BOARD OF DIRECTORS
MIDDLETOWN PORT AUTHORITY

The Board of Directors (the "Board") of the Middletown Port Authority (the "Authority"), met in regular session on September 29, 2026, at 9:00 a.m., at One Donham Plaza, Middletown, Ohio 45042, with the following members participating:

It was moved by **Executive Director Ashley Combs** and seconded by **Director Ken Cohen** that the following resolution be adopted:

RESOLUTION NO. 2026-03

A RESOLUTION AUTHORIZING AND APPROVING THE FIRST AMENDMENT TO COOPERATIVE AGREEMENT BETWEEN THE MIDDLETOWN PORT AUTHORITY AND THE BUTLER COUNTY FINANCE AUTHORITY; AND AUTHORIZING AND APPROVING RELATED MATTERS.

WHEREAS, the Middletown Port Authority (the "Authority" or "MPA"), 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 enter into cooperative agreements with other port authorities pursuant to Ohio Revised Code Section 4582.431; and

WHEREAS, MPA and the Butler County Finance Authority ("BCFA") (collectively, the "Parties") entered into a Cooperative Agreement (the "Cooperative Agreement") pursuant to Ohio Revised Code Section 4582.431, under which the Parties agreed to cooperate in furtherance of Projects located within the area of Concurrent Jurisdiction; and

WHEREAS, the Parties desire to amend the Cooperative Agreement to (i) establish compensation to BCFA for its services, including a monthly payment of Three Thousand Dollars ($3,000.00); (ii) amend and restate the Port Fees provision to allocate five percent (5%) of all fee revenue generated by the Authority to BCFA in connection with the exercise of the Authority's port authority powers with respect to projects undertaken in Butler County; (iii) establish additional responsibilities of BCFA, including board meeting support, budget assistance, and maintaining a physical presence in the City of Middletown; and (iv) establish a definite initial term of ten (10) years; and

WHEREAS, a First Amendment to Cooperative Agreement has been prepared (the "First Amendment") setting forth the terms of the amendments to the Cooperative Agreement; and

WHEREAS, the Board deems it in the best interest of the Authority to approve the First Amendment;

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

Section 1. This Board hereby finds and determines that the First Amendment and the Cooperative Agreement, as amended by the First Amendment, are consistent with, related to, useful for, and in furtherance of the activities contemplated by the Act, including Ohio Constitution, Article VIII, Section 13, and Ohio Revised Code Section 4582.21(B)(1), to enhance, foster, aid, provide, or promote economic development within the jurisdiction of the Authority.

Section 2. This Board hereby approves the First Amendment in substantially the form presented to the Board, with such changes as the Chairperson and Executive Director of the Authority, in consultation with legal counsel, may deem necessary and not materially adverse to the Authority.

Section 3. This Board hereby authorizes the Chairperson of the Board, the Executive Director of the Authority, or the Fiscal Officer of the Authority, or any of them individually, in consultation with legal counsel, to negotiate, execute, and deliver, for and in the name and on behalf of the Authority, the First Amendment and any related documents, in such form as shall not be materially adverse to the Authority.

Section 4. The Chairperson of the Board, the Executive Director of the Authority, or the Fiscal Officer of the Authority, or any of them individually, are each authorized and directed to take such further actions and execute any certifications, instruments, and other documents that are necessary or appropriate to consummate the transactions contemplated by the First Amendment. 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 transactions contemplated by the First Amendment and shall comply with all requirements of law applicable to the First Amendment and the Cooperative Agreement, as amended.

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.

[Signatures below]

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

Voting Aye: 5

Voting Nay: 0

Abstain: 0

The undersigned, Secretary of the Board of Directors of the Middletown Port Authority, does hereby certify that the foregoing is a true and correct copy of a resolution of the Middletown Port Authority, duly adopted September 29, 2026, and appearing upon the official records of that Board.

Adopted: September 29, 2026
Dated: September 29, 2026

Attest: _____
Secretary, Board of Directors
Middletown Port Authority

FIRST AMENDMENT TO COOPERATIVE AGREEMENT

This First Amendment to Cooperative Agreement (this "**First Amendment**") is entered into as of September 29, 2026 (the "**Amendment Effective Date**"), by and between the **BUTLER COUNTY FINANCE AUTHORITY** ("**BCFA**"), established by the Butler County Board of Commissioners as an Ohio port authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio, and the **MIDDLETOWN PORT AUTHORITY** ("**MPA**"), an Ohio port authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio (collectively with BCFA, the "Parties" and each a "Party").

