

ORDINANCE NO.: 2019-12
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: JUNE 11, 2019

INTERGOV. & UTIL.
ASSIGNED TO: _____

AN ORDINANCE APPROVING A PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS AND A PLAN FOR PUBLIC IMPROVEMENTS; APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF GREEN IN COOPERATION WITH THE AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT; DETERMINING TO PROCEED WITH SUCH PROJECT; AND DETERMINING TO LEVY SPECIAL ASSESSMENTS IN CONNECTION WITH SUCH PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS, as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (“ESIDs”) upon a petition to a municipal corporation or city, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and

WHEREAS, the County of Summit, Ohio (the “Owner”), as the owner of certain real property located within the City of Green, has identified certain real property located at 1363 Greensburg Rd., Green, Ohio 44685 (the “Project Site”), as an appropriate property for special energy improvement projects pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, the Akron-Summit County Energy Special Improvement District (the “District”) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID and established pursuant to a resolution adopted by the City of Akron, Ohio (the “Creation Resolution”); and

WHEREAS, by the Creation Resolution and under Ohio Revised Code Section 1710.02, articles of incorporation (the “Articles of Incorporation”) for a nonprofit corporation, the board of directors of which governs the District, were approved and filed with the Ohio Secretary of State; and

WHEREAS, by the Creation Resolution and under Ohio Revised Code Section 1710.06, the District’s Akron Energy Special Improvement District Project Plan (as duly amended and supplemented from time to time, the “Plan”) was approved as a plan for public improvements and public services for the District; and

WHEREAS, as permitted under Ohio Revised Code Section 1710.02, the Plan and the Articles of Incorporation allow for the addition of real property within any “participating political subdivision” of the District or within any municipal corporation or city which is adjacent to any participating political subdivision of the District to the territory of the District by the approval of the municipal corporation or city in which that real property is located; and

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WHEREAS, the Owner has determined to submit to the Board a Petition for Special Assessments for Special Energy Improvement Projects (the “Petition”), together with an Akron-Summit County Energy Special Improvement District Project Plan Supplement to Plan (the “Supplemental Plan”), all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Board and the Director of Finance of the City of Green; and

WHEREAS, the Petition and the Supplemental Plan request that the Project Site be added to the District and that the City of Green participate in and levy special assessments on the Project Site to pay the costs of special energy improvement projects to be provided on the Project Site, all as described more particularly in the Petition and the Supplemental Plan (the “Project”); and

WHEREAS, the Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2 of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Petition identifies the amount and length of the special assessments to be imposed with respect to the Project; and

WHEREAS, this Council, as mandated by Ohio Revised Code Section 1710.02, must approve or disapprove the Petition within sixty (60) days of the submission of the Petition; and

WHEREAS, this Council has determined to approve the Petition, together with the Supplemental Plan; and

WHEREAS, the City of Green desires to participate in the A-Summit County Energy Special Improvement District Project; and

WHEREAS, in the Petition, the Owner requests that the Project be paid for by special assessments assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which are estimated to be Seven Hundred Dollars (\$700.00) including other related costs of financing the Project, which include, without limitation, the payment of principal of, and interest on, obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City of Green, the District, and such other parties as the City of Green may deem necessary or appropriate.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO THAT:

SECTION ONE:

Green City Council approves the Petition and the Supplemental Plan now on file with the Board and the Director of Finance. Under the Creation Resolution, Plan, and the Articles of Incorporation, the Project Site is added to the territory of the District. The Mayor, or his designee, is hereby appointed to serve on the Board of Directors of the District as provided in Ohio Revised Code Section 1710.04(A).

SECTION TWO:

Green City Council approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or any city which is contiguous to the municipal corporations or cities in which a portion of the territory the District is located; (ii) the addition of the municipal corporation or city in which such real property is located as a “participating political subdivision,” as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize and effect such addition.

SECTION THREE:

Each capitalized term used in this Ordinance where the rules of grammar would otherwise not require and not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Petition.

SECTION FOUR:

Green City Council declares necessary, and a vital and essential public purpose of the City, to improve the Property by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition, and providing for the payment of the costs of the project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses; together with all other necessary expenditures, all as more fully described in the Petition and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Director of Finance and open to the inspection of all persons interested.

SECTION FIVE:

Green City Council determines that the Project’s elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Project’s elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner; and that the Project’s elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project’s elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

SECTION SIX:

The plans and specifications and total cost of the Project now on file in the office of the Director of Finance are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project.

SECTION SEVEN:

Green City Council hereby determines and declares that the Project is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Petition. This Council determines and declares that the Project is conducive to the public peace, health, safety, and welfare of the City and the inhabitants of the City.

SECTION EIGHT:

Green City Council declares that its intention is to participate and proceed with the acquisition, construction, and improvement of the Project described in the Petition and the Plan. The Project shall be made in accordance with the provisions of the Plan.

SECTION NINE:

Pursuant to, and subject to, the provisions of a valid Petition signed by the owners of One Hundred percent (100%) of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The provisions of the Petition are ratified, adopted, approved and incorporated into this Ordinance as if set forth in full in this Ordinance. The method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Property as set forth in the Petition.

SECTION TEN:

The lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit "A" to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

SECTION ELEVEN:

The Special Assessments shall be levied and paid in one annual installment pursuant to the list of estimated Special Assessments set forth in the Petition, and the Owner has waived its option to pay the Special Assessment in cash within thirty (30) days after the passage of this Ordinance. The period over which the services and improvements provided pursuant to the Plan are useful is determined to exceed one (1) year.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is Seven Hundred Dollars (\$700.00). Each annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together

with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the Summit County Fiscal Officer (the "County Fiscal Officer") may impose a special assessment collection fee with respect to each annual payment, which amount will be added to the Special Assessments by the County Fiscal Officer.

The Special Assessments are assessed against the Property commencing in tax year 2019 for collection in 2020. The semi-annual installments of the Special Assessments shall be collected in each calendar year equal to the maximum semi-annual amounts of Special Assessments as shown in Exhibit "A", attached to and incorporated into this Ordinance.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Project Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit "A".

SECTION TWELVE:

The Director of Finance or any designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

SECTION THIRTEEN:

The Director of Finance or any designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project. Pursuant to the Petition, the Owner has waived notice of the adoption of this ordinance and the filing of the estimated Special Assessments, as provided in Ohio Revised Code Section 727.13, and the City hereby accepts that waiver. The Owner has waived its right to pay the Special Assessments in cash within thirty (30) days after the passage of this Ordinance, and all Special Assessments and installments of the Special Assessments shall be certified by the County Fiscal Officer as provided by the Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition. The Director of Finance shall keep the Special Assessments on file in the office of the Director of Finance.

SECTION FOURTEEN:

Green City Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Project Petition and are not in excess of any applicable statutory limitation.

SECTION FIFTEEN:

The Special Assessments will be used by the City to provide the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City

to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION SIXTEEN:

Green City Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727 and Ohio Revised Code Chapter 1710 and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner of the following rights:

- (i) The right to notice of the adoption of the resolution of necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06;
- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- (vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
- (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
- (viii) The right to notice of the passage of the assessing ordinance under Ohio Revised Code Section 727.26; and
- (ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

SECTION SEVENTEEN:

Green City Council hereby approves the Loan Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor shall sign and deliver, in the name and on behalf of the City, the Loan Agreement, in substantially the form as is now on file with the Clerk of Council. The Loan Agreement is approved, together with any changes or amendments (including the addition or subtraction of any parties) that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Loan Agreement or amendments thereto.

SECTION EIGHTEEN:

Green City Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the Clerk of Council. The Special Assessment Agreement is approved, together with any changes or amendments (including the addition or subtraction of any parties) that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments thereto.

SECTION NINETEEN:

That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver a certified copy of this Ordinance to the County Fiscal Officer within twenty (20) days after its passage.

SECTION TWENTY:

Green City Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22

SECTION TWENTY-ONE:

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare in order to allow the Owner to begin work on the Project, and the District to take advantage of financing available to it for a limited time, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise, its shall take effect and be in force at the earliest time allowed by law.

ADOPTED: July 9, 2019
Molly Kapeluck
Molly Kapeluck, Clerk of Council

Bob Young
Bob Young, Council President

APPROVED: July 10, 2019

Gerard M. Neugebauer
Gerard M. Neugebauer, Mayor
Enacted Effective: July 10, 2019

ON ROLL CALL: Babbitt -aye
Speight -aye

Dyer -aye Humphrey -aye
Yeargin -aye Young -aye

Shaughnessy -aye
Adopted 7-0

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Suburbanite publication on July 12 and July 19, 2019

Molly Kapeluck
Molly Kapeluck, Clerk of Council

06/06/2019 Approved as to form and content by William G. Chris, Director of Law, Interim

W. G. Chris

EXHIBIT "A"**2019-12****LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS****LIST OF SPECIAL ASSESSMENTS**

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
County of Summit, Ohio	2800613	100.00%	\$700.00

**SCHEDULE OF SPECIAL ASSESSMENTS
FOR SUMMIT COUNTY PARCEL NOS.:**

2800613

The following schedule of Special Assessment charges shall be certified for collection in 2 semi-annual installments to be collected with real property taxes in calendar year 2020.

Special Assessment Date*	Special Assessment Amount**
January 1, 2020	\$350.00
July 1, 2020	350.00

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the County Fiscal Officer of the County of Summit, Ohio under certain conditions.

** The County Fiscal Officer of the County of Summit, Ohio may impose a special assessment collection fee with respect to each semi-annual Special Assessment payment. If imposed, this special assessment collection fee will be added by the County Fiscal Officer of the County of Summit, Ohio to each semi-annual Special Assessment payment.

RECEIPT OF COUNTY FISCAL OFFICER FOR
ORDINANCE LEVYING SPECIAL ASSESSMENTS
FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING,
AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS
IN THE CITY OF AKRON, OHIO, IN COOPERATION
WITH THE AKRON ENERGY SPECIAL IMPROVEMENT DISTRICT

I, Kristen M. Scalise, the duly elected, qualified, and acting County Fiscal Officer in and for the County of Summit, Ohio hereby certify that a certified copy of Ordinance No. _____, duly adopted by the Council of the City of Green, Ohio on _____, levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Green, Ohio in cooperation with the Akron Energy Special Improvement District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges shall be certified for collection in 2 semi-annual installments to be collected with first-half and second-half real property taxes in calendar year 2019, was filed in this office on _____.

WITNESS my hand and official seal at Akron, Ohio on _____.

Fiscal Officer
County of Summit, Ohio

13810364 _1 139563.0001

LOAN AGREEMENT

By and between

AKRON, BARBERTON, BATH TOWNSHIP, COPLEY TOWNSHIP, COVENTRY
TOWNSHIP, CUYAHOGA FALLS, FAIRLAWN, LAKEMORE, NEW FRANKLIN,
NORTON, RICHFIELD, SPRINGFIELD TOWNSHIP, TALLMADGE ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC. D/B/A AKRON-SUMMIT COUNTY ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC.

