

**BOARD OF DIRECTORS
WARREN COUNTY PORT AUTHORITY**

The Board of Directors (the "Board") of the Warren County Port Authority met in regular session on May 4, 2009, at 5:00 p.m., at the offices of the Board, with the following members present:

Mr. Greg Ficke
Mr. Dave Gully
Mr. Geoff Hearsum
Mr. Doug McNeil
Ms. Cheryl Reindl-Johnson
Mr. Greg Sample

It was moved by **Dave Gully** and seconded by **Greg Ficke** that the following resolution be adopted:

RESOLUTION NO. 2009-03

PROVIDING FOR THE ISSUANCE OF SPECIAL OBLIGATION DEVELOPMENT REVENUE BONDS, SERIES 2009 OF THE WARREN COUNTY PORT AUTHORITY (CHELSEA MALL PROJECT) IN AN AMOUNT NOT TO EXCEED \$5,600,000, AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST AGREEMENT TO SECURE SUCH SERIES 2009 BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF THE TRANSACTION DOCUMENTS; AND AUTHORIZING AND APPROVING RELATED MATTERS.

WHEREAS, by and pursuant to Section 4582.21 through 4582.50, both inclusive, of the Ohio Revised Code (the "Act") the Warren County Port Authority (the "Authority") was created and exists as a port authority and a body both corporate and politic, and is authorized and empowered, among other things, (a) to acquire and construct port authority facilities (as defined in Section 4582.21(E), Revised Code); (b) to issue bonds of the Authority from time to time payable solely from pledged revenues pledged for such payment pursuant to the applicable bond proceedings for the purpose of paying all or any part of the cost of any one or more projects; (c) or to refund bonds of the Authority previously issued to pay such costs; (d) to secure the payment of such obligations by a pledge of receipts of the Authority from leases and other revenues and funds, including proceeds of such obligations, appropriations, gifts, grants, donations and pledges, and receipts therefrom available for such payment; and (e) to provide for a trust agreement to make further provisions for securing the payment of the Bond service charges (as hereinafter defined) on such bonds; provided that the owners and holders of such obligations shall have no right to have excises or taxes levied by the Board or any political subdivision of the State for the payment of the principal thereof or interest or any redemption premium thereon;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE WARREN COUNTY PORT AUTHORITY as follows:

SECTION 1. Definitions; Interpretations and References.

(a) Definitions. Where used in this Bond Resolution and in the Series 2009 Bonds, capitalized words used as defined terms, to the extent not defined therein or herein, shall have the meanings assigned to those terms in the Master Definition List attached as Exhibit A to the Cooperative Agreement among the Authority, the City of Monroe, Ohio (the "City") and Chelsea Monroe Holdings, LLC (the "Developer"), unless otherwise therein or herein provided or unless the context or use clearly indicates another or different meaning or intent.

(b) Interpretations and References. Any reference in this Bond Resolution to the Authority, or to its members or officers, or other officers, or to other public boards, commissions, departments, institutions, agencies, bodies, entities or officers, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or otherwise are lawfully performing their functions.

Any reference in this Bond Resolution to a section or provision of the Revised Code or to the Act or to the laws of the State shall include that section or provision and the Act and those laws as from time to time amended, modified, revised, supplemented or superseded. However, no such amendment, modification, revision, supplementation or supersession, or further action by the General Assembly, shall alter the obligation to pay Debt Service Charges in the amount and manner, at the times and from the sources provided in this Bond Resolution and the Trust Agreement, except as otherwise permitted in the Trust Agreement.

Unless the context otherwise indicates, words in this Bond Resolution importing the singular number include the plural number and vice versa.

References in this Bond Resolution to sections, unless otherwise stated, are to sections of this Bond Resolution. The terms "hereof," "herein," "hereby," "hereto," and "hereunder," and similar terms, mean and refer to this Bond Resolution and the Trust Agreement.

The captions and headings in this Bond Resolution and in the Trust Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs, or clauses hereof.