RECITALS:

WHEREAS, BCFA and MPA entered into that certain Cooperative Agreement dated as of April 22, 2025 (the "Cooperative Agreement"), pursuant to Ohio Revised Code Section 4582.431, under which the Parties agreed to cooperate in furtherance of Projects located within the area of Concurrent Jurisdiction;

WHEREAS, the Cooperative Agreement does not contain a specific provision for the compensation of BCFA for its services thereunder, and the Parties desire to establish such compensation;

WHEREAS, Section 5 of the Cooperative Agreement provides that the Cooperative Agreement may be terminated by either Party upon the provision of written notice to the other Party, and the Parties desire to amend such provision to establish a definite term and automatic renewal provisions;

WHEREAS, Section 1(b)(ii) of the Cooperative Agreement provides for the escrow of Port Fees during the Escrow Period, and the Parties desire to amend and restate such provision to provide for the distribution of a portion of Port Fees to BCFA;

WHEREAS, the Parties desire to establish additional responsibilities for BCFA in support of MPA, including technical support and maintaining a physical presence in the City of Middletown;

WHEREAS, the Parties desire to amend the Cooperative Agreement to incorporate the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Section 1. Amendment and Restatement of Section 1(b)(ii) of the Cooperative Agreement.

Section 1(b)(ii) of the Cooperative Agreement is hereby amended and restated in its entirety to read as follows:

"(ii) BCFA and MPA will each charge customary fees for sales tax exemption transactions and other Projects involving the exercise of their respective Port Powers ("Port Fees"). In addition, for those Projects that the MPA undertakes in Butler County involving the exercise of its Port Powers, the MPA shall pay to BCFA a portion equal to five percent (5%) of the Port Fees received by the MPA from such Projects (the "BCFA Fee Portion"). Alternatively, for those Projects that the BCFA undertakes in the Butler County portion of the City involving the exercise of its Port Powers, BCFA shall pay to MPA a portion equal to ninety-five percent (95%) of the Port Fees received by the BCFA from such Projects (the "MPA Fee Portion"). The applicable Fee Portion shall be payable to the respective Party within thirty (30) days following the close of each calendar quarter during the term of the Cooperative Agreement, as amended hereby. For avoidance of doubt, the effect of the foregoing provision is that the MPA will either retain or receive ninety-five percent (95%) of the Port Fees attributable to any Project undertaken in the Butler County portion of the City involving the exercise of Port Powers."

Section 2. Compensation. The Cooperative Agreement is hereby amended to add the following new provision regarding compensation to BCFA for its services under the Cooperative Agreement:

In consideration of the services provided by BCFA under the Cooperative Agreement, including, without limitation, the cooperation as to Port Powers described in Section 1(b) thereof and the Additional Services of BCFA described in Section 1(c) thereof, MPA shall compensate BCFA as follows:

(a) **Monthly Payment.** MPA shall pay to BCFA a monthly payment in the amount of Three Thousand Dollars ($3,000.00), payable on or before the first business day of each calendar month during the term of the Cooperative Agreement, as amended hereby. The first such monthly payment shall be due on the first

business day of the calendar month immediately following the Amendment Effective Date.

Section 3. Additional BCFA Responsibilities.

The Cooperative Agreement is hereby amended to add the following additional responsibilities of BCFA in support of MPA:

(a) **Board Meeting Support.** BCFA shall prepare agendas for at least quarterly meetings of the MPA Board of Directors and shall provide such agendas to MPA in advance of each such meeting.

(b) **Budget Assistance.** BCFA shall assist MPA with the preparation of MPA's annual budget.

(c) **Physical Presence.** BCFA shall maintain a physical presence in the City of Middletown for the duration of the Cooperative Agreement, as amended hereby with such physical presence initially being in the former CG&E Building located in downtown Middletown.

Section 4. Term and Renewal. Section 5 of the Cooperative Agreement is hereby amended and restated in its entirety to read as follows:

"Section 5. Term and Renewal.

(a) **Initial Term.** The initial term of this Cooperative Agreement shall commence on the Amendment Effective Date (as defined in the First Amendment to this Cooperative Agreement) and shall expire on the date that is ten (10) years from the Amendment Effective Date (the "Initial Term"), unless earlier terminated as provided herein.

(b) **Automatic Renewal.** Upon the expiration of the Initial Term, this Cooperative Agreement shall automatically renew for successive periods of five (5) years each (each, a "Renewal Term" and, together with the Initial Term, the "Term"), unless either Party provides written notice to the other Party of its intent not to renew at least ninety (90) days prior to the expiration of the then-current Term.

(c) **Termination for Default.** If either Party (the "Breaching Party") fails to perform any of its obligations under this Cooperative Agreement, the other Party (the "Non-Breaching Party") may deliver written notice to the Breaching Party specifying the nature of such default. If such default is a monetary default, the

Breaching Party shall have ten (10) days from receipt of such notice to cure such default. If such default is a non-monetary default, the Breaching Party shall have sixty (60) days from receipt of such notice to cure such default; provided, however, that if such non-monetary default cannot reasonably be cured within such sixty (60) day period, the Breaching Party shall have such additional time as is reasonably necessary to cure such default so long as the Breaching Party commences cure within such sixty (60) day period and thereafter diligently pursues such cure to completion. If the Breaching Party fails to cure such default within the applicable cure period, the Non-Breaching Party may terminate this Cooperative Agreement upon written notice to the Breaching Party, effective immediately upon delivery of such notice; provided however, if at the time of such termination there are any transactions underway, the Parties shall each be entitled to their respective Fee Portion upon the consummation of such transactions.