CITY OF GREEN, OHIO;

COUNTY OF SUMMIT, OHIO; and

DEVELOPMENT FINANCE AUTHORITY OF SUMMIT COUNTY;

Dated as of ____ __, 2019

LOAN AGREEMENT

THIS LOAN AGREEMENT (the “Agreement”) is made and entered into as of April 26, 2019 between the AKRON, BARBERTON, BATH TOWNSHIP, COPLEY TOWNSHIP, COVENTRY TOWNSHIP, CUYAHOGA FALLS, FAIRLAWN, LAKEMORE, NEW FRANKLIN, NORTON, RICHFIELD, SPRINGFIELD TOWNSHIP, TALLMADGE ENERGY SPECIAL IMPROVEMENT DISTRICT, INC. D/B/A AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “ESID”), the City of Green, OHIO, a municipal corporation duly organized and validly existing under the constitution and laws of the State (the “Political Subdivision”), the COUNTY OF SUMMIT, OHIO, a county duly organized and validly existing under the constitution and laws of the State and its Charter (the “Owner”), and the DEVELOPMENT FINANCE AUTHORITY OF SUMMIT COUNTY, an Ohio port authority duly organized and validly existing under the laws of the State (the “DFA”) (the capitalized terms that are used in this Agreement where the rules of grammar would not require capitalization and that are not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. On December 5, 2016, the Council of the City of Akron, Ohio passed a resolution approving the Petition to Create the Akron Energy Special Improvement District (the “Creation Petition”) and the Articles of Incorporation of the Akron Energy Special Improvement District, Inc.

B. The ESID is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State of Ohio to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 2 of the Ohio Constitution.

C. On December 9, 2016, by its Resolution No. 2016-05, the Board of Directors of the ESID approved the Akron Energy Special Improvement District Project Plan (the “Plan”), as a plan for public improvements or public services for the ESID under Ohio Revised Code Chapter 1710.06.

D. Pursuant to the Plan, the ESID, among other services, shall assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy improvement projects.

E. Prior to ____, 2019, the Owner submitted a Petition for Special Assessments for Special Energy Improvement Projects (the “Project Petition”) and the Akron-Summit County Energy Special Improvement District Plan – Supplement to Plan (the “Supplemental Plan”) to the Political Subdivision.

F. On ____, 2019, the Political Subdivision approved the Project Petition and the Supplemental Plan under Ohio Revised Code Section 1710.02.

G. In order to obtain financing for special energy improvement projects and to create special assessment revenues available to pay and repay the costs of special energy improvement

projects, the Project Petition requested that the Council (the “Legislative Authority”) of the Political Subdivision levy special assessments against the Owner’s properties as more fully described in the Project Petition and the Supplemental Plan.

H. The ESID, the Political Subdivision, the Owner, and the DFA (collectively the “Parties,” and each, a “Party”) each have determined that the most efficient and effective way to implement the financing, acquisition, construction, equipping, improvement, and installation of energy special improvement projects and to further the public purposes stated above is through this Agreement, under the Act, and on the terms stated in this Agreement, with (i) the DFA providing the Project Advance to finance the costs of the special energy improvement projects described in the Supplemental Plan, (ii) the ESID and the Owner cooperating to acquire, construct, equip, improve, and install special energy improvement projects, (iii) the Owner agreeing to make special assessment payments in an aggregate amount that will provide revenues sufficient to pay or repay the permitted costs of the special energy improvement projects, (iv) the Political Subdivision agreeing to assign and transfer all special assessment payments actually received by the Political Subdivision to the DFA to repay the Project Advance; and (v) the ESID agreeing to assign, transfer, and set over to the DFA any of its right, title, or interest in and to the Special Assessments (as defined in Exhibit A) which it may have by operation of law, this Agreement, or otherwise; provided that a portion of the Special Assessments may be retained by, or payable to, the Political Subdivision or the ESID, all pursuant to and in accordance with this Agreement.

G. The Parties each have full right and lawful authority to enter into this Agreement and to perform and observe its provisions on their respective parts to be performed and observed, and have determined to enter into this Agreement to state their respective rights, duties, responsibilities, obligations, and contributions for the implementation of special energy improvement projects within the ESID.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and agreements contained in this Agreement, the Parties agree as follows; provided, that any obligation of the ESID created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the ESID, or give rise to any pecuniary liability of the ESID, but any such obligation shall be payable solely from the Special Assessments actually received by the ESID, if any; and provided, further, that any obligation of the Political Subdivision created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the Political Subdivision, or give rise to any pecuniary liability of the Political Subdivision, but any such obligation shall be payable solely from the Special Assessments actually received by the Political Subdivision, if any; and provided further that any obligation of the Owner created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the Owner, or give rise to any pecuniary liability of the Owner, but any such obligation shall be payable solely from moneys appropriated to pay the Special Assessments under this Agreement:

ARTICLE I: DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, capitalized words and terms used in this Agreement where the rules of grammar would not require capitalization shall have the meanings stated in Exhibit A to this Agreement. Definitions shall apply equally to both the singular and plural forms of any of the words and terms. Words of any gender include the correlative words of the other gender.

Section 1.2. Interpretation. Any reference in this Agreement to the ESID, the ESID Board, the Owner, the County Council, the Political Subdivision, the Legislative Authority, or to any member or officer of any of the foregoing, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision, or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America, includes that section, provision, or chapter as amended, modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Section 1.3. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any of this Agreement's Articles, Sections, subsections, paragraphs, subparagraphs or clauses.

ARTICLE II: COOPERATIVE ARRANGEMENTS; ASSIGNMENT OF SPECIAL ASSESSMENTS

Section 2.1. Agreement Between the Political Subdivision, the ESID, and the DFA. The Owner and the ESID have requested the assistance of the DFA and the Political Subdivision in the financing of special energy improvement projects within the ESID. For the reasons stated in this Agreement's Recitals, which are incorporated into this Agreement by this reference as a statement of the public purposes of this Agreement and the intended arrangements among the Parties, the Political Subdivision and the ESID have requested the assistance and cooperation of the DFA in the collection and payment of Special Assessments under this Agreement. The Parties intend this Agreement to be, and it shall be, an agreement among the Parties to cooperate in the financing, acquisition, construction, equipping, improvement, and installation of "special energy improvement projects," under Ohio Revised Code Chapter 1710, and as that term is defined in Ohio Revised Code Section 1710.01(A). The Parties intend this Agreement's provisions to be, and they shall be construed as, agreements to take effective cooperative action and to safeguard the Parties' interests.

Upon the considerations stated above and upon and subject to the terms and conditions of this Agreement, the DFA, on behalf of the Parties, shall make the Project Advance available to the

Owner to pay the costs of the Project. The Political Subdivision and the ESID shall assign, transfer, set over, and pay the Special Assessments actually received by the Political Subdivision or the ESID, respectively, to the DFA, to pay the costs of the Project at the times and in the manner provided in this Agreement; provided, however, that the Political Subdivision, the ESID, and the DFA intend that the Political Subdivision shall receive all Special Assessments from the County Fiscal Officer and shall transfer, set over, and pay all Special Assessments received from the County Fiscal Officer directly to the DFA.

Notwithstanding anything in this Agreement to the contrary, any obligations of the Political Subdivision under this Agreement, including the obligation to transfer the Special Assessments received by the Political Subdivision to the DFA, shall be a special obligation of the Political Subdivision and shall be required to be made only from Special Assessments actually received by or on behalf of the Political Subdivision, if any. The Political Subdivision's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The Political Subdivision's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the Political Subdivision's faith and credit or taxing power, and the ESID, the Owner, and the DFA do not have and shall not have any right to have taxes levied by the Political Subdivision for the transfer of the Special Assessments.

Section 2.2. Special Assessments; Political Subdivision Transfer of Special Assessments.

- (a) The Special Assessment Proceedings. The Political Subdivision has taken all necessary actions required by the Special Assessment Act to levy and collect the Special Assessments on the Property.

Under Ohio Revised Code Section 727.33, the Political Subdivision has certified the Special Assessments to the County Fiscal Officer for collection, and the County Fiscal Officer shall collect the unpaid Special Assessments with and in the same manner as other real property taxes and pay the amount collected to the Political Subdivision. The Parties intend that the County Fiscal Officer shall have the duty to collect the Special Assessments through enforcement proceedings in accordance with applicable law.

- (b) Collection of Delinquent Special Assessments. The ESID and the DFA are hereby authorized to take any and all actions as assignees of and, to the extent required by law, in the name of, for, and on behalf of, the Political Subdivision to collect delinquent Special Assessments levied by the Political Subdivision pursuant to the Special Assessment Act and to cause the lien securing the delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor or the County Fiscal Officer, as necessary, to institute such prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used in accordance with this Agreement.

- (c) Prepayment of Special Assessments. The Parties agree that the Special Assessments assessed against the Property and payable to the Political Subdivision pursuant to the Special Assessment Act may be prepaid to the DFA by the Owner in accordance with Section 4.7 of this Agreement. Except as set forth in this Section 2.2(c) and Section 4.7 of this Agreement, the Owner shall not prepay any Special Assessments. Notwithstanding the foregoing, if the Owner attempts to cause a prepayment of the Special Assessments by paying to the County Fiscal Officer any amount as a full or partial prepayment of Special Assessments, and if the Political Subdivision shall have knowledge of the same, the Political Subdivision immediately shall notify the DFA, and, unless provided the express written consent of the DFA, the Political Subdivision shall not cause any reduction in the amount of Special Assessments. Except as specifically provided in this Agreement to the contrary, no other action pursuant to any provision of this Agreement shall abate in any way the payment of the Special Assessments by the Owner or the transfer of the Special Assessments by the Political Subdivision to the DFA.
- (d) Reduction of Special Assessments. The Parties agree that the Special Assessments may be subject to reduction, but only upon the express written consent or instruction of the DFA. If the Owner causes the Special Assessments to be prepaid in accordance with Sections 2.2(c) or 4.7 of this Agreement, upon the Political Subdivision's receipt of the DFA's express written consent or instruction, the Political Subdivision shall certify to the County Fiscal Officer, prior to the last date in the then-current tax year on which municipal corporations may certify special assessments to the County Fiscal Officer, a reduction in the amount of Special Assessments collected such that, following such reduction, the amount of Special Assessments remaining to be paid shall be equal to the amounts necessary to pay, as and when due, the remaining outstanding principal of the Project Advance, together with a \$100 annual administrative fee payable to the DFA. The parties acknowledge and agree that County Fiscal Officer may calculate, charge, and collect a collection fee on each annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Fiscal Officer pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Notwithstanding anything in this Agreement to the contrary, the Political Subdivision shall not cause any reduction in the amount of Special Assessments without the prior written consent or instruction of the DFA.
- (e) Assignment of Special Assessments. The Political Subdivision agrees that it shall establish its funds for the collection of the Special Assessments as separate funds maintained on the Political Subdivision's books and records and to be held in the custody of a bank with which the Political Subdivision maintains a depository relationship. The Political Subdivision hereby assigns to the DFA all of its right, title and interest in and to: (i) the Special Assessments received by the Political Subdivision under this Agreement, (ii) the Political Subdivision's special assessment funds established for the Project, and (iii) any other property received or to be received from the Political Subdivision under this Agreement. The Political Subdivision further shall transfer, set over, and pay the Special Assessments to the

DFA in accordance with this Agreement. The ESID acknowledges and consents to the Political Subdivision's assignment of the Special Assessments to the DFA. The Parties agree that each of the Political Subdivision, the ESID, and the DFA, as assignee of the Special Assessments, is authorized to take any and all actions, whether at law, or in equity, to collect delinquent Special Assessments levied by the Political Subdivision pursuant to law and to cause the lien securing any delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor and the County Fiscal Officer, as necessary, to institute such prompt and timely foreclosure proceedings.

