



PORT OF CLEVELAND

Cleveland – Cuyahoga County Port Authority

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Real Estate and Development Finance Committee

Tuesday, March 2, 2010

10:30 a.m.

One Cleveland Center

Sammy's at One Cleveland Center – 2nd Floor

1375 East 9th Street

Cleveland, Ohio 44114

AGENDA

I. Adoption of January 5, 2010 Minutes

Requested Action: Acceptance by Committee

II. Status Reports

- US Department of Energy – Development Finance Organization (Loan Guarantee Program)
- Ohio Manufacturer's Association – Loan Program (Program Marketing)

Requested Action: No action requested by Committee

III. Adjournment

Committee Members

Marc Krantz, Chair

John Carney

Robert Peto

Robert Smith

Next Committee Meeting – April 6, 2010

I. Meeting Minutes

Cleveland-Cuyahoga County Port Authority Real Estate and Development Finance Committee Meeting January 5, 2010

Committee Members Present:

Brian E. Hall, Chair
Richard M. Knoth
Rose Rodriguez-Bardwell

Committee Members Absent:

Marc Krantz

Other Board Members Present:

Anthony Moore, Robert Smith and Steve Williams

Staff Present: Liz Bohinc, Skip Jacobsen, Eric Johnson, Brent Leslie, Peter Raskind, and Garth Woodson

Guests Present:

Jim McCarty, Plain Dealer; Jay Miller, Crain's Cleveland Business; Mike Robert, Cleveland Magazine; Stephen L. Pfeiffer, John D. Baker, Jr. and John D. Baker, Sr., ILA; Joe Thornton, FMT; Victor Anzalone, VanGuard Industrial; Arthur Pusch, ColorMatrix; Norman Edwards, Black Contractors; Adam Fishman, Fairmount Properties; Steve Strnisha, Project Management Consultants and Dennis Wilcox (Legal Counsel)

Director Hall called the meeting to order at 10:30 a.m. and minutes from the December 10, 2009 meeting were presented for approval. On motion by Director Knoth and seconded by Director Bardwell, who pointed out a typographical error on page 6, the minutes were unanimously approved as submitted.

Director Hall introduced Garth Woodson to present the Flats East Bank Project update which PowerPoint presentation is hereby attached as **Exhibit "A"**.

Mr. Woodson stated the project has been a collaborative public and private partnership with Flats East Development LLC, which is comprised of The Wolstein Group and Fairmount Properties, who will be the developers of the office and retail project. Mr. Woodson introduced Adam Fishman, with Fairmount Properties, to update committee members on the project.

Mr. Fishman gave a quick overview of the project site and provided an update on the Minority Business Enterprise (MBE) and Female Business Enterprise (FBE) participation efforts as the project moves forward. Mr. Fishman showed a map of the project site stating the original project included several hundred housing units and retail space which has been put on hold due to market conditions but moved forward to complete the sewer project and the site has been consolidated, cleared and the environmental remediation has been completed.

Mr. Fishman stated the project being proposed with Port assistance includes an 18 story office building on top of a 550 car parking deck, 150 room hotel that is connected to the office building with a climate controlled walkway and there will be a large public area that will have some surface

parking. Mr. Fishman stated the large public area represents Phase II of the project and is the first piece of a multi-piece development that will fit into the Port's plan to develop its property to the north and east. Phase II would include a significant amount of housing and some additional retail. A 1,200 foot boardwalk is being redeveloped as part of Phase I that will be a meet and greet place to allow citizens of the region to come back to this portion of the riverfront. The balance of the site which is Phase II required an important decision on how to move this project forward by creating an environment and improvements that would allow future housing and retail. There will be a large public park with a meadow and a small urban beach with beach volleyball courts. It is designed to get all the young people to come down and use it as an outdoor play ground between now and the time Phase II can be developed. The office building will house the new regional offices and training center for Ernst & Young along with the national headquarters for Tucker, Ellis & West.