SECTION 2. Authorization, Application of Proceeds, Pledge and Security.

(a) Authorization. The Series 2009 Bonds shall be issued pursuant to and as authorized by the Act, this Bond Resolution, and the Trust Agreement (i) to pay costs of the Public Improvements, (ii) to fund the Reserve Requirement, (iii) to fund the Capitalized Interest Account, and (iv) to pay costs of issuance.

(b) Application of Proceeds. The proceeds from the sale of Series 2009 Bonds shall be applied solely to the purposes for which they are issued as authorized pursuant to Section 2(a). Those proceeds shall be allocated for such purpose or purposes, and shall be held, invested and paid out, as provided in this Bond Resolution, subject to any applicable provision the Trust Agreement.

(c) Pledge. There are hereby pledged, in priority to all other expenses, claims and payments, to the security of the Series 2009 Bonds and for the payment of Debt Service Charges on the Series 2009 Bonds, the gross amount of Pledged Revenues. The Pledged Revenues may also be pledged for the establishment and maintenance of the Reserve Requirement, and for the payment and satisfaction of any other requirements with respect to the Series 2009 Bonds. In accordance with the Act, all Pledged Revenues are immediately subject to the lien of this pledge upon their receipt by the Authority, and that pledge creates a perfected security interest for all purposes of Chapter 1309 of the Revised Code without necessity for separation or delivery of funds or for the filing or recording of this Bond Resolution or any certificate, statement or other document with respect thereto or for any act of appropriation.

(d) Security. The Series 2009 Bonds shall be equally and ratably secured, without distinction by reason of series designation, number, date of authorization, issuance, sale, execution or delivery, or date of the Series 2009 Bonds or of maturity, by the pledge of the Pledged Revenues to the extent provided in, and except as otherwise permitted by, this Bond Resolution. Nothing in this Bond Resolution or in the Trust Agreement shall prevent the Authority from providing or causing to be provided municipal bond insurance, a Credit Support Instrument or a Reserve Requirement pledged or relating to the payment of Debt Service Charges on any one or more Series 2009 Bonds, and not on other Series 2009 Bonds. Nothing herein shall prevent a subordinated pledge of the Pledged Revenues to secure Series 2009 Bonds; provided, however, no Series Resolution shall adversely affect the priority of any Series 2009 Bonds then outstanding without the consent of all of the holders of the Series 2009 Bonds so affected.

Nothing in the Act, this Bond Resolution, the Trust Agreement or other Bond Proceedings gives the holders of Series 2009 Bonds, and they do not have, the right to have levied by the Authority or otherwise levied any excises or taxes for the payment of Debt Service Charges; each Series 2009 Bond shall bear on its face a statement to that effect and to the effect that the right of Holders to the payment of Debt Service Charges is limited to payment from the Pledged Revenues, and any other source of moneys as provided in this Bond Resolution. However, nothing in the Trust Agreement or in other Bond Proceedings shall be deemed to prohibit the Authority, of its own volition and to the extent lawfully authorized to do so, from using any other resources for the fulfillment of the terms, conditions, or obligations of this Bond Resolution and the Series 2009 Bonds.

SECTION 3. General Terms and Provisions of Series 2009 Bonds. The Series 2009 Bonds shall be issued in the principal sum of not to exceed \$5,600,000, for the purposes aforesaid. The award of the Series 2009 Bonds shall be made by any one or both of the Treasurer or the Executive Director as set forth in the Series 2009 Certificate of Award, which shall identify the Original Purchaser; the principal amount; the interest rate and interest payment

dates; the dates of issuance, maturity, and mandatory sinking fund payments; optional redemption provisions, if any; the use and allocation of the proceeds of the Series 2009 Bonds; and such other data or provisions as the Treasurer or the Executive Director, in their sole discretion on behalf of this Board, determines consistent with this Bond Resolution, the terms of sale, and the Trust Agreement.