- (f) Transfer of Special Assessments. The parties anticipate that semi-annual installments of the Special Assessments will be paid to the Political Subdivision by the County Fiscal Officer. Immediately upon receipt of any moneys received by the Political Subdivision as Special Assessments, but in any event not later than 21 calendar days after the receipt of such moneys and the corresponding final settlement from the County Fiscal Officer, the Political Subdivision shall deliver to the DFA all such moneys received by the Political Subdivision as Special Assessments. The DFA may from time to time provide written payment instructions to the Political Subdivision for payment of Special Assessments by check, wire instructions, or other means. The Parties acknowledge and agree that the County Fiscal Officer, under the Special Assessment agreement, has agreed to disburse the Special Assessments directly to the DFA pursuant to instructions or procedures agreed upon by the County Fiscal Officer and the Political Subdivision, and, upon each transfer of an installment of the Special Assessments from the County Fiscal Officer to the DFA, the Political Subdivision shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments to the DFA.
- (g) Repayment of Project Advance. The DFA shall credit, on the dates shown on the Repayment Schedule (which is attached to, and incorporated into, this Agreement as **Exhibit B**), Special Assessments in the amounts shown on the Repayment Schedule to the payment of accrued interest on the Project Advance, to the payment of the annual administrative fee due to the DFA, and to the repayment of the portion of the principal of the Project Advance each scheduled to be repaid on such date. The Parties acknowledge and agree that the County Fiscal Officer may calculate, charge, and collect a fee on each annual installment of the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties, and that such fee shall be paid to the County Fiscal Officer with the Special Assessments, and that the County Fiscal Officer will retain such fee.

Section 2.3. Obligations Unconditional; Place of Payments. The Political Subdivision's obligation to transfer the Special Assessments to the DFA under Section 2.2 of this Agreement shall be absolute and unconditional, and the Political Subdivision shall make such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever,

including, without limitation, any defense, set-off, recoupment, or counterclaim which the Political Subdivision may have or assert against the DFA, the ESID, or the Owner; provided, however, that the Political Subdivision's obligation to transfer the Special Assessments is limited to the Special Assessments actually received by or on behalf of the Political Subdivision, and nothing in this Agreement shall be construed to obligate the Political Subdivision to transfer or pledge, and the Political Subdivision shall not transfer or pledge any special assessments not related to the ESID.

Section 2.4. Appropriation by the Political Subdivision; No Further Obligations. Upon the Parties' execution of this Agreement, all of the Special Assessments received or to be received by the Political Subdivision shall be deemed to have been appropriated to pay the Political Subdivision's obligation under this Agreement to pay to the DFA all Special Assessments received by the Political Subdivision; provided, however, that nothing in this Agreement shall be construed to be an appropriation by the Political Subdivision, as the Owner, of amounts necessary to pay the amounts of the Special Assessments, which such appropriation shall be subject to the annual determination of the Legislative Authority. During the years in which this Agreement is in effect, the Political Subdivision shall take such further actions as may be necessary or desirable in order to appropriate the transfer of the Special Assessments actually received by the Political Subdivision in such amounts and at such times as will be sufficient to enable the Political Subdivision to satisfy its obligation under this Agreement to pay to the DFA all Special Assessments received by the Political Subdivision, as the Political Subdivision; provided that the Political Subdivision, as the Political Subdivision, shall not be responsible for the costs and expenses of any collection or enforcement actions, except to the extent of any Special Assessments actually received by the Political Subdivision; and provided further that nothing in this paragraph shall be construed as a waiver of the Political Subdivision's right to be indemnified pursuant to Section 6.4 of this Agreement or pursuant to the Special Assessment Agreement. The Political Subdivision, as the Political Subdivision, has no obligation to use or apply to the payment of the received Special Assessments to the DFA any funds or revenues from any source other than the moneys received by the Political Subdivision as Special Assessments; provided, however, that nothing in this Agreement shall be deemed to prohibit the Political Subdivision from using, to the extent that it is authorized to do so, any other resources for the fulfillment of any of this Agreement's terms, conditions, or obligations.

Section 2.5. Security for Advanced Funds. To secure the transfer of the Special Assessments by the Political Subdivision to the DFA, and in accordance with the Special Assessment Act, the ESID hereby assigns, transfers, sets over, and shall pay all of its right, title, and interest in and to the Special Assessments related to the ESID actually received by or on behalf of the Political Subdivision to the DFA. The Owner and the Political Subdivision agree and consent to that assignment.

ARTICLE III: REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 3.1. The Political Subdivision's Representations and Warranties. The Political Subdivision represents and warrants that:

- (a) It is a municipal corporation, duly organized, and validly existing under the Constitution and applicable laws of the State.

- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the Political Subdivision that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the Political Subdivision's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the Political Subdivision and does not and will not conflict with or result in a default under any agreement or instrument to which the Political Subdivision is a party or by which it is bound.
- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the Political Subdivision has taken all steps necessary to establish this Agreement and the Political Subdivision's covenants and agreements within this Agreement, as valid and binding obligations of the Political Subdivision, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the Political Subdivision in which an unfavorable ruling or decision would materially adversely affect the Political Subdivision's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.2(e) is a valid and binding obligation of the Political Subdivision with respect to the Special Assessments received by the Political Subdivision under this Agreement.

Section 3.2. The ESID's Representations and Warranties. The ESID represents and warrants that:

- (a) It is a nonprofit corporation and special improvement district, duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the ESID that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the ESID's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the ESID and does not and will not conflict with or result in a default under any agreement or instrument to which the ESID is a party or by which it is bound.
- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the ESID has taken all steps necessary to establish this Agreement and the ESID's covenants and agreements within this Agreement as valid and binding obligations of the ESID, enforceable in accordance with their terms.

- (e) There is no litigation pending, or to its knowledge threatened, against or by the ESID in which an unfavorable ruling or decision would materially adversely affect the ESID's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.5 is a valid and binding obligation of the ESID with respect to the ESID's right, title and interest in the Special Assessments under this Agreement.

Section 3.3. The Owner's Representations and Warranties. The Owner represents and warrants that:

- (a) It is a county, duly organized, and validly existing under the Constitution and applicable laws of the State and its Charter. It has all requisite power to conduct its business as presently conducted and to own, or hold under lease, its assets and properties, and, is duly qualified to do business in all other jurisdictions in which it is required to be qualified, except where failure to be so qualified does not have a material adverse effect on it, and will remain so qualified and in full force and effect during the period during which Special Assessments shall be assessed, due, and payable.
- (b) It, by proper action, duly has authorized, executed, and delivered this Agreement, and it has taken all steps necessary to establish this Agreement and its covenants and agreements within this Agreement as valid and binding obligations, enforceable in accordance with their terms
- (c) There are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it, the Property, or the Project that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affect its financial condition (an "Action"), and during the term of this Agreement, the Owner shall promptly notify the DFA of any Action commenced or to its knowledge threatened against it.
- (d) It is not in default under this Agreement, and no condition, the continuance in existence of which would constitute a default under this Agreement exists. It is not in default in the payment of any Special Assessments or under any agreement or instrument related to the Special Assessments which has not been waived or allowed.
- (e) No representation or warranty made by it contained in this Agreement, and no statement contained in any certificate, schedule, list, financial statement or other instrument furnished to the DFA or the ESID by it or on its behalf contained, as of the date thereof, any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading.
- (f) The Owner has good and marketable title to its Property, subject only to existing liens, pledges, encumbrances, charges or other restrictions of record previously

disclosed by the Owner to the DFA in writing, liens for taxes not yet due and payable, and minor liens of an immaterial nature.

- (g) The Project complies in all material respects with all applicable zoning, planning, building, environmental and other regulations of each Governmental Authority having jurisdiction of the Project, and all necessary permits, licenses, consents and permissions necessary for the Project have been or will be obtained.
- (h) The plans and specifications for the Project are satisfactory to the Owner, have been reviewed and approved by the general contractor for the Project, the tenants under any leases which require approval of the plans and specifications, the purchasers under any sales contracts which require approval of the plans and specifications, any architects for the Project, and, to the extent required by applicable law or any effective restrictive covenant, by all Governmental Authorities and the beneficiaries of any such covenants; all construction of the Project, if any, already performed on the Property has been performed on the Property in accordance with such approved plans and specifications and the restrictive covenants applicable to the plans and specifications; there are no structural defects in the Project or violations of any requirement of any Governmental Authorities with respect to the Project; the planned use of the Project complies with applicable zoning ordinances, regulations, and restrictive covenants affecting the Property as well as all environmental, ecological, landmark and other applicable laws and regulations; and all requirements for such use have been satisfied.
- (i) Each Disbursement Request Form presented to the DFA, and the receipt of the funds requested by the Disbursement Request Form, shall constitute an affirmation that the representations and warranties contained in this Agreement remain true and correct as of the date of the Disbursement Request Form and the receipt of the funds requested by the Disbursement Request Form.
- (j) Each of the Property and the Project are, and at all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, used solely for the governmental purposes of the Owner.
- (k) Each of the components of the Project is a qualified “special energy improvement project” pursuant to the definition of that term in Ohio Revised Code Section 1710.01(I).
- (l) At all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, the Owner shall comply in all respects with the Special Assessment Act, and shall take any and all action necessary to remain in compliance with the Special Assessment Act.

Section 3.4. The Owner’s Additional Agreements. The Owner agrees that:

- (a) It shall not transfer or convey any right, title, or interest, in or to the Property and the Project, except after giving prompt notice of any such transfer or conveyance to the DFA; provided, however, that the foregoing restrictions shall not apply to the grant or conveyance of any leasehold interests, mortgage interest, or lien interest, except as may be otherwise provided in this Agreement. Before or simultaneous with any such transfer or conveyance, the Owner shall (i) execute, cause the transferee or purchaser to execute, and deliver to the DFA, the Political Subdivision, and the ESID a fully executed "Assignment and Assumption of Loan Agreement" in the form attached to, an incorporated into, this Agreement as **Exhibit E**; and (ii) execute, cause the transferee or purchaser to execute, and deliver to the DFA, an assignment of all construction contracts related to the Project.
- (b) It shall pay when due all taxes, assessments, service payments in lieu of taxes, levies, claims and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on any portion of the Property; provided, however, that at all times during the term of this Agreement at which the Political Subdivision is the Owner, the foregoing obligations shall be subject to annual appropriation by the Legislative Authority. The Owner shall furnish the DFA, upon reasonable request, with proof of payment of any taxes, governmental charges, utility charges, insurance premiums or other charges required to be paid by the Owner under this Agreement. The Parties acknowledge and agree that the foregoing obligation is in addition to the Owner's obligation to pay the Special Assessment.
- (c) It promptly shall notify the DFA of any material damage or destruction to the Project.
- (d) It does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, as defined in applicable state law, or any other federal, state or local environmental laws or regulations, and neither the Property nor any other of its premises has been so used previously, in each case, except as previously disclosed in writing to the DFA. There are no underground storage tanks located on the Property. There is no past or present non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws. There is no environmental remediation required (or anticipated to be required) with respect to the Property. The Owner does not know of, and has not received, any written or oral notice or other communication from any person (including but not limited to a governmental entity) relating to hazardous substances or remediation of hazardous substances, of possible liability of any person pursuant to any environmental law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with the foregoing.