(d) **Termination Upon Vacancy of BCFA President and CEO.** Upon a vacancy in the position of President and CEO of BCFA, commencing on the date of such vacancy, MPA shall have the right to conduct a one hundred eighty (180) day evaluation of the BCFA and its satisfaction of the duties set forth hereunder (the "Evaluation Period"). Upon the expiration of the Evaluation Period, MPA may, in its sole discretion, terminate this Cooperative Agreement by delivering written notice of termination to BCFA, with such termination effective thirty (30) days following delivery of such notice. For the avoidance of doubt, the termination right set forth in this subsection (d) shall not limit, replace, or otherwise affect any termination right available to either Party under subsection (c) (Termination for Default) or any other provision of this Cooperative Agreement, including with respect to any default occurring during the Evaluation Period.

(e) **Effect of Expiration or Non-Renewal.** Upon the expiration or non-renewal of this Cooperative Agreement, BCFA shall retain the jurisdictional authority to complete (or continue, as applicable) any Project begun with BCFA prior to the effective date of such expiration or non-renewal. All Projects begun after the effective date of such expiration or non-renewal shall be within the sole jurisdiction of MPA. The "beginning" of a Project for purposes of this Section shall be evidenced by the passing of a resolution, motion, or other formal action by a Party's governing board (and in the case of BCFA can only be deemed to have occurred after receipt of approval from the MEDD as set forth in Section

3(a) hereof) committing that Party to the exercise of specific Port Powers in furtherance of a Project.

(f) **Post-Term Cooperation.** Following the expiration or non-renewal of this Cooperative Agreement, BCFA may, but is not obligated to, work cooperatively with MPA to make its "Additional Services" (as outlined herein or as may be later developed by BCFA) available to Projects within the City on a case-by-case basis."

Section 5. Ratification of Cooperative Agreement. Except as expressly amended by this First Amendment, all terms and conditions of the Cooperative Agreement shall remain in full force and effect and are hereby ratified and confirmed. In the event of any conflict or inconsistency between the provisions of this First Amendment and the provisions of the Cooperative Agreement, the provisions of this First Amendment shall control.

Section 6. Governing Law. This First Amendment shall in all respects be governed, construed, and enforced in accordance with the laws of the State of Ohio, without reference to principles of conflicts of laws, consistent with Section 6 of the Cooperative Agreement.

Section 7. Counterparts. This First Amendment may be executed in any number of counterparts as may be convenient or necessary and it shall not be necessary that the signatures of all of the Parties hereto be contained on any one counterpart. Additionally, the Parties hereto agree that for purposes of facilitating the execution of this First Amendment, (a) the signature pages taken from the separate individually executed counterparts of this First Amendment may be combined to form multiple fully executed counterparts and (b) a facsimile or electronic transmission shall be deemed to be an original signature for all purposes. All executed counterparts of this First Amendment shall be deemed to be originals, but all such counterparts taken individually or collectively, as the case may be, shall constitute one and the same agreement.

Section 8. Authorization. Each Party represents and warrants that it has full power and authority to execute and deliver this First Amendment and to perform its obligations hereunder, and that this First Amendment has been duly authorized by all necessary action on the part of such Party.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by their respective duly authorized officers as of the day and year first above written.

BUTLER COUNTY FINANCE AUTHORITY

By: _____
Name: Joshua Smith
Title: President & CEO, Butler County Finance Authority
Date: September 29, 2026

MIDDLETOWN PORT AUTHORITY

By: _____
Name: Jim Kleingers
Title: Chairman, Middletown Port Authority
Date: September 29, 2026

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the Butler County Finance Authority ("BCFA"), hereby certifies that the moneys required to meet the obligations, if any, of BCFA during the year 2026 under the foregoing First Amendment to Cooperative Agreement have been lawfully appropriated by the Board of BCFA for such purpose and are in the treasury of BCFA or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Joshua Smith
Fiscal Officer
Butler County Finance Authority
Dated: September 29, 2026

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the Middletown Port Authority, hereby certifies that the moneys required to meet the obligations, if any, of the Authority during the year 2026 under the foregoing First Amendment to Cooperative Agreement have been lawfully appropriated by the Board of the Middletown Port Authority for such purpose and are in the treasury of the Authority or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Benjamin Woø, Fiscal Officer
Middletown Port Authority
Date: September 29, 2026