(a) Medium of Payments. Bond service charges shall be payable in lawful money of the United States of America, without deduction for the services of the Trustee or Paying Agent.

(b) Execution. The Series 2009 Bonds shall be executed by two of the following officers of the Authority: the Chair, the Treasurer or the Executive Director, which execution may be by facsimile signature. In case any officer of the Authority whose manual or facsimile signature appears on any Series 2009 Bond ceases to be that officer before the authentication and delivery of the Series 2009 Bond, that signature nevertheless shall be valid and sufficient for all purposes, the same as if the officer had remained in office until that time. Any Series 2009 Bond may be executed on behalf of the Authority by an officer who on the date of execution is the proper officer, even though on the date of the Series 2009 Bond that Person was not the proper officer.

(c) Form. The Series 2009 Bonds shall be negotiable instruments in accordance with the Act, subject to applicable provisions for registration, and shall express on their faces the purposes for which issued as provided in Section 2 of this Resolution and other statements or legends as may be required by law. The Bonds shall be issued in the form of fully registered Bonds.

(d) Series 2009 Offering Circulars. The distribution of one or more offering circulars of the Authority, in preliminary or final form (collectively, the "Series 2009 Offering Circulars"), relating to the original issuance of the Series 2009 Bonds, is hereby authorized. The Executive Director and the Treasurer, and each of them acting alone, are hereby authorized and directed (i) to negotiate, prepare and execute, on behalf of the Authority and in their official capacity, the Series 2009 Offering Circulars and any supplements thereto as so executed in connection with the original issuance of the Series 2009 Bonds, and they are authorized and directed to advise the Original Purchaser in writing regarding limitations on the use of the Series 2009 Offering Circulars and any supplements thereto for purposes of marketing or reoffering the Series 2009 Bonds as they deem necessary or appropriate to protect the interests of the Authority, and (ii) to determine, certify or otherwise represent, a draft of the Series 2009 Offering Circulars as a "deemed final" offering circular for purposes of SEC Rule 15c2-12(b)(1), (3) and (4).

(e) Tax Covenants. The Authority covenants that it will use, and will restrict the use and investment of, the proceeds of the Series 2009 Bonds in such manner and to such extent as may be necessary so that (i) the Series 2009 Bonds will not constitute private activity bonds, arbitrage bonds, or hedge bonds under Section 141, 148, or 149 of the Internal Revenue

Code of 1986, as amended (the Code), or be treated other than as bonds to which Section 103(a) of the Code applies, and (ii) the interest on the Series 2009 Bonds will not be treated as a preference item under Section 57 of the Code.

The Authority further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Series 2009 Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Series 2009 Bonds to the governmental purposes of such Bonds, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports, and (E) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure that exclusion of that interest under the Code.

The Authority shall (i) make or effect any election, selection, designation, choice, consent, approval or waiver with respect to the Series 2009 Bonds as the Authority is permitted to make or give under the federal income tax laws, including, without limitation, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing, or protecting favorable tax treatment or status of the Series 2009 Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (ii) take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants, and certifications of and on behalf of the Authority, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Series 2009 Bonds, and (iii) give one or more appropriate certificates, for inclusion in the transcript of proceedings for the Series 2009 Bonds, setting forth the reasonable expectations of the Authority regarding the amount and use of all the proceeds of the Series 2009 Bonds, the facts, circumstances, and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Series 2009 Bonds.

SECTION 4. Conditions for Issuing Series 2009 Bonds.

(a) No Series 2009 Bonds shall be initially issued unless each of the following conditions, determined as provided in this Section, exists at the time of authentication of those Series 2009 Bonds.

(1) The Authority is not in default of any covenants or obligations of the Authority contained in the Trust Agreement or in the Series 2009 Bonds, and the authentication and delivery of those Series 2009 Bonds will not result in any such default.

(2) Upon the issuance and delivery of the Series 2009 Bonds, the amount in the Reserve Fund shall not be less than the Required Reserve.