ARTICLE IV: PROJECT ADVANCE; CONSTRUCTION OF PROJECT; REPAYMENT

Section 4.1. Project Advance. The DFA has made available to the Owner an advance in the amount of \$600 (the "Project Advance"). The DFA shall hold the Project Advance in a segregated account established in the custody of the DFA, which account shall be referred to as the "Project Account." Subject to the terms and conditions of this Agreement, the DFA, upon the direction of the Owner, shall disburse amounts on deposit in the Project Account to the Owner or to such parties as may be named by the Owner in order to pay the costs of the Project.

If the Project Advance is insufficient to pay the costs of the Project pursuant to this Agreement, the Owner, nevertheless, shall complete the acquisition, construction, equipping, installation, and improvement of its Project, and the Owner shall pay all such additional costs of its Project from its own funds; provided, however, that at all times during the term of this Agreement at which the Political Subdivision is the Owner, the foregoing obligation shall be subject to annual appropriation by the Legislative Authority. The Owner shall not be entitled to reimbursement for any such additional costs of its Project, nor shall it be entitled to any abatement, diminution, or postponement of the Special Assessments.

Any interest earned on moneys held in the Project Account shall belong solely to the DFA, and the DFA shall be entitled to withdraw any such interest from the Project Account at any time without the consent or direction of the Owner; provided, however, that in no case shall the Project Advance be available to be disbursed in accordance with this Agreement be diminished by any such action.

Section 4.2. Disbursements. In order to cause disbursement of amounts on deposit in the Project Account to pay or reimburse the costs of the Project, the Owner shall submit to the DFA Disbursement Request Forms (a form of which is attached to this Agreement as **Exhibit C**), which Disbursement Request Forms each shall, in part, set forth the payments or reimbursements requested, and shall be accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested and directing the payment of reimbursement.

Upon its receipt of each completed Disbursement Request Form, and satisfaction of the conditions to disbursement set forth above, the DFA shall approve all or a portion of the payment or reimbursements requested to be disbursed from the Project Account. To the extent the DFA approves the payment or reimbursements requested to be disbursed from the Project Account, the DFA shall pay the Owner or such other parties as are indicated on the Disbursement Request Form the amounts described on such Disbursement Request Form which have been approved by the DFA.

Section 4.3. Takings. In the event any part of the Property or the Project shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (a "Taking"), the DFA's obligation to make disbursements under this Agreement shall be terminated unless the Property and the Project can be replaced and restored in a manner which will enable the Project to be functionally and economically utilized and occupied as originally intended. If the Property and the Project can be so restored, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications, and the

DFA shall release the funds for such purpose. If, in the DFA's reasonable judgment, the Taking proceeds available to the Owner and the DFA are insufficient to complete the restoration, the Owner shall deposit with the DFA such amounts as are necessary, in the DFA's reasonable judgment, to complete the restoration in accordance with the plans and specifications; provided, however, that at all times during the term of this Agreement at which the County of Summit, Ohio is the Owner, the foregoing obligation shall be subject to annual appropriation by the County Council.

The Political Subdivision, the County and the DFA each agree not to take all or any part of the Property or the Project for public purposes by condemnation in an action or proceeding in eminent domain during the time when any Special Assessments remain unpaid.

Section 4.4. Eligible Costs. The costs of the Project which are eligible for payment or reimbursement pursuant to this Agreement include the following:

- (a) costs incurred directly or indirectly for or in connection with the acquisition, construction, equipping, installation, and improvement of the Project, including without limitation, costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, surveying, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;
- (b) financial, legal, recording, title, accounting, and printing and engraving fees, charges and expenses, and all other fees, charges and expenses incurred in connection with the financing described in this Agreement, including, without limitation, repayment of the Project Advance, whether by payment of the Special Assessments or by prepayment pursuant to the terms of this Agreement;
- (c) premiums attributable to any surety and payment and performance bonds and insurance required to be taken out and maintained until the date on which each Project is final and complete;
- (d) taxes, assessments and other governmental charges in respect of the Project that may become due and payable until the date on which each Project is final and complete;
- (e) costs, including, without limitation, attorney's fees, incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project; and
- (f) any other incidental or necessary costs, expenses, fees and charges properly chargeable to the cost of the acquisition, construction, equipment, installation, and improvement of the Project.

Section 4.5. Completion of Project; Inspection. The Owner (a) in accordance with the approved plans and specifications for the Project, which plans and specifications shall not be materially revised without the prior written approval of the DFA, which approval shall not be

unreasonably withheld, shall acquire, construct, equip, install, and improve its Project with Project Advance with all commercially reasonable dispatch, (b) subject to its right to contest any disputed work, shall pay when due all fees, costs and expenses incurred or payable by the Owner in connection with that acquisition, construction, equipment, installation, and improvement from funds made available therefor in accordance with this Agreement or otherwise, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable to the Owner under the terms of any contract, order, receipt, writing or instruction in connection with the acquisition, construction, equipment, installation, and improvement of the Project, and shall utilize commercially reasonable efforts to enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is to be owned by the Owner and any contracts made by the Owner with respect to the Project or any work to be done by the Owner on or with respect to the Project are made or done by the Owner on its own behalf and not as agent or contractor for the ESID or the DFA.

During the period of construction, acquisition, equipping, installation, and improvement of the Project, the ESID and the DFA, and their respective agents, subject to reasonable security and safety regulations, and upon reasonable prior notice, shall have the right, during normal business hours, to inspect the Project. The ESID and the DFA and their respective agents shall utilize commercially reasonable efforts to minimize interference with the tenants of the Property during any such inspection.

The DFA reserves the right to deny the request for a Project Advance pursuant to Article IV of this Agreement if such inspection reveals that construction is not proceeding with reasonable dispatch. If, in the DFA's opinion, after 30 days' written notice to the Owner, the construction is not proceeding with reasonable dispatch, the DFA may (i) request that the Owner remove and replace the general contractor with a general contractor acceptable to the DFA, the failure of which by the Owner shall be a default under this Agreement, (ii) utilize funds to continue construction of the Project and such funds shall be considered Project Advances, or (iii) deny any Project Advance until such time as the construction resumes proceeding with reasonable dispatch.

The Owner shall notify the ESID, the Political Subdivision, and the DFA of the Completion Date by a certificate in the form attached as **Exhibit D** to this Agreement. The certificate shall be delivered as promptly as practicable after the Completion Date.

Section 4.6. Repayment. The Parties acknowledge that pursuant to this Agreement, the Project Advance is expected to be repaid by the Special Assessments. The Parties agree that the Special Assessments have been levied and certified to the County Fiscal Officer in the amounts necessary to amortize the Project Advance over two semi-annual payments, to be collected with semi-annual real property tax collections in 2020. The Owner agrees to pay, as and when due, all Special Assessments with respect to its Property; provided, however, that at all times during the term of this Agreement at which the County of Summit, Ohio is the Owner, the foregoing obligation shall be subject to annual appropriation by the County Council.

Section 4.7. Prepayment. At any time the Owner may prepay any portion of the principal of the Project Advance to the DFA by paying, in immediately available funds, 100% of

the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment.

Immediately upon any prepayment pursuant to this Section 4.7, the DFA shall notify the Political Subdivision of the prepayment, and the Owner, the DFA, and the Political Subdivision shall cooperate to reduce the amount of Special Assessments to be collected by the County Fiscal Officer pursuant to Section 2.2(d) of this Agreement.

Section 4.8. Payment of Fees and Expenses. If an Event of Default on the part of the Owner should occur under this Agreement such that the ESID, the DFA, or the Political Subdivision should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement or the collection of sums due under this Agreement, the Owner shall reimburse the ESID, the DFA, and the Political Subdivision, as applicable, for any reasonable out-of-pocket expenses so incurred upon demand; provided, however, that at all times during the term of this Agreement at which the County is the Owner, the Owner shall have no obligation to reimburse the ESID, the DFA, and the Political Subdivision. If any such expenses are not so reimbursed, and the County is not at such time the Owner, the amount of such expenses, together with interest on such expenses from the date of demand for payment at an annual rate equal to the lesser of 10% or the maximum rate allowable by law shall constitute indebtedness under this Agreement, and the ESID, the DFA, and the Political Subdivision, as applicable, shall be entitled to seek the recovery of those expenses in such action except as limited by law or by judicial order or decision entered in such proceedings.

Section 4.9. Further Assurances. Upon the request of the DFA, the Owner shall take any actions and execute any further documents as the DFA deems necessary or appropriate to carry out the purposes of this Agreement.

ARTICLE V: EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any of the following shall occur, such occurrence shall be an "Event of Default" under this Agreement:

- (a) The Owner shall fail to pay an installment of the Special Assessments when due, after taking into account all applicable extensions;
- (b) The Political Subdivision shall fail to transfer, or cause the transfer of, any of the Special Assessments to the DFA within the time specified in this Agreement;
- (c) Any Party is in material breach of its representations or warranties under this Agreement; provided, however, that upon the material breach of a Party's representations or warranties under this Agreement, such Party shall have the right to cure such breach within five days of the receipt of notice, and, if so cured, such breach shall not constitute an Event of Default;
- (d) The ESID, the Owner, or the Political Subdivision, shall fail to observe and perform any other agreement, term, or condition contained in this Agreement, and the continuation of such failure for a period of 30 days after written notice of such

failure shall have been given to the ESID, the Owner, or the Political Subdivision, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; provided, however, that if the failure is other than the payment of money, and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the ESID, an Owner, or the Political Subdivision, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;

- (e) The Owner abandons its Property or its Project;
- (f) The Owner commits waste upon its Property or its Project;
- (g) The Owner becomes bankrupt or insolvent or files or has filed against it (and such action is not stayed or dismissed within 90 days) a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes a general assignment for the benefit of creditors; or
- (h) Any workmanship or materials constituting a portion of the Project or incorporated into the Project shall be materially defective and shall not be corrected within 30 days after notice.

The declaration of an Event of Default above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Promptly upon any non-defaulting Party becoming aware that an Event of Default has occurred, such Party shall deliver notice of such Event of Default to each other Party under this Agreement in accordance with the notice procedures described in Section 6.5 of this Agreement.

Section 5.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) The ESID, the DFA, and the Political Subdivision, together or separately, may pursue all remedies now or later existing at law or in equity to collect all amounts due and to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of any of the Parties, as applicable, under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the ESID or the Political Subdivision, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the DFA, and the Political Subdivision may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

- (b) Any Party may pursue any other remedy which it may have, whether at law, in equity, or otherwise, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the DFA, and the Political Subdivision may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

Notwithstanding the foregoing, each of the ESID, the DFA, and the Political Subdivision shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to it at no cost or expense.