Mr. Fishman stated it was very important to meet or exceed the goals set forth by the Port, City of Cleveland and the County for minority participation. Steps have been taken the last couple of months with Gilbane, who is the construction management firm, and it has been made crystal clear what those requirements are. Meetings have been held with a variety of folks in the community including City Council, Terrell Pruitt; Andrew Jackson, Greater Cleveland Partnership; Norm Edwards and George Edwards, who runs a separate organization, has also met with Gilbane. Mr. Fishman said lists have been provided of minority contractors both by the City of Cleveland and Greater Cleveland Partnership and have hired John Torres with J.T. Management to help with outreach efforts in the contract building community. Fairmount has insisted that Gilbane reach out to every subcontractor that is bidding to find out what the MBE/FBE and Cleveland Small Business Enterprise (CSBE) plan will be in order to finish in a good way. Mr. Fishman said it is in Gilbane's contract that no contracts will be signed by any body until it is known how goals can be achieved on all fronts.

Mr. Fishman introduced Steve Strnisha, the financial consultant with Project Management Consultants. Mr. Strnisha stated there have been 52,000 contract hours so far which was mainly demolition and sewer work and there is a reporting consultant on board to track information. Of that, 17% have been minorities, 5% have been female, 25% Cleveland residents, and 4% have been low income residents. The contracts that have been let to date total \$17 million. The Gilbane contract is for \$130 million with some ancillary projects but the bulk of the contracting has yet to be done. Of that total, 15% have been to minority enterprises and 4.1% have been to female enterprises.

Mr. Fishman stated when this process started they asked for help and were provided with names and resources by the community. Mr. Fishman asked Director Bardwell if Gilbane had reached out to her organization to which she replied "not at all". Mr. Fishman suggested calling Gilbane together after the meeting.

Director Smith said it sounds as if the minority monitoring and reporting has been included. Mr. Strnisha replied there are two ways to look at it, one is the commitment and work and what Gilbane has really achieved and then there is the reporting. There is a consultant on site, John Torres with J T Management, so if something is not going the right way it can be corrected.

Director Smith said there seems to be a significant increase in the number of players involved and asked what additional risk goes with it.

Steve Strnisha attempted to summarize the various 30 sources. Mr. Strnisha said for public financing and various public funds, every potential grant source had been explored over the last couple of years and that included special programs that were designed to buy land for parks from the National Oceanic and Atmospheric Administration and there is a significant portion of public funds that are pure grants designated to particular parts of the project. Some of the funds have been used and others will be plugged in and will be done in a simultaneous closing. The funds will all be demonstrated as being available for infrastructure and specific uses as designated. There are a series of public loans and bonds associated with the Ohio Enterprise Bond Fund set up to provide financing. The core bond funds include Cleveland and Summit County Ports and the HUD 108 Loans that are provided by the City and County. The private portion of the project provides the same benefits as the grants and will have collateral positions accordingly. The primary public sources, the TIF Programs have been set up. Those sources have the priority interest on the tax increments that are being generated by the project. Fairmount is working within the parameters of those programs, which are close to 150% coverage and is consistent with the terms and conditions. What that did for the project and working with existing lenders that had access to the market and because of who they are, still carried that investment grade rating. Even though it is not as strong as it used to be, it still provides a means to the market and a way to monetize the TIF without the market having to analyze the TIF. The Port analyzes the TIF within the credit and underwriting requirements and will be able to monetize the value of the dollars going directly into the project. The other major source is the HUD money that the City is authorizing which will be the largest HUD 108 Loan in its history, a \$30 million dollar loan. The County is also doing a \$2 million HUD 108 Loan and negotiated a very strong collateral position. The City has a secondary lien on pilots after the Ports' Bond Funds and the City has a primary lien on the net parking revenues. None of the net parking revenues are going to the developer. The garage is a public garage and public revenues will repay the City of Cleveland and have significant coverage on that loan. The City has done individual underwriting on that piece. Mr. Strnisha said the combined public basket of sources will be subject to the demands of the capital markets. Typically, the market will not give 80% of the loan value, instead placing the value associated with the piece that is left to do. Those bonds will be structured individually for each, the office and retail components. As for the hotel, the Port's mechanism will provide certain advantages in marketing, providing sales tax saving and the buyers looking at the core projects. Mr. Strnisha said he believes he can get the loan to value, loan to cost and necessary coverage to an acceptable level and has been getting great reactions from potential investors. Those series of bonds will follow along with what is being presented today. Mr. Strnisha stated this complicated project is structured to give each of the lenders sufficient collateral and specific revenue streams. The various lenders all have claims on strong and demonstrated revenue streams. The City can look at it and say, it has solid means of repayment in the parking revenues as evidenced by an independent parking study showing strong coverage. The Ports can go to the Port Bond Funds and Ohio Enterprise Bond Funds and point out that each has the primary interest in the pilots and show strong coverage. That leaves only the private piece and even in a tough market, we have been able to show a strong position on the office, hotel and retail components and the market to back it. Mr. Strnisha stated they have tried to use the collateral and divided it up to the individual lenders who are comfortable looking at those sources and try to match up the right lenders with the right revenues.

