Agreement.

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. This Board hereby authorizes and approves the appointment of the Company, or an affiliate of the Company 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 Site Improvements.

Notwithstanding anything to the contrary in the CMAR Agreements, the obligations of the Authority under or pursuant to the CMAR Agreement 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 any other money that may be made available to the Authority for that purpose, including any moneys provided by the Company, and the CMAR Agreement and each Contract shall so state, by addendum or otherwise.

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 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 Deed, the CMAR Agreement, the Project Lease 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 CMAR Agreement, the Project Lease 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 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 6. 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: 9

Nays: 0

Adopted: May 8, 2019

Dated: May 8, 2019

Certified As Adopted By: _____

Name: Charles J. Sepura

Title: 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 May 8, 2019, and appearing upon the official records of that Board.

Attest: Lance W. Brown

Secretary, Board of Directors
Port of Greater Cincinnati Development Authority

EXHIBIT A – Project Parcels

1052-0001-0146	105-0001-0159	091-0002-0198
091-0002-0116	105-0001-0160	091-0002-0201
091-0002-0117	105-0001-0161	091-0002-0293
091-0002-0122	105-0001-0162	091-0002-0158
091-0002-0156	105-0001-0212	105-0001-0215
105-0001-0151	105-0001-0155	105-0001-0211
105-0001-0152	105-0001-0164 and 0165 cons.	091-0002-0212
105-0001-0153	105-0001-0214	091-0002-0214
105-0001-0154	105-0001-0213	091-0002-0213
105-0001-0156	105-0001-0210	105-0001-0294, 0295 and 0296 cons.
105-0001-0157	091-0002-0199	070-0001-0133, 0134, 0135, 0136 and 0137 cons.