(3) The Cooperative Agreement shall be in full force and effect and the Trustee shall have received an opinion of counsel to each of the parties thereto that it is a legal, valid and binding obligation of such party.

(4) An opinion of counsel to the City that the Special Assessments have been lawfully levied and that the Service Payments are legal.

(5) Other requirements provided for in the Trust Agreement have been met.

(b) Authentication Conclusive Evidence. The authentication of those Bonds shall be conclusive evidence that the conditions stated above in this Section have been met for purposes of the validity and binding effect of those Bonds and the right of the holders thereof to share in the pledges, Pledged Receipts and Special Funds as provided in this Resolution and the Trust Agreement.

SECTION 5. Allocation of Bond Proceeds. The proceeds from the sale of Bonds shall be allocated to purposes for which the Bonds are issued, and deposited and credited for those purposes, as provided in the Certificate of Award.

SECTION 6. Further Covenants. In addition to the covenants contained elsewhere in this Bond Resolution and the Trust Agreement, the Authority further covenants as follows:

(a) Payment. From the sources provided in this Bond Resolution, the Authority will pay or cause to be paid the Debt Service Charges on each and all Series 2009 Bonds on the dates, at the places, and in the manner provided in this Bond Resolution, in the applicable Bond Proceedings, and in the Series 2009 Bonds, according to the true intent and meaning thereof.

(b) Maintenance of Pledge. The Authority will not make any pledge or assignment of or create or suffer any lien or encumbrance upon the Pledged Revenues prior to or on a parity with the pledge thereof under, except as and if authorized or permitted under, this Bond Resolution and the Trust Agreement.

(c) Maintenance and Collection of Pledged Revenues. Subject to any limitations set forth in the Cooperative Agreement and the TIF Agreement, the Authority covenants that, prior to the delivery of any series of Series 2009 Bonds, it will determine the amount of Pledged Revenues necessary to satisfy the projected Debt Service Charges of such series of Series 2009 Bonds and shall enter into such valid and legally enforceable agreement or agreements to cause such Pledged Revenues to be collected at such times and in such amounts which will provide amounts sufficient and appropriate to (i) pay when due all Debt Service

Charges on Outstanding Series 2009 Bonds, and provide for any costs of operation, maintenance and repair of the Public Improvements, if any such expenditures are to be made by the Authority, and (ii) provide for the establishment and maintenance of any Reserve Requirement.

(d) Observance of Covenants. The Authority will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in this Bond Resolution, the Trust Agreement, the other applicable Bond Proceedings, and any and every Outstanding Series 2009 Bond executed, authenticated, and delivered under the Trust Agreement, including, but not limited to, the enforcement of the payment of any Debt Service Charges.

(e) Duties Binding on All with Authority; Enforcement by Mandamus. Each provision of this Bond Resolution is binding upon the officer, board, or other Person or body as may from time to time have the authority under law to take the actions as may be necessary to perform all or any part of the duty required by the provision. Each duty of the Authority and its members, officers, and employees undertaken pursuant to this Bond Resolution is established as a duty of the Authority and of each board, institution, member, officer, and employee having authority to perform that duty and is specifically enjoined by law resulting from an office, trust, or station within the meaning of Section 2731.01 of the Revised Code, providing for enforcement by writ of mandamus.

(f) Account and Records; Inspection. The Authority shall keep or cause to be kept proper books of record and account in which complete and correct entries are made of its transactions relating to the Trust Agreement and Special Funds and Accounts. The Trustee, each Original Purchaser, or the holders of 25% or more in Aggregate Outstanding Principal Amount of Series 2009 Bonds, or their authorized representatives, the Developer and any providers of Credit Support Instruments or their authorized representatives shall have the right at all reasonable times to inspect those records and accounts and other documents relating to Special Funds and Accounts.

(g) Further Assurance. The Authority will at any and all times adopt, make, do, execute, and deliver such further resolutions, instruments, and assurances as may be necessary or desirable to carry out the purposes of this Bond Resolution and the Trust Agreement.

