

It was moved by Ms. Hreben and seconded by Mr. Gully that the following resolution be adopted:

RESOLUTION NO. 2012-05

A RESOLUTION (I) APPROVING THE EXECUTION OF A CONTRACT FOR PROFESSIONAL DESIGN SERVICES IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF REAL AND PERSONAL PROPERTY FOR A SEWER INFRASTRUCTURE PROJECT CONSTITUTING A "PORT AUTHORITY FACILITY"; (II) AUTHORIZING AND RATIFYING THE EXECUTION OF A LETTER AGREEMENT WITH THE CITY OF LEBANON, OHIO IN CONNECTION WITH THE PROJECT; AND (III) AUTHORIZING AND RATIFYING THE EXECUTION OF A LETTER AGREEMENT WITH PILOT TRAVEL CENTERS, LLC IN CONNECTION WITH THE PROJECT

WHEREAS, the Warren County Port Authority (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 to acquire, construct, and improve certain public infrastructure improvements constituting "port authority facilities" as defined in the Act and in furtherance of the authorized purposes of the Authority, including, without limitation, activities that enhance, foster, aid, provide, or promote economic development and governmental operations within the jurisdiction of the Authority; and

WHEREAS, the Authority intends to cooperate with the City of Lebanon, Ohio (the "City"), Turtlecreek Township, Warren County, Ohio (the "Township"), and the Lebanon-Turtlecreek Joint Economic Development District (the "JEDD") in order to provide sewer, water, and related infrastructure to the area within the JEDD district generally located at the interchange of I-71 and State Route 123 (collectively, the "Project") using funds derived from (i) a Township tax increment financing program, (ii) contributions made by the City, (iii) contributions made by Pilot Travel Centers, LLC, and (iv) contributions made by other property owners within the JEDD district; and

WHEREAS, the Authority intends to be the owner of the Project, and as the owner it is necessary for the Authority to enter into a contract for professional design services in furtherance of the design and construction of certain public infrastructure improvements necessary for the Project; and

WHEREAS, attached to this Resolution as Exhibit A is draft contract for professional design services (the "Professional Design Services Contract") between the Authority and Poggemeyer Design Group, Inc. which describes the general scope of professional design services to be obtained by the Authority from Poggemeyer Design Group, Inc. in connection with the Project; and

WHEREAS, a portion of the costs to be incurred by the Authority under the Professional Design Services Contract will be provided for by a contribution to the Project from the City

pursuant to a letter agreement between the City and the Authority attached to this Resolution as Exhibit B (the "City Letter Agreement"), and the Authority intends to authorize and ratify the execution of that letter agreement; and

WHEREAS, a portion of the costs to be incurred by the Authority under the Professional Design Services Contract will be provided for by a contribution to the Project from Pilot Travel Centers, LLC pursuant to a letter agreement between Pilot Travel Centers, LLC and the Authority attached to this Resolution as Exhibit C (the "Pilot Letter Agreement"), and the Authority intends to authorize and ratify the execution of that letter agreement; and

WHEREAS, the Project is expected (i) to create jobs and employment opportunities and thereby to enhance the economic welfare of the people of Warren County and the Authority and (ii) to enhance, foster, aid, provide, or promote economic development and governmental operations within Warren County.

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

Section 1. This Board does hereby find and determine that:

(a) The Project is a "port authority facility" within the meaning of that term as defined in Ohio Revised Code Section 4582.21; and

(b) The Project is consistent with the purposes of both (i) Ohio Constitution, Article VIII, Section 13, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State of Ohio, and (ii) Ohio Revised Code Section 4582.21(B)(1), to enhance, foster, aid, provide, or promote economic development and governmental operations within Warren County.

(c) The Project involves the purchase, exchange, sale, lease, or conveyance of interests in, and contracts with persons and governmental entities, that pertain to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of real and personal property related to, useful for, and in furtherance of an activity contemplated by Ohio Constitution, Article VIII, Section 13, and as such shall be made at the direction of this Board without competitive bidding and at the discretion of this Board.

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

Section 3. This Board hereby selects Poggemeyer Design Group, Inc. as its design professional for the Project, and hereby approves the Professional Design Services Contract, substantially in the form set forth in Exhibit A, 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 the same. The Chairperson of the Authority, the Executive Director of the Authority, or the Fiscal Officer 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 Professional Design Services Contract, with such changes thereto as shall not be materially adverse to the Authority and are further authorized to execute amendments to the Professional Design Services Contract, which in the aggregate do not increase the Total Fee by more than ten percent (10%). The execution of the Professional Design Services Contract or any amendments thereto by a duly authorized officer or officers of the Authority shall evidence conclusively that any such changes or amendments are not materially adverse to the Authority and that any conditions to its execution and delivery have been satisfied.

Section 4. This Board hereby approves and ratifies the execution of the City Letter Agreement by the Executive Director of the Authority, and hereby approves the escrow of funds by the Authority for use as part of the City's contribution to the Project pursuant to the terms of the City Letter Agreement.

Section 5. This Board hereby approves and ratifies the execution of the Pilot Letter Agreement by the Executive Director of the Authority, and hereby approves the escrow of funds by the Authority for use as part of Pilot's contribution to the Project pursuant to the terms of the Pilot Letter Agreement.

Section 6. The Chairperson of the Authority, the Executive Director of the Authority, or the Fiscal Officer 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 Project in accordance with this Resolution, the Professional Design Services Contract, the City Letter Agreement, and the Pilot Letter Agreement. 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 Project in accordance with this Resolution, the Professional Design Services Contract, the City Letter Agreement, and the Pilot Letter Agreement or as may be required by the Act and shall comply with all requirements of law applicable to the Project.

Section 7. 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 8. This Resolution shall be in full force and effect upon its adoption.

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

Voting Aye: Mr. Bolton, Mr. Gully, Ms. Hreben, Ms. Reindl-Johnson & Mr. Wilson

Voting Nay: None

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 December 19, 2012, and appearing upon the official records of that Board.

Adopted: December 19, 2012

Dated: December 19, 2012


Attest:   
Secretary, Board of Directors  
Warren County Port Authority

EXHIBIT A

PROFESSIONAL DESIGN SERVICES CONTRACT

EXHIBIT B

CITY LETTER AGREEMENT

EXHIBIT C

PILOT LETTER AGREEMENT