Director Knoth asked how the \$36.8 million was arrived at. Mr. Strnisha stated all of these evaluations have been validated by an independent appraisal that was commissioned by R. W. Baird,

who is the placement agent on the bonds as well as Huntington Bank who will be trustee for some part of this. The amount is associated with all the property outside of the built area, the Phase II land. Once Phase I has been redeveloped, Cushman & Wakefield is not only evaluating the office building, hotel, retail and parking garage, but the City wants an evaluation on their collateral including “as improved” Phase II and that is the estimated value for the land once it is improved and sits next to the Phase I development.

Adam Fishman stated it is important to note that Cushman & Wakefield has been retained by Huntington Bank to do a full blown bank regulated approved appraisal.

Director Knoth stated with this complex financing structure the Port Authority has a choice which is to go ahead and recommend to the full Board the Port’s piece of this structure or the alternative could be to hold off until the entire structure is in place. The recommendation is that the Committee goes ahead and recommends it to the full Board because it might be helpful to the developers to move the rest of the process along. The Port is trying to be helpful by demonstrating that pieces of the financing package are falling into place, but are not taking undue risk if the entire package does not fall into place.

Director Moore asked what other bodies have not given formal approval and Mr. Fishman stated formal approval has been obtained from the City of Cleveland, City Council, State of Ohio and DEFC Finance Committee and the County, but building permits have not been issued by the Building Department for the parking structure. Regarding real estate, some of the permits are not in place only because of the process. The City, County and Council have approved the HUD 108 Loan and there is an application that goes to the Federal Government that will be submitted.

Dennis Wilcox added the Summit Port Authority will meet on January 19th for their bonds and then come back to the Cleveland Port Authority.

Norm Edwards stated 20 phone calls have been made to Gilbane with no return call and talked to Andrew Jackson whose office made 15 calls to Gilbane, with no return call. Mr. Edwards stated this is no reflection on the project going forward, but there are problems with Gilbane. Mr. Edwards said these are tax dollars and wants to see legitimate involvement. Mr. Fishman stated that was a fair request and if calls are not being returned to call him direct. Director Hall stated that he had talked to Andrew Jackson since then and contact was made with Gilbane.

Garth Woodson continued the presentation and directed committee members to the “Sources and Uses” of the handout. Mr. Strnisha stated the City Appropriation Bonds were authorized initially at the beginning of this project and is sold through the Port and the security is annual appropriations from the City of Cleveland. They are one step below General Obligation Bonds from a credit stand point. Those dollars go directly for public improvements associated with the project because of the nature of security and was the basis for the City making an early commitment. The City is paying the debt service with no recourse to the Port. There are financial improvements associated with this and physical impact studies have been done and validates that the City is actually getting back more in tax revenues than the debt service which is the basis for the \$11 million dollars even though it is going through the Port, it is a City obligation to be repaid over a 20 year period.

Mr. Woodson stated the Port Authority’s TIF Revenue Bonds will be up to \$8,800,000 Tax-Exempt for a 30-year term and will fund the construction of the office tower. The Port Authority will

acquire the project site and enter into a Capital Lease with Flats East Development and execute the Developer's Agreements. The City of Cleveland created a TIF District that will allow the project to move forward. Repayment for the TIF Bonds will be TIF service payments which will be escrowed monthly directly to the trustee. The Port will have a senior tax lien position and in the event of a default or problem, the developer has agreed to a minimum TIF market value as well as the standard 10% bond fund reserve.

Director Smith asked if the Port will acquire just the foot print of the tower or the entire property site and Mr. Wilcox replied it will only be the tower and also the air right parcel for the tower.