Section 5.3. Foreclosure. Pursuant to Section 2.1 of the Special Assessment Agreement by and among the County, the Political Subdivision, the ESID, and the Owner and dated as of the date of this Agreement (the "Special Assessment Agreement"), the County has agreed not to confirm the sale of the Property for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Property, as shall be certified by the ESID to the County pursuant to the records of the County without the consent of the ESID and the DFA. The ESID hereby agrees that in the event it is asked to provide its consent in accordance with Section 2.1 of the Special Assessment Agreement, it will notify the DFA of such request, and it will not provide its consent pursuant to Section 2.1 of the Special Assessment Agreement without the DFA's prior written direction.

Section 5.4. No Remedy Exclusive. No remedy conferred upon or reserved to the Parties by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or later existing at law, in equity or by statute; provided, however, that the ESID, the DFA, and the Political Subdivision may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power nor shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Parties to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Agreement.

Section 5.5. No Waiver. No failure by a Party to insist upon the strict performance by the other Parties of any provision of this Agreement shall constitute a waiver of such Party's right to strict performance; and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Parties to observe or comply with any provision of this Agreement.

Section 5.6. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement immediately if it becomes aware of the occurrence of any Event of Default

or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VI: MISCELLANEOUS

Section 6.1. Owner Waivers. The Owner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Ohio Revised Code Chapter 727, and the ordinances in effect in the Political Subdivision (collectively, "Assessment Rights"). The Owner irrevocably waives all Assessment Rights as to its Project and consents to the imposition of the Special Assessments as to its Project immediately or at such time as the ESID determines to be appropriate, and the Owner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessments upon its Property as to the Project. The Owner further waives in connection with the its Project: any and all questions as to the constitutionality of the laws under which its Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Legislative Authority acting thereunder; and the right to file a claim for damages as provided in Ohio Revised Code Section 727.18 and any similar provision of the ordinances in effect within the Political Subdivision.

Section 6.2. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of execution and delivery until the payment in full of the entire aggregate amount of the Special Assessments shall have been made to the DFA, or such time as the Parties shall agree in writing to terminate this Agreement. Any attempted termination of this Agreement prior to the payment in full of the entire aggregate amount of the Special Assessments which is not in writing and signed by each of the Parties to this Agreement shall be null and void.

Section 6.3. Litigation Notice. Each Party shall give all other Parties prompt notice of any action, suit, or proceeding by or against the notifying Party, at law or in equity, or before any governmental instrumentality or agency, of which the notifying Party has notice and which, if adversely determined would impair materially the right or ability of the Parties to perform its obligations under this Agreement. The notifying Party's prompt notice shall be accompanied by its written statement setting forth the details of the action, suit, or proceeding and any responsive actions with respect to the action, suit, or proceeding taken or proposed to be taken by the Party.

Section 6.4. Indemnification. At all times during the term of this Agreement at which the County is the Owner, the Owner shall have no obligation under this Section 6.4.

At all times during the term of this Agreement at which the Owner in any Person other than the County, the Owner shall indemnify and hold harmless the ESID, the DFA, and the Political Subdivision (including any member, officer, director, or employee thereof) (collectively, the "Indemnified Parties") against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon, incurred by or asserted against an Indemnified Party arising or resulting

from (i) Owner's financing, acquisition, construction, installation, operation, use or maintenance of the Project, (ii) any act, failure to act or misrepresentation solely by the Owner in connection with, or in the performance of any obligation on the Owner's part to be performed under this Agreement or related to the Special Assessments resulting in material actual damages, or (iii) (a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law ("Materials of Environmental Concern") in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean-up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a "Release") (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (e) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (f) any misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

In the event any action or proceeding is brought against any Indemnified Party by reason of any such claim, such Indemnified Party will promptly give written notice thereof to the Owner. The Owner shall be entitled to participate at its own expense in the defense or, if it so elects, to assume at its own expense the defense of such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Owner; but if the Owner shall elect not to assume such defense, it shall reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by such Indemnified Party. If at any time the Indemnified Party becomes dissatisfied, in its reasonable discretion, with the selection of counsel by the Owner, a new mutually agreeable counsel shall be retained at the expense of the Owner. Each Indemnified Party agrees that the Owner shall have the sole right to compromise, settle or conclude any claim, suit, action or proceeding against any of the Indemnified Parties. Notwithstanding the foregoing, each Indemnified Party shall have the right to employ counsel in any such action at their own expense; and provided further that such Indemnified Party shall have the right to employ counsel

in any such action and the fees and expenses of such counsel shall be at the expense of the Owner, if: (i) the employment of counsel by such Indemnified Party has been authorized by the Owner, (ii) there reasonably appears that there is a conflict of interest between the Owner and the Indemnified Party in the conduct of the defense of such action (in which case the Owner shall not have the right to direct the defense of such action on behalf of the Indemnified Party) or (iii) the Owner or shall not in fact have employed counsel to assume the defense of such action. The Owner shall also indemnify the Indemnified Parties from and against all costs and expenses, including reasonable attorneys' fees, lawfully incurred in enforcing any obligations of the Owner under this Agreement. The obligations of the Owner under this Section shall survive the termination of this Agreement and shall be in addition to any other rights, including without limitation, rights to indemnity which any Indemnified Party may have at law, in equity, by contract or otherwise.

None of the DFA, the Political Subdivision, or the ESID shall have any liability to the Owner or any other Person on account of (i) the Owner engaging a contractor from the list of contractors submitted by the ESID or the DFA to the Owner, (ii) the services performed by the contractor, or (iii) any neglect or failure on the part of the contractor to perform or properly perform its services. None of the DFA, the Political Subdivision, or the ESID assumes any obligation to the Owner or any other Person concerning contractors, the quality of construction of the Project or the absence of defects from the construction of the Project. The making of a Project Advance by the DFA shall not constitute the DFA's approval or acceptance of the construction theretofore completed. The DFA's inspection and approval of the budget, the construction work, the improvements, or the workmanship and materials used in the improvements, shall impose no liability of any kind on the DFA, the sole obligation of the DFA as the result of such inspection and approval being to make the Project Advances if, and to the extent, required by this Agreement. Any disbursement made by the DFA without the DFA having received each of the items to which it is entitled under this Agreement shall not constitute breach or modification of this Agreement, nor shall any written amendment to this Agreement be required as a result.

Section 6.5. Notices. All notices, certificates, requests or other communications under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 6.6. Extent of Covenants; No Personal Liability. All covenants, obligations, and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee of the ESID, the Board, the Owner, the Political Subdivision, the Legislative Authority, the DFA, or the board of directors of the DFA in other than his or her official capacity; and none of the members of the Board or the Legislative Authority, nor any official of the ESID, the Owner, the Political Subdivision, the DFA, or the board of directors of the DFA executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the ESID, the Owner, the Political Subdivision, the DFA, or the board of directors of the DFA contained in this Agreement.

Section 6.7. Binding Effect; Assignment; Estoppel Certificates. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Parties. Except as specifically provided below, this Agreement shall not be assigned by the any of the Parties except as may be necessary to enforce or secure payment of the Special Assessments.

Notwithstanding anything in this Agreement to the contrary, the Owner freely may sell the Property and the Project or any portion of the Property and the Project from time to time and may assign this Agreement to an arms-length, good faith purchaser of the real property on which the Project is situated and on which the Special Assessments are levied, but only after notice of such assignment is given to the DFA, and only upon (i) the execution and delivery to the Political Subdivision, the DFA, and the ESID of an "Assignment and Assumption of Loan Agreement" in the form attached to, and incorporated into, this Agreement as **Exhibit E**; and (ii) the execution and delivery to the DFA of an assignment of all construction contracts for the Project. The Parties acknowledge and agree that the Assignment and Assumption of Loan Agreement includes the assignment and assumption of the Special Assessment Agreement. Following any assignment by the Owner as described above, all obligations of the Owner contained in this Agreement, the Special Assessment Agreement shall be obligations of the assignee, and the assigning Owner shall be released of its obligations to a corresponding extent.

Notwithstanding anything in this Agreement to the contrary, the DFA shall have the unrestricted right at any time or from time to time, and without the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement, and may sell or assign any and all liens received directly or indirectly from the Political Subdivision to any Person (each, a "DFA Assignee"), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the DFA shall deem necessary to effect the foregoing so long as such amendment does not materially adversely impact the Owner's rights and obligations under this Agreement. Any DFA Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the DFA under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the DFA pursuant to the assignment documentation between the DFA and such DFA Assignee, and the DFA shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent. If, at any time, the DFA assigns any of the rights and obligations of the DFA under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to an DFA Assignee, the DFA shall give prompt notice of such assignment to the other Parties. The Owner agrees that the DFA may furnish any information concerning the Owner in its possession from time to time to prospective DFA Assignees.

This Agreement may be enforced only by the Parties, their permitted assignees, and others, who may, by law, stand in their respective places.

Any Party shall at any time and from time to time, upon not less than 30 days' prior written notice by the other party, execute, acknowledge and deliver to such party a statement in writing certifying that: (i) this Agreement is unmodified and in full force and effect (or, if there has been

any modification of this Agreement, that the same is in full force and effect as modified and stating the modification or modifications); (ii) to the best of such Party's actual knowledge (without any duty of inquiry) there are no continuing Events of Default (or, if there is a continuing Event of Default, stating the nature and extent of such Event of Default); (iii) that, to the best of such Party's actual knowledge (without any duty of inquiry) there are no outstanding damages or liability arising from an Event of Default (or, if there is any outstanding damages or liability, stating the nature and extent of such damages or liability); (iv) if such certificate is being delivered by the Owner, the dates to which the Special Assessments have been paid; and (v) if such certificate is being delivered by the DFA, the dates to which the Special Assessments have been paid to the DFA. It is expressly understood and agreed that any such certificate delivered pursuant to this Section 6.7 may be relied upon by any prospective assignee of the Owner or any prospective DFA Assignee.

Section 6.8. Amendments and Supplements. Except as otherwise expressly provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by unanimous written agreement signed by each of the Parties materially affected by such proposed amendment, change, modification, alteration, or termination. For purposes of this Section, a materially affected Party is a Party with respect to which a material right or obligation under this Agreement is proposed to be amended, changed, modified, altered, or terminated. Any attempt to amend, change, modify, alter, or terminate this Agreement except by unanimous written agreement signed by all of the materially affected Parties or as otherwise provided in this Agreement shall be void.

Section 6.9. Execution Counterparts. This Agreement may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

Section 6.10. Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained in this Agreement is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Agreement. That invalidity or unenforceability shall not affect any valid and enforceable application of the provision, covenant, obligation, or agreement, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

Section 6.11. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

[Signature Pages Immediately Follow]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed in their respective names, all as of the date first written above.

AKRON, BARBERTON, BATH TOWNSHIP,
COPLEY TOWNSHIP, COVENTRY
TOWNSHIP, CUYAHOGA FALLS,
FAIRLAWN, LAKEMORE, NEW FRANKLIN,
NORTON, RICHFIELD, SPRINGFIELD
TOWNSHIP, TALLMADGE ENERGY
SPECIAL IMPROVEMENT DISTRICT, INC.
D/B/A AKRON-SUMMIT COUNTY ENERGY
SPECIAL IMPROVEMENT DISTRICT, INC.