(h) Waiver of Laws. The Authority will not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law at any time in force which may affect its covenants and agreements contained in this Bond Resolution or in the Series 2009 Bonds, and all benefit or advantage of any such law or laws is expressly waived by the Authority.

(i) Maintain Existence. The Authority shall, while any Series 2009 Bonds are Outstanding, maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and shall not consolidate with or merge into any other entity or permit one or

more entities to consolidate with or merge into it if such disposition, consolidation, or merger would adversely affect the security for the Series 2009 Bonds or the exclusion from gross income for federal income tax purposes of the interest on the Series 2009 Bonds.

SECTION 7. Trust Agreement.

(a) Trust Agreement. In order to better secure the payment of the Debt Service Charges as the same shall become due and payable, the Authority shall execute and deliver a Trust Agreement with and to the Trustee, in substantially the form of the Trust Agreement on file with the Secretary of the Authority and hereby approved, with such changes therein not substantially adverse, to the Authority as may be permitted by the Act and this Bond Resolution and approved by the officers executing it on behalf of the Authority. The approval of those changes by the officers, and that the changes are not substantially adverse to the Authority, shall be conclusively evidenced by the execution of the Trust Agreement by those officers.

(b) Incorporation of Bond Resolution. This Bond Resolution shall constitute part of the Trust Agreement for all purposes, including, without limitation, application to this Bond Resolution of the provisions contained in the Trust Agreement for amendment, modification and supplementation, and for severability. The execution and delivery of the Trust Agreement shall constitute certification and conclusive evidence that the Bond Resolution as set forth in it is a true and exact copy of the Bond Resolution as adopted by the Authority and in effect at the time of execution and delivery of the Trust Agreement.

SECTION 8. Authorization and Execution of Documents. Subject to the terms hereof, any one or more of the Chair, the Treasurer, or the Executive Director are authorized and directed to execute the Transaction Documents or other related agreements, documents, certifications, financing statements, assignments, and instruments in substantially the same form as those on file with the Secretary, or, if not on file with the Secretary, then in a form with such terms that are consistent with this Bond Resolution, with such changes as are permitted by the Act and not adverse to the Authority. Such changes shall be approved by the Chair, the Treasurer, or the Executive Director, and the approval of such changes, and that such changes are not substantially adverse to the Authority, shall be conclusively evidenced by the execution thereof. Any one of the Executive Director, the Treasurer, or the Secretary or any two members of the Board are further authorized and directed to execute such other agreements, documents, certifications, financing statements, assignments, and instruments as are, in the opinion of Bond Counsel, necessary or appropriate to perfect the pledge and assignment set forth in the Trust Agreement and to consummate the transactions contemplated by this Bond Resolution, the Trust Agreement, the Cooperative Agreement, and the other Transaction Documents.

SECTION 9. Qualified Tax-Exempt Obligations. The Series 2009 Bonds are designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(c) of the Revised Code.

SECTION 10. Open Meetings. It is found and determined that all formal actions of the Authority concerning and relating to adoption of this Bond Resolution were taken in and adopted in an open meeting of the Authority, and that all deliberations of the Authority and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Revised Code.

SECTION 11. Effective Date. This Bond Resolution shall be in full force and effect immediately upon its adoption.

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

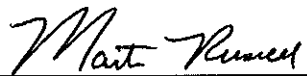
Voting Aye: Mr. Ficke, Mr. Gully, Mr. Hearsum, Mr. McNeil, Ms. Reindl-Johnson & Mr. Sample

Voting Nay: N/A

Adopted: May 4, 2009

The undersigned, Secretary of the Board of Directors of the Warren County Port Authority, does hereby certify that the foregoing is a true and correct copy of a resolution of the Warren County Port Authority, duly adopted on May 4, 2009, and appearing upon the official records of that Board.

Dated: May 4, 2009

Attest: 
Secretary, Board of Directors of the
Warren County Port Authority