Mr. Woodson stated the Cleveland Port Authority will act as non recourse borrower to the Ohio Enterprise Bond Fund Bonds which will be tax-exempt up to \$15 million issued through the State of Ohio for a term of 25-years and will cover the cost of the office tower construction. The bonds will be rated "AA-" through the State of Ohio and the repayment of the bonds will be the same as the Port Bonds with all the required reserves. Mr. Woodson stated a TEFRA hearing was scheduled for next Thursday at 1:00 p.m. at the Port Offices.

Dennis Wilcox added the Ohio Enterprise Bond Fund is a small taxable piece of about \$900,000 and the bonds are tax-exempt because of a Recovery Zone Facility Bond designation by the City that allows the Private Activity Bonds to be issued tax-exempt comes from the Stimulus Act.

Director Knoth asked if there were any recusals and Mr. Wilcox stated in the past Mr. Knoth had recused himself from voting on this, but did not know if his firm is involved at this point.

Director Hall asked committee members to reference the "Request to Recommend" in the packet and on motion by Director Bardwell seconded by Director Knoth all voted to accept.

Garth Woodson presented the Cleveland Stadium Refinancing transaction which is hereby attached as **Exhibit "B"**. Dennis Wilcox stated this is the third duration and is much like the Annual Appropriation Bonds that the Port is doing for the Flats Project. The Port is participating with the City to issue annual appropriation debt to pay for Cleveland Browns Stadium and have issued one additional set of certificates and this is the third duration.

Director Knoth asked if this was anticipated. Mr. Wilcox stated the City entered into some swap arrangements and does not want to hold them any longer. The City is trying to come up with different interest rates to get rid of the swap instruments which will be paid off.

Mr. Woodson stated the City is looking for the Port to allow entering into another swap which will have the potential to save some interest and stabilize variable rates on the current arrangement. It will minimize the hedging risk associated with the project and also mitigate cost and covenants the City has in place to maintain certain levels of reserve.

Director Williams asked if there are any fees associated with this transaction and Mr. Woodson replied that historically there have not been any fees. Director Knoth asked who pays the Port's costs and Mr. Wilcox replied it comes out the project proceeds.

On motion by Director Knoth and seconded by Director Bardwell all voted to accept the recommendation to the Board of Directors.

Garth Woodson presented the final agenda item, Ohio Manufacturers' Association (OMA) Stipulation Program which is hereby attached as **Exhibit "C"**. Mr. Woodson stated this is a very unique opportunity and coming to the Port as a referral from Tim Long with Robert W. Baird along with Bricker & Eckler. Mr. Woodson referred committee members to the handout and walked members through the presentation. Mr. Woodson stated the OMA Stipulation Program was the direct result of the public utilities commission approval against First Energy. This rate case happened at the beginning of 2009 and was settled in April. First Energy agreed to make investments through the Ohio Manufacturers' Association in conjunction with three of its companies. The sum of the investment per the Utilities Agreement is \$7.5 million which is \$2.5 million per investing company. The funds are to be used to drive economic development opportunities and it was agreed to utilize the port authorities to access the market and invest \$2.5 million in each of the three port authorities with a goal to create loan development programs for their constituents. There is a lot of flexibility with no caveats attached as to how the money can be used. The ports take advantage of larger reserves and OMA gets the advantage of supporting their constituents. The last payment is on July 1, 2011 and there will be no further expectations or obligations by either OMA or the port authorities and completes the program. OMA will keep \$50,000 for marketing the loan program of the three ports.

Director Smith asked if this is an agreement between the Public Utilities Commission and First Energy to get the rate agreement settled and OMA's efforts to reach out and allocate these economic development dollars and if there are any expectations the Port has of marketing the services or is it just the cost of the deal to the Port? Mr. Woodson stated it is just the cost of doing business.

Director Moore asked what will be the marketing strategy. Mr. Woodson replied they are going to create a separate identity and logo strictly for the program and themselves. The three ports' identity will not be used only the potential to utilize the Bond Fund for opportunities that might present themselves.

Director Williams stated this is helping our Bond Fund Program Reserve, but are there any restrictions or limits with fees? Mr. Woodson replied the Port is using the existing underwriting criteria for the Bond Fund and make it available to their constituents with no strings attached.