By: _____
Name: _____
Title: _____

COUNTY OF SUMMIT, OHIO, as the Owner

Approved as to Form:

By: _____
Deborah S. Matz, Director of Law

By: _____
Name: _____
Title: _____

DEVELOPMENT FINANCE AUTHORITY
OF SUMMIT COUNTY, as DFA

By: _____
Christopher Burnham, President

CITY OF GREEN, OHIO, as the Political
Subdivision

Approved as to Form:

By: _____
Law Director

By: _____
Name: _____
Title: _____

POLITICAL SUBDIVISION FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the City of Green, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2019 (\$0.00) under the foregoing Loan Agreement have been lawfully appropriated by the Legislative Authority of the Municipality for such purpose and are in the treasury of the Political Subdivision 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 Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
City of Green, Ohio

Dated: _____, 2019

DFA FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the Development Finance Authority of Summit County hereby certifies that the moneys required to meet the obligations of the DFA during the year 2019 under the foregoing Loan Agreement have been lawfully appropriated by the legislative authority of the DFA for such purpose and are in the treasury of the DFA 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 Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
Development Finance Authority of Summit
County

Dated: _____, 2019

COUNTY FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the County of Summit, Ohio, hereby certifies that the moneys required to meet the obligations of the County during the year 2019 under the foregoing Loan Agreement have been lawfully appropriated by the legislative authority of the County for such purpose and are in the treasury of the County 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 Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
County of Summit, Ohio

Dated: _____, 2019

EXHIBIT A

DEFINITIONS

As used in this Agreement, the following words have the following meanings:

“*Agreement*” means this Loan Agreement, dated as of _____, 2019, by and between the ESID, the Owner, the DFA, and the Political Subdivision, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

“*Assessing Legislation*” means any resolution or ordinance passed, enacted, or adopted by the Legislative Authority of the Political Subdivision pursuant to Ohio Revised Code Section 727.12, 727.2323 and 727.25 with respect to levying the Special Assessments.

“*Board*” means the Board of Directors of the ESID.

“*Completion Date*” means the latest date on which substantial completion of the Project, in accordance with the Plans occurs, which date shall be established by the Completion Certificate attached to this Agreement as **Exhibit D**.

“*County*” means the County of Summit, Ohio.

“*County Fiscal Officer*” means the Fiscal Officer of the County.

“*County Prosecutor*” means the Prosecuting Attorney of the County.

“*DFA*” means the Development Finance Authority of Summit County, a port authority and political subdivision duly organized and validly existing under the laws of the State of Ohio, together with any DFA Assignee.

“*Disbursement Request Form*” means the form attached to this Agreement as **Exhibit C**, which form shall be submitted by the Owner in order to receive disbursements from the Project Account.

“*ESID*” means the Akron, Barberton, Bath Township, Copley Township, Coventry Township, Cuyahoga Falls, Fairlawn, Lakemore, New Franklin, Norton, Richfield, Springfield Township, Tallmadge Energy Special Improvement District, Inc. d/b/a Akron-Summit County Energy Special Improvement District, Inc., a nonprofit corporation and energy special improvement district organized under the laws of the State of Ohio.

“*Governmental Authority*” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Legislative Authority” means, as applicable, the Council or Board of Township Trustees of the Political Subdivision.

“Notice Address” means:

- | | | |
|-----|----------------------------------|---|
| (a) | As to the Political Subdivision: | City of Green, Ohio
1755 Town Park Blvd.
Green, Ohio 44685
P.O. Box 278
Green, Ohio 44232
Attention: Director of Law |
| (b) | As to the ESID: | Akron-Summit County Energy Special Improvement District
c/o Development Finance Authority of Summit County
47 North Main Street, Suite 407
Akron, Ohio 44308
Attention: Chairperson |
| (c) | As to the Owner | County of Summit, Ohio
175 S. Main Street, Fourth Floor
Akron, Ohio 44308 |
| (d) | As to the DFA | Development Finance Authority of Summit County
47 North Main Street, Suite 407
Akron, Ohio 44308
Attention: President |

“Owner” means the County of Summit, Ohio, a county duly organized and validly existing under the Constitution and laws of the State and its Charter, and any permitted successors or assigns.

“Parties” means the ESID, the Owner, the DFA, and the Political Subdivision.

“Person” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or governmental bodies, political subdivisions, other legal entities, and natural persons.

“Plan” means the Akron Energy Special Improvement District Plan adopted by the City of Akron, Ohio, and any and all future supplemental plans approved by the ESID and the participating political subdivisions of the ESID, including, without limitation, the Supplemental Plan.

“Political Subdivision” means the City of Green, Ohio, a municipal corporation and political subdivision and its Charter duly organized and validly existing under the constitution and laws of the State.

“Project” means the special energy improvement project described in the Plan with respect to the Property, for which Special Assessments are to be levied by the Political Subdivision, all in accordance with the Plan.

“Project Account” means the segregated account in the custody of the DFA for the benefit of the Owner which contains the Project Advance, and out of which disbursements may be made in accordance with Article IV of this Agreement.

“Project Advance” means the amount of immediately available funds to be transferred, set over, and paid to, and held in the Project Account established pursuant to Section 4.1 of this Agreement for the benefit of the Owner.

“Property” means the real property subject to the Supplemental Plan.

“Repayment Schedule” means the schedule attached to, and incorporated into this Agreement as **Exhibit B**, which schedule establishes the dates and amounts for the repayment of the Project Advance by the Special Assessments paid by the Owner.

“Special Assessment Act” means, collectively, Ohio Revised Code Section 727.01 *et seq.*, Ohio Revised Code Section 1710.01 *et seq.*, Ohio Revised Code Section 323.01 *et seq.*, Ohio Revised Code Section 319.01 *et seq.*, Ohio Revised Code Section 5721.01 *et seq.*, and related laws, the Assessment Legislation, each passed, enacted, or adopted by the Political Subdivision on February 14, 2019 with respect to levying the Special Assessments.

“Special Assessments” means the special assessments levied pursuant to the Special Assessment Act by the Political Subdivision with respect to the Project, a schedule of which is attached to, and incorporated into, the Supplemental Plan.

“State” means the State of Ohio.

“Supplemental Plan” means the Akron-Summit County Energy Special Improvement District Plan – Supplement to Plan, submitted by the Owner to the Political Subdivision and approved by the Political Subdivision on _____, 2019.

EXHIBIT B

REPAYMENT SCHEDULE

Special Assessment Payment Date	Interest	Principal	DFA Fee	Amount Outstanding
-	-	-	-	\$700.00
January 31, 2020	\$0.00	\$300.00	\$50	350.00
July 31, 2020	.00	300.00	50	0.00
TOTAL	0.00	\$600.00	\$100	-

EXHIBIT C

DISBURSEMENT REQUEST FORM

**STATEMENT NO. [] REQUESTING AND
AUTHORIZING DISBURSEMENT OF FUNDS PURSUANT
TO SECTION 4.2 OF THE LOAN AGREEMENT DATED AS
OF [DATE].**

Pursuant to Section 4.2 of the Loan Agreement dated as of April __, 2019 (the “Agreement”) among the ESID, the Political Subdivision, and the DFA, the undersigned authorized representative of the County of Summit, Ohio, as the Owner under the Agreement, hereby requests the DFA, having custody of the Project Account, to pay to the Owner or the other person(s) listed on the disbursement schedule attached hereto as Appendix I (the “Disbursement Schedule”), the respective amounts specified in the Disbursement Schedule out of the moneys on deposit in the Project Account for the advances, payments and expenditures made in connection with the costs of the Project described in the Disbursement Schedule, all in accordance with Section 4.2 of the Agreement (capitalized words and terms not otherwise defined herein having the meanings assigned to them in the Agreement).

In connection with this request and authorization (the “Disbursement Request”), the undersigned hereby certifies that:

- (i) each of the representations and warranties made by the Owner in the Agreement remains true and correct, in all material respects, as of the date of this Disbursement Request and no Event of Default by the Owner under the Agreement exists;
- (ii) each item for which disbursement is requested by this Disbursement Request is properly payable out of the Project Account in accordance with the terms and conditions of the Agreement and, except as otherwise noted, none of those items has formed the basis for any disbursement heretofore made from the Project Account;
- (iii) to the extent any portion of the payment requested is for construction work, the Owner has received and herewith delivers to the DFA, conditional waivers of any mechanics’ or other liens with respect to such work;
- (iv) this Disbursement Request and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the DFA for its actions taken pursuant hereto; and
- (v) this Disbursement Request constitutes the approval of the Owner of each disbursement hereby requested and authorized.

Dated: _____

Authorized Representative of
Owner

Approved in accordance with the Agreement:

Development Finance Authority of Summit County, as the DFA:

By: _____

Name: _____

Title: _____

Dated: _____

Appendix I

Disbursement Request Schedule

Payee	Reason	Amount
		\$
TOTAL:		\$

EXHIBIT D

COMPLETION CERTIFICATE

The County of Summit, Ohio (the “Owner”) hereby certifies that the Project, as such term is defined in the Loan Agreement entered into by and between the Owner, the Akron-Summit County Energy Special Improvement District, Inc., the City of Green, Ohio, and the Development Finance Authority of Summit County (“DFA”) dated as of _____, 2019 (the “Loan Agreement”) has been completed at the Property in strict compliance with the requirements of the Loan Agreement.

Note: Capitalized terms used but not defined in this Completion Certificate have the meaning assigned to them in the Loan Agreement to which this Completion Certificate is attached and of which it forms a part.

THE OWNER HEREBY CERTIFIES:

1. As of _____, the work has been completed in accordance with the terms of the Loan Agreement. The Owner has no service requests and no unresolved complaints regarding the work performed. Such date is hereby established as the “Completion Date” under the Loan Agreement.
2. The Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget approved by DFA.
3. The Owner has complied, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Project.
4. The Owner holds fee ownership in the Property on which the Project was completed.
5. The contractor for the work has not offered the Owner any payment, refund, or any commission in return for completing the Project.
6. All funds provided to the Owner by the DFA for this Project have been used in accordance with the Loan Agreement are correct.

[Balance of Page Intentionally Left Blank]

NOTICE: DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU
AGREE TO EACH OF THE ABOVE STATEMENTS.

COUNTY OF SUMMIT, OHIO, as Owner

By: _____

Name: _____

Title: _____

EXHIBIT E

FORM OF ASSIGNMENT AND ASSUMPTION OF LOAN AGREEMENT

ASSIGNMENT AND ASSUMPTION
OF
LOAN AGREEMENT

[] (“Assignor”), in consideration of the sum of \$[] in hand paid and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Assignor’s execution of this Assignment and Assumption of Loan Agreement (“Assignment”), assigns, transfers, sets over, and conveys to [] (“Assignee”) all of Assignor’s right, title, and interest in and to that certain Loan Agreement dated as of _____, 2019 between Assignor, the Akron, Barberton, Bath Township, Copley Township, Coventry Township, Cuyahoga Falls, Fairlawn, Lakemore, New Franklin, Norton, Richfield, Springfield Township, Tallmadge Energy Special Improvement District, Inc. d/b/a Akron-Summit County Energy Special Improvement District, Inc., the Development Finance Authority of Summit County, and the City of Green, Ohio (the “Loan Agreement”).