Director Knoth asked how will the money be maintained on the Port's books. Brent Leslie replied the money would be the same as the rest of the reserves, it would be restricted cash and the investment earnings would revert back to OMA which is part of the Memorandum of Understanding the Committee will approve today. The ports will not get the investment income but will benefit by having restrictive cash on the balance sheet.

Director Knoth asked if the money could be used to enhance the Port's bond rating. Mr. Leslie stated three years ago this would get the Port an upgrade, it is a third party and staff is still working on where it sits in the chain of reserves. The amount of \$833,333 is not an amount to get the rate upgraded, but is a great first step.

Director Knoth asked how the three port authorities were selected and how does the Ohio Manufacturers' Association relate to Northeast Ohio. Mr. Woodson stated the three utility

companies map very well with the three local port authorities. OMA targeted the three most active port authorities and bond funds that had an over-lapping territory with their constituents.

Mr. Leslie stated the Committee is being asked to approve a Memorandum of Understanding and will enter into a Cooperative Agreement. The MOU is very short and broad and is very clear that there are no strings attached, but things change in the Cooperative Agreement.

Dennis Wilcox stated the committee should do ratification and Peter Raskind added they are anxious to write the check.

Director Knoth made a motion to approve the acceptance of the Ohio Manufacturer's Association's gift, seconded by Director Bardwell, all voted to accept.

There being no further business, on motion by Director Hall, seconded by Director Bardwell, and unanimously approved, the meeting was duly adjourned at 11:25 a.m.

MINUTES APPROVED

Assistant Secretary

II. Status Reports

U.S. Department of Energy – Loan Guarantee Program

In October 2009 the U.S. Department of Energy (DOE) announced a Request for Information (RFI) from state, regional and local Development Finance Organizations (DFOs) interested in submitting eligible alternative energy projects for loan guarantees. The DOE stated objective was, “Partnering with institutions possessing financial structuring capability, capital markets experience and a strong commitment to making sound underwriting judgments can help facilitate DOE in achieving its Recovery Act goals.”

Five individual Ohio Port Authorities, including the Cleveland-Cuyahoga County, the Toledo-Lucas County, the Summit County and the Dayton-Montgomery County Port Authorities, along with the Columbus-Franklin County Finance Authority, have created through a Memorandum of Understanding, an inter-organizational Development Finance Organization (the “Ohio DFO”) in order to respond to this RFI. The RFI requests that the DOE designate the Ohio DFO as an eligible lender under the Loan Guarantee Program.

For purposes of the program, the Ohio DFO will fund projects that address Alternative Energy Generation and Transmission as well as Supply Chain Development with the ultimate objective of reducing greenhouse gas emissions while creating quality job opportunities.

The program will provide qualified and approved projects with an 80% loan guarantee from the DOE. Commercial borrowers will submit applications to the Ohio DFO, with projects approved for eligible borrowers that meet individual (or collective) DFOs underwriting criteria and credit qualifications.

The Ohio DFO’s financing capabilities align directly with the stated objectives of the DOE as evidenced by the following attributes:

- 1) The Ohio DFO will create jobs and investment within the entire State of Ohio. The Ohio DFO has an on-going, direct loan program that has financed over 160 existing projects for over \$680 million in economic development across the State. This loan program (which is made up of the 5 bond fund programs) is able to finance the 20% non-guaranteed portion of each loan. The Ohio DFO would issue bonds with DOE’s loan guarantee for the remaining 80% of each Project.
- 2) The Ohio DFO also has a 20 year working relationship with the Ohio Department of Development and will continue to couple its own lending resources with those of the State. Participating in the U.S. DOE loan Guarantee program will allow for larger, more aggressive energy projects to be funded;
- 3) With the cooperation of five individual Ohio Port Authorities involved in our consortium, the Ohio DFO will be able to leverage a significant amount of new capital for qualified DOE projects, while at the same time reducing the risk to any one DFO due to this unique partnership. We estimate that the Ohio DFO can provide financing for more than \$250,000,000 in energy projects;

- 4) The Ohio DFO will be able to immediately lend funds to qualified borrowers because the Ohio DFO's entire lending infrastructure is in place including the due diligence process, loan documentation and closing procedures;
- 5) The consortium will be able to take additional risks to finance more aggressive alternative energy projects in today's market that has seen unprecedented credit tightening. The Ohio DFO will now be able to participate, when necessary, the non DOE guaranteed portion of the project financing to each of the Ohio DFOs, similar to and for the same purposes that a bank syndicates a bank loan, thus allowing much greater number of projects to be financed: and
- 6) Finally, the Ohio DFO has qualified staff, financial advisors and legal teams that are in place, have years of experience and are immediately available to implement this new program.

The application was submitted with the assistance of Robert W. Baird & Co., Inc. in December 2009. It is anticipated that the DOE will be making their designation selections within weeks. Yet another measure that demonstrates to the rating agencies that the Cleveland Port continues to look for new and innovative ways to positively impact the credit ratings of this organization.

There is no action being requested by the Committee.

Ohio Manufacturers' Association – Stipulation Program

The Ohio Manufacturers' Association – Stipulation Program is preparing to be rolled out by the organizations that have agreed to develop the new Program. Cleveland-Cuyahoga County Port Authority, the Summit County Port Authority and the Toledo- Lucas County Port Authority together with the Ohio Manufacturers' Association have been holding conference calls to discuss the Program Marketing Plan.

The plan will outline a strategy to target a constituent audience with a joint key message about the new Program. The working group is developing an information toolkit, if you will that should present prospective businesses and organizations with all of the information about the Program and its participants. The group discussed developing a comprehensive communication plan to include every media outlet available; web site, e-mail, direct mail, social networking and print media.

The working group will be meeting/conferencing at least monthly going forward as the Program is unveiled.

There is no action being requested by the Committee.

U.S. Department of Energy Loan Guarantee Program Update

March 2, 2010



DOE Loan Guarantee Program Background

- October 2009 U.S. DOE – Request for Information (RFI)
 - Development Finance Organizations (DFO)
 - Interested Submitting Eligible Projects
 - 80% Loan Guarantees
 - Help Facilitate DOE Recovery Act Goals

DOE Loan Guarantee Program Partners

- Ohio Development Finance Organization
 - Memorandum of Understanding
 - 5 Ohio Port Authorities
 - Cleveland-Cuyahoga County Port Authority
 - Toledo-Lucas County Port Authority
 - Summit County Port Authority
 - Dayton-Montgomery County Port Authority
 - Columbus-Franklin County Finance Authority
 - Eligible Lender Designee Hopeful

DOE Loan Guarantee Program Objectives

- Ohio DFO – Program Purpose
 - Alternative Energy Generation
 - Energy Transmission
 - Supply Chain Development & Manufacturing
 - Job Creation

DOE Loan Guarantee Program Parameters

- Qualified & Approved Projects
 - Eligible Commercial Borrowers
 - Applications Submission – Ohio DFO
 - 80% DOE Loan Guarantee
 - Acceptable Underwriting Criteria & Credit Qualifications

Ohio Development Finance Organization

- Financing Capabilities
 - Job Creation & Investment – State of Ohio
 - 20 Year Relationship – Ohio Department of Development
 - Leverage Significant New Capital & Reduce Risk
 - Established Lending Infrastructure
 - Aggressive Approach – Alternative Energy Projects
 - Qualified Staff, Financial & Legal Advisors

DOE Loan Guarantee Program Application

- Application Submission & Status
 - Robert W. Baird & Co., Inc. Assisted
 - DOE Designation Selections – March 2010

There is no action being requested by the Committee at this time

Ohio Manufacturers' Association Stipulation Program Update

March 2, 2010



OMA Stipulation Program Status

- OMA Program Understanding
 - \$2.5 Million Program Reserve Deposits 3 Years
 - \$816,666 1st Program Payment Received – January 12, 2010
 - 2nd Payment July 1, 2010 – \$833,333
 - 3rd Final Payment July 1, 2011 – \$833,333

OMA Stipulation Program Plan

- Program Marketing Plan
 - Target Audience – February 2010
 - Key Message – March 2010
 - Develop Information Toolkit – March 2010
 - Communication – March 2010
 - Web site
 - e-mail
 - Direct Mail
 - Social Network
 - Print Media