By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Loan Agreement. Assignee further represents and warrants that it has taken title to the Property (as defined in the Loan Agreement) subject to the Special Assessment Agreement (as defined in the Loan Agreement). By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Special Assessment Agreement.

Assignor and Assignee acknowledge and agree that executed copies of this Assignment shall be delivered to the Political Subdivision, the DFA, and the ESID, as each of those terms are defined in the Loan Agreement, all in accordance with Sections 3.4(a) and 6.7 of the Loan Agreement

In witness of their intent to be bound by this Assignment, each of Assignor and Assignee have executed this Assignment this _____ day of _____, [], which Assignment is effective this date. This Assignment may be executed in any number of counterparts, which when taken together shall be deemed one agreement.

[Signature Pages Follow]

ASSIGNOR:

[_____]

By: _____
Name: _____
Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

13810377_1

SPECIAL ASSESSMENT AGREEMENT

by and among

COUNTY OF SUMMIT, OHIO
(as “County” and as “Owner”),

And

CITY OF GREEN, OHIO
(as “Political Subdivision”),

And

AKRON, BARBERTON, BATH TOWNSHIP, COPLEY TOWNSHIP, COVENTRY
TOWNSHIP, CUYAHOGA FALLS, FAIRLAWN, LAKEMORE, NEW FRANKLIN,
NORTON, RICHFIELD, SPRINGFIELD TOWNSHIP, TALLMADGE IMPROVEMENT
DISTRICT, INC. D/B/A AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT
DISTRICT, INC.
 (“District”),

And

DEVELOPMENT FINANCE AUTHORITY OF SUMMIT COUNTY
 (“DFA”)

Dated as of _____, 2019

SPECIAL ASSESSMENT AGREEMENT

THIS SPECIAL ASSESSMENT AGREEMENT (this "Agreement") is made effective as of _____, 2019, by and among the COUNTY OF SUMMIT, OHIO (in its capacity as owner of the Assessed Lands, as defined below, the "Owner" and in its capacity as the County, the "County"), through its Executive for and on behalf of the County and the County Fiscal Officer, the CITY OF GREEN, OHIO (as a participating political subdivision of the District, the "Political Subdivision"), the AKRON, BARBERTON, BATH TOWNSHIP, COPLEY TOWNSHIP, COVENTRY TOWNSHIP, CUYAHOGA FALLS, FAIRLAWN, LAKEMORE, NEW FRANKLIN, NORTON, RICHFIELD, SPRINGFIELD TOWNSHIP, TALLMADGE ENERGY SPECIAL IMPROVEMENT DISTRICT, INC. D/B/A AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT, INC. ("District"), and the DEVELOPMENT FINANCE AUTHORITY OF SUMMIT COUNTY (together with its permitted successors and assigns, the "DFA"). Capitalized words and terms not otherwise defined herein shall have the meaning given to them in the Loan Agreement dated as of _____, 2019 (the "Loan Agreement") among the District, the Political Subdivision, the County and the DFA.

BACKGROUND:

WHEREAS, the District was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to a resolution of the Council of the City of Akron, Ohio; and

WHEREAS, the Owner has determined that it is in its best interests to cause the acquisition and installation of the Project on the Property further described on **Exhibit A** attached hereto (the "Assessed Lands"); and

WHEREAS, the costs of the Project are being funded in part through the Project Advance to the Owner pursuant to the Loan Agreement; and

WHEREAS, to secure the repayment of the principal of the Project Advance used to finance the Project (the "Project Costs"), (i) the Owner has signed and delivered the petition to the Clerk of the Legislative Authority of the Political Subdivision, for the acquisition, construction, installation, equipment and improvement of the Project and evidencing the Owner's agreement to the pay the Special Assessments levied on the Assessed Lands, which are located within the District, in amounts sufficient to pay the Project Costs, and (ii) the Political Subdivision (a) has taken all the necessary actions required by Chapter 727 of the Ohio Revised Code for the levying of the Special Assessments and has caused or will cause the Special Assessments to be certified to the County Fiscal Officer for collection by the County Fiscal Officer in semi-annual installments, and (b) hereby has agreed to transfer to the DFA the payments of Special Assessments received to pay the Project Costs; and

WHEREAS, the Owner agrees that its delivery of the Petition and the requests and agreements made in the Petition are irrevocable and that the parties to this Agreement have acted and will act in reliance on the agreements contained in the Petition; and

WHEREAS, pursuant to the Petition, the Special Assessments have been levied against the Assessed Lands as described in the Petition and pursuant to this Agreement the Owner shall make Special Assessment payments when due; and

WHEREAS, Chapters 323 and 5721 of the Ohio Revised Code set forth certain parameters and timing requirements for the foreclosure of property on which taxes and assessments, including the Special Assessments, are due and owing and remain unpaid; and

WHEREAS, upon the occurrence of an Event of Default pursuant to the Loan Agreement, it may be necessary for the District to foreclose on the lien of the Special Assessments with respect to the Assessed Lands as set forth in Section 2 of this Agreement; and

WHEREAS, in consideration of the Project Advance, the Owner is willing to consent to an expedited foreclosure process with respect to the lien of the Special Assessments; and

WHEREAS, based on the Owner Consent and other considerations, at the request of the District, upon the occurrence of an Event of Default under the Loan Agreement, the County and the Political Subdivision have agreed to foreclose the lien of the Special Assessments as soon as possible as described herein; and

WHEREAS, if any assessments, including, without limitation, the Special Assessments, payments in lieu of taxes, real property taxes, or other governmental charges levied on the Assessed Lands are not paid when due and thereafter remain delinquent, the County, through the County Fiscal Officer, pursuant to Ohio Revised Code Sections 5721.30 through 5721.41 (the "Delinquent Tax Lien Sale Act"), specifically Ohio Revised Code Section 5721.33, may, in its discretion, but is not required to, negotiate with one or more persons the sale of any number of tax certificates ("Tax Certificates") which evidence the liens (the "Tax Liens") of the State of Ohio (the "State") and its applicable taxing districts for such delinquent assessments, including Special Assessments, real property taxes, payments in lieu of taxes, governmental charges, or penalties and interest on such Assessed Lands; and

WHEREAS, pursuant to the Delinquent Tax Lien Sale Act, the County, through the County Fiscal Officer, in its discretion, may sell such Tax Certificates at a discount from the full amount of the general real estate taxes, assessments, including the Special Assessments, penalties and interest that have become delinquent; and

WHEREAS, if the County, through the County Fiscal Officer, were to sell such Tax Certificates at a discount (other than in accordance with the provisions of this Agreement), the proceeds of such sale representing the delinquent Special Assessments might be insufficient to pay the Project Costs; and

WHEREAS, the County does not desire to take any action with respect to the collection of the Special Assessments that might adversely affect the repayment of the Project Advance without the consent of the District or adversely affect the payment of the Project Costs without the consent of the District; and

WHEREAS, the County has agreed to remit to the District, in the event of a default under the Loan Agreement, as set forth in this Agreement, amounts collected by the County, through the County Fiscal Officer, and relating to the Special Assessments, including without limitation amounts collected by the County, through the County Fiscal Officer, as a result of foreclosure of the lien of the Special Assessments on the Assessed Lands and including amounts received from a sale of Tax Certificates pursuant to the Delinquent Tax Lien Sale Act;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, and desiring to be legally bound hereunder, the parties hereto covenant and agree as follows:

Section 1. Special Assessments.

1.1 The Owner, prior to the execution and delivery of this Agreement, has signed and delivered to the Clerk of the Legislative Authority the Petition for the acquisition, construction, installation, equipment and improvement of the Project and evidencing the agreement of the Owner to the levy of the Special Assessments as security for the Project Advance. The Owner agrees that its delivery of the Petition and the requests and agreements made therein are irrevocable and that the parties hereto have acted and will act in reliance on the agreements contained in that Petition. The Political Subdivision shall take all necessary actions required by Chapter 727 of the Ohio Revised Code to levy and collect the Special Assessments on the Assessed Lands. The Clerk of the Legislative Authority certified (or caused to be certified) the Assessing Legislation to the County Fiscal Officer as set forth in the Petition.

1.2 The Political Subdivision shall cause the Special Assessments, as set forth in the Assessment Schedule attached to the Petition, to be certified to the County Fiscal Officer on or before the last date for the certification of special assessments to the County Fiscal Officer of each year during which the Special Assessments are to be levied pursuant to the Assessment Schedule.

1.3 In the event the Project Advance is prepaid or redeemed in accordance with the Loan Agreement, in whole or in part, the parties, in cooperation with the Owner, and to the extent permitted by law, shall cause the aggregate lien of the Special Assessments to be reduced in accordance with the Loan Agreement.

1.4 To the extent that the Owner prepays any of the required payments to the DFA pursuant to the Loan Agreement, then the amounts of the Special Assessments shall be reduced in accordance with the appropriate Assessment Schedule attached to the Petition, and the District shall provide written notice to the parties of any modification to the Assessment Schedule.

1.5 To facilitate the repayment of the Project Advance, the Political Subdivision, pursuant to Section 2.2 of the Loan Agreement, assigned to the DFA all of its right, title, and interest in and to the Special Assessments, the funds of the Political Subdivision

established to collect and hold the Special Assessment, and any other property received or to be received from the Political Subdivision under the Loan Agreement.

1.6 To further facilitate the repayment of the Project Advance, the Political Subdivision hereby authorizes and directs the County Fiscal Officer to pay the Special Assessments directly to the DFA. During the period in which the Special Assessments are levied and collected, on each date on which the County Fiscal Officer settles real property taxes, special assessments, including the Special Assessments, payments in lieu of taxes, and other governmental charges with the Political Subdivision, the Political Subdivision hereby authorizes and directs the County Fiscal Officer to pay the installment of the Special Assessments then due to the Political Subdivision directly to the DFA. Each such payment from the County Fiscal Officer to the DFA shall be made to the DFA's direction, and initially each such payment shall be made by check made payable to the order of the Development Finance Authority of Summit County and sent to the following address: 47 North Main Street, Suite 407, Akron, Ohio 44308.

In order to provide the Political Subdivision with evidence that the Special Assessments have been paid to the DFA per the Political Subdivision's direction under this Section 1.6, the DFA, within 10 business days after each receipt of Special Assessments from the County Fiscal Officer, shall provide the Political Subdivision with evidence reasonably acceptable to the Political Subdivision that the DFA has received the installment of the Special Assessments.

1.7 Pursuant to Section 2.5 of the Loan Agreement, the District assigned to the DFA any and all of its right, title, and interest it may have in and to the Special Assessments related to the District actually received by or on behalf of the Political Subdivision under the Loan Agreement.

1.8 Notwithstanding anything in this Agreement to the contrary, the County's obligations under this Agreement as are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The County's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the County. The County's obligations as the County under this Agreement shall be limited to the moneys levied, collected and received in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. At any time during the term of this Agreement at which the County is the Owner, the Owner's obligations under this Agreement shall be subject to annual appropriation by the legislative authority of the County.

1.9 Notwithstanding anything in this Agreement to the Contrary, the Political Subdivision's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The Political Subdivision's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the Political Subdivision. The Political Subdivision's obligation as the Political Subdivision under this Agreement shall be limited to any moneys received from the County in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties.

Section 2. Foreclosure Process.

2.1 The County agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Loan Agreement are secured, at least in part, by the revenues derived from the Special Assessments, upon the County's receipt of written notice from the DFA or the District, with a copy to the other of the DFA or the District, and to the Owner and the Political Subdivision, that an Event of Default (as defined under the Loan Agreement, as applicable) has occurred and is continuing and which notice directs the County, through the County Fiscal Officer, to foreclose on the lien of the Special Assessments, the County, through the County Fiscal Officer, will, not later than thirty (30) days from the date of the receipt of such notice, file and diligently prosecute a foreclosure action against the Assessed Lands, following the procedures for lien foreclosures established in Section 323.25 of the Revised Code and related sections. The foreclosure action shall be to collect all Special Assessments then due and owing on the Assessed Lands in accordance with the Petition. Without the prior written consent of the District and the DFA, the County, through the County Fiscal Officer, will not confirm the sale of the Assessed Lands for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Assessed Lands, as shall be certified by the District to the County Fiscal Officer pursuant to the records of the County Fiscal Officer. All fees and expenses of the County in collecting the Special Assessments are to be included and paid for by the Owner.

2.2 The County hereby agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Loan Agreement are secured, at least in part, by the revenues derived from the Special Assessments, the County will not sell or negotiate the sale of one or more Tax Certificates related to the Assessed Lands for an amount less than 100% of the amount levied and certified for collection without the prior written consent of the District and the DFA.

2.3 The County hereby covenants and agrees that if any of the general real estate taxes, payments in lieu of taxes, assessments, including the Special Assessments, governmental charges, or penalties and interest on the Assessed Lands are delinquent and the Delinquent Tax Lien Sale Act would permit the County, through the County Fiscal Officer, to negotiate the sale of Tax Certificates with respect thereto, the County, through the County Fiscal Officer, will, prior to giving any notice under the Delinquent Tax Lien Sale Act of a sale of Tax Certificates with respect to the Assessed Lands, give written notice to the District and the DFA regarding the same and state therein whether the County Fiscal Officer reasonably anticipates receiving no less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, originally levied and certified for collection plus other charges, including attorney's fees, or whether the County Fiscal Officer reasonably expects to receive less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, levied and certified for collection plus other charges, including attorney's fees, and in accordance with this Agreement is requesting the consent of the District and the DFA for such a sale.

2.4 The County agrees not to utilize the authority contained in Ohio Revised Code Chapter 5722 to transfer any of the Assessed Lands to the county land reutilization

corporation, to sell or convey any of the Assessed Lands to any political subdivision under the authority contained in Ohio Revised Code Chapter 5722, or to clear the liens and encumbrances applicable to the Assessed Lands under the authority contained in Ohio Revised Code Chapter 5722 without the express written consent of the District and the DFA.

2.5 Nothing in this Agreement shall, or shall be construed to, prevent the County, through the County Fiscal Officer, from selling one or more Tax Certificates with respect to the Assessed Lands to a third party without the consent of the District if the price received for the Tax Certificate or Tax Certificates equals or exceeds 100% of the delinquent general real estate taxes, assessments, including the Special Assessments, penalties and interest on the Assessed Lands outstanding against the Assessed Lands at the time of such sale.

2.6 The District and the DFA each hereby agree that upon written notice from the County, through the County Fiscal Officer, pursuant to Section 2.3 of this Agreement, it, within thirty (30) days of receipt of the County's notice, shall give a written response to the County Fiscal Officer indicating therein whether it consents to the request for sale of a Tax Certificate or Tax Certificates.

2.7 No delay or failure of the District or the DFA to give a written response shall be construed to be a consent to such request or to be a waiver of the right to give such consent. No consent or refusal thereof by the District or the DFA in response to a request by the County shall extend to or affect any subsequent request of the County or shall impair the rights of the District or the DFA with respect to any such subsequent request.

2.8 So long as the Project Costs are outstanding, the County hereby covenants and agrees (a) to remit to the Political Subdivision all Special Assessments collected from the Assessed Lands in annual installments in the same manner and at the same time as real property taxes are paid to the Political Subdivision in accordance with Chapter 323 of the Revised Code, including any delinquency procedures, penalties, and interest provided for therein; (b) to the extent the County receives amounts collected from Tax Certificates, as provided for in Chapter 323 of the Revised Code, after payment of reasonable fees and expenses of the County, all amounts collected by the County from Tax Certificates shall be remitted to the Political Subdivision; and (c) to the extent the County seeks and is appointed as receiver for the Assessed Lands, as provided for in Chapter 323 of the Revised Code, after payment of reasonable fees and expenses of the County, all amounts collected by the County, as receiver for the Assessed Lands and collected as a result of the Special Assessments, shall be remitted to the Political Subdivision.

2.9 The County hereby agrees that it shall not charge or collect a special assessment collection fee in excess of 1% per installment of the Special Assessments.

Section 3. Additional Agreements and Covenants.

3.1 The agreements of the parties hereafter with respect to the foreclosure process shall be a covenant running with the Assessed Lands and, so long as Project Costs are payable from or secured, at least in part, by the revenues derived from the Special Assessments,

such covenant shall be binding upon the Assessed Lands, the Owner, and any future Owner of all or any portion of the Assessed Lands.

3.2 If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

3.3 This Agreement shall inure to the benefit of each of the parties, and each of their successors and assigns, all subject to the provisions of this Agreement. This Agreement may be amended only by a written instrument of the parties, and any attempt to amend or modify this Agreement without a written instrument signed by all of the parties to this Agreement shall be null and void. Notices given hereunder shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the parties as follows:

If to Political Subdivision: City of Green, Ohio
1755 Town Park Blvd.
Uniontown, Ohio 44685
P.O. Box 278
Green, Ohio 44232
Attention: Director of Law

If to County: Summit County Fiscal Officer
The County of Summit, Ohio
175 S. Main Street, Fourth Floor
Akron, Ohio 44308

With a Copy to: Summit County Executive
Attn: Director of Law
175 S. Main St., Eighth Floor
Akron, Ohio 44308

If to the District: Akron-Summit County Energy Special Improvement
District
c/o Development Finance Authority of Summit County
47 North Main Street, Suite 407
Akron, Ohio 44308
Attention: Chairperson

If to the Owner: Summit County Fiscal Officer

The County of Summit, Ohio
175 S. Main Street, Fourth Floor
Akron, Ohio 44308

With a Copy to:

Summit County Executive
Attn: Director of Law
175 S. Main St., Eighth Floor
Akron, Ohio 44308

If to the DFA:

Development Finance Authority of Summit County
47 North Main Street, Suite 407
Akron, Ohio 44308
Attention: President

3.4 (a) The DFA shall have the unrestricted right at any time or from time to time, and without the County, the Political Subdivision, the District, or the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement and may sell or assign any and all liens received directly or indirectly from the Political Subdivision to any person (each, an "DFA Assignee"), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the DFA shall deem necessary to effect the foregoing. Any DFA Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the DFA under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the DFA pursuant to the assignment documentation between the DFA and such Assignee, and the DFA shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent.

(b) The DFA shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the County, the Political Subdivision, the District, or the Owner, to grant to one or more persons (each, a "Participant") participating interests in the DFA's obligation to make Project Advances under the Loan Agreement or any or all of the loans held by DFA under the Loan Agreement. In the event of any such grant by the DFA of a participating interest to a Participant, whether or not upon notice to the County, the Political Subdivision, the District, and the Owner, the DFA shall remain responsible for the performance of its obligations under the Loan Agreement and the Owner shall continue to deal solely and directly with the DFA in connection with the DFA's rights and obligations under the Loan Agreement.

(c) The DFA may furnish any information concerning the Owner in its possession from time to time to prospective DFA Assignees and Participants which is reasonably necessary in order to allow the DFA to the assignment or participation of this Agreement.

3.5 This Agreement shall be construed in accordance with the laws of the State of Ohio. Any action brought under this Agreement shall be brought in a court of competent jurisdiction located in Summit County, Ohio.

3.6 This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(Signature Pages Immediately Follow)

IN WITNESS WHEREOF, each party to this Agreement has caused this Agreement to be executed in its respective name and capacity by its respective duly authorized officers, all as of the day and the year first written above.

Approved as to form on behalf of
The County of Summit, Ohio:

Deborah S. Matz, Director of Law

“COUNTY”
COUNTY OF SUMMIT, OHIO

Kristen M. Scalise CPA, CFE, Fiscal Officer

Approved as to form:

Director of Law

Ilene Shapiro, Executive

“POLITICAL SUBDIVISION”
CITY OF GREEN, OHIO

Name: _____
Title: _____

“DISTRICT”
AKRON, BARBERTON, BATH TOWNSHIP,
COPLEY TOWNSHIP, COVENTRY TOWNSHIP,
CUYAHOGA FALLS, FAIRLAWN, LAKEMORE,
NEW FRANKLIN, NORTON, RICHFIELD,
SPRINGFIELD TOWNSHIP, TALLMADGE
ENERGY SPECIAL IMPROVEMENT DISTRICT,
INC. D/B/A AKRON-SUMMIT COUNTY
ENERGY SPECIAL IMPROVEMENT DISTRICT,
INC.

By: _____
Name: _____
Title: _____

Approved as to form:
The County of Summit, Ohio:

Deborah S. Matz, Director of Law

“OWNER”
COUNTY OF SUMMIT, OHIO

Ilene Shapiro, Executive

“DFA”
DEVELOPMENT FINANCE AUTHORITY OF
SUMMIT COUNTY

By:

Christopher Burnham, President

POLITICAL SUBDIVISION
FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Green, Ohio, hereby certifies that the Political Subdivision has established a special assessment fund, into which the Special Assessments (as that term is defined in the foregoing Agreement) received by the Political Subdivision shall be deposited, free from any previous encumbrances. The Political Subdivision shall use the moneys deposited in such special assessment fund to meet its obligations under the foregoing Agreement. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44

Dated: _____, 2019

Fiscal Officer
City of Green, Ohio

DFA FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the Development Finance Authority of Summit County hereby certifies that the moneys required to meet the obligations of the DFA during the year 2019 under the foregoing Special Assessment Agreement have been lawfully appropriated by the legislative authority of the DFA for such purpose and are in the treasury of the DFA 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 Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
Development Finance Authority of Summit
County

Dated: _____, 2019

COUNTY FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the County of Summit, Ohio, hereby certifies that the moneys required to meet the obligations of the County during the year 2019 under the foregoing Special Assessment Agreement have been lawfully appropriated by the legislative authority of the County for such purpose and are in the treasury of the County 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 Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
County of Summit, Ohio

Dated: _____, 2019

EXHIBIT A

DESCRIPTION OF ASSESSED LANDS

The real property subject to this Special Assessment Agreement is located at the commonly used mailing address 1363 Greensburg Rd., Green, Ohio 44685 and is identified in the records of the Summit County Fiscal Officer as Parcel Number 2800613.

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