

ORDINANCE NO.: 2019-17
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: OCTOBER 08, 2019

ASSIGNED TO: _____

AN ORDINANCE APPROVING THE AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT RESIDENTIAL PROGRAM PLAN; AUTHORIZING AND APPROVING THE EXECUTION, DELIVERY, AND PERFORMANCE OF A CITY RESIDENTIAL PACE COOPERATIVE AGREEMENT WITH RESPECT TO PROPERTY ASSESSED CLEAN ENERGY TRANSACTIONS IN COOPERATION WITH THE AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT AND THE TOLEDO-LUCAS COUNTY PORT AUTHORITY; AUTHORIZING THE TOLEDO-LUCAS COUNTY PORT AUTHORITY TO APPROVE PETITIONS AND PLANS FOR PUBLIC IMPROVEMENTS OR PUBLIC SERVICES SUBMITTED BY THE OWNERS OF REAL PROPERTY WITHIN THE CITY REQUESTING THAT THEIR PROPERTY BE ADDED TO THE TERRITORY OF THE AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT AND ASSESSED FOR THE COSTS OF SUCH PLANS ON BEHALF OF THE COUNCIL OF THE CITY, 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 township; and

WHEREAS, ESIDs are voluntary organizations of municipal corporations, townships, and property owners who undertake special energy improvement projects that benefit real property and finance those special energy improvement projects through voluntary special assessments; and

WHEREAS, Akron, Barberton, Bath Township, Copley Township, Coventry Township, Cuyahoga Falls, Fairlawn, Green, Lakemore, New Franklin, Norton, Richfield, Springfield Township, Tallmadge Energy Special Improvement District, Inc., doing business as Akron-Summit County Energy Special Improvement District, Inc. (the “District”) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID and established pursuant to Resolution No. 390-2016 of the Council of the City of Akron, Ohio on December 5, 2016; and

WHEREAS, the City has determined to develop the Akron-Summit County Energy Special Improvement District Residential Program Plan as a proposed plan for public improvements and public services under Ohio Revised Code Chapter 1710, substantially in the form attached to and incorporated into this ordinance as Exhibit “A” (the “Residential PACE Plan”), and any petitions by the owners of residential real property located within the boundaries of the City for special assessments to finance the costs of special energy improvement projects on their properties shall be considered, and, if approved, implemented, under and subject to the terms and conditions of the Residential PACE Plan; and

WHEREAS, the Residential PACE Plan sets forth the terms and conditions under which the City and the District will facilitate the financing of special energy improvement projects on residential real property located within the City and the District; and

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WHEREAS, in order to provide for the efficient implementation of the Residential PACE Plan, the Development Finance Authority of Summit County and the Toledo-Lucas County Port Authority, a port authority and political subdivision of the State of Ohio (the “Program Port Authority”), have entered into an Ohio Residential PACE Cooperative Agreement to establish acceptable program parameters and consumer protections for residential PACE financing programs in Ohio; and

WHEREAS, in order to provide for the efficient implementation of the Residential PACE Plan, the City has determined to enter into a City Residential PACE Cooperative Agreement as a Cooperative Agreement with the Program Port Authority (the “Cooperative Agreement”); and

WHEREAS, under the Cooperative Agreement the City and the Program Port Authority will cooperatively agree to cause the Program Port Authority to exercise certain powers, perform certain functions, and render certain services on behalf of the City, all as authorized under this Ordinance, the Cooperative Agreement, and Ohio Revised Code Sections 4582.17(B) and 9.482; and

WHEREAS, Green City Council, as mandated by Ohio Revised Code Chapter 1710, must approve or disapprove the Petition within sixty (60) days of the submission of the Petition; and

WHEREAS, Green City Council has determined to approve the Residential PACE Plan and to authorize and approve the Cooperative Agreement;

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

SECTION ONE:

Each capitalized term not otherwise defined in this ordinance or by reference to another document shall have the meaning assigned to it in the Residential PACE Plan.

SECTION TWO:

Green City Council hereby approves the Residential PACE Plan now on file with the Clerk of Council. Any petitions by the owners of residential real property located within the boundaries of the City for special assessments to finance the costs of special energy improvement projects on their properties shall be considered, and, if approved, implemented, under and subject to the terms and conditions of the Residential PACE Plan.

SECTION THREE:

Green City Council hereby approves the Cooperative Agreement, substantially in the form now on file with the Clerk of Council with any amendments or modifications to it as are not materially adverse to the City, are consistent with this ordinance, and are approved by the Mayor of the City of Green by signing the Cooperative Agreement, all of which shall be conclusively demonstrated by the signature of the duly authorized officer or officers of the City of Green on the Cooperative

Agreement. The Mayor, together or individually, are hereby authorized, for and on behalf of the City, to execute and deliver the Cooperative Agreement, including any amendments or modifications to the Cooperative Agreement as are not materially adverse to the City, are consistent with this Ordinance, and are approved by the officer or officers of the City signing the Cooperative Agreement, all of which shall be conclusively demonstrated by the signature of the duly authorized officer or officers of the City on the Cooperative Agreement. The City is hereby authorized to perform the terms and conditions of the Cooperative Agreement, as it may be amended and in effect at any time. The Mayor, together or individually, are hereby authorized, for and on behalf of the City, to execute and deliver any additional amendments, agreements, certificates, or instruments, including any additional agreements by or among the City, the County Auditor, the County Treasurer, the Program Port Authority, any other port authority, the District, and any other energy special improvement district, as may be reasonably necessary to carry out the purposes of the Cooperative Agreement, and the City is hereby authorized to perform the terms and conditions of any of those amendments, agreements, certificates, or instruments.

SECTION FOUR:

Under the Cooperative Agreement, the City shall, pursuant to Ohio Revised Code Sections 4582.17(B) and 9.482, authorize and request the Program Port Authority to act on behalf of the City during the term of the Cooperative Agreement to receive and approve or disapprove Petitions and Plans (as defined in the Residential PACE Plan and the Cooperative Agreement) in its reasonable discretion and subject to certain terms and conditions stated in the Residential PACE Plan, the Cooperative Agreement, and this ordinance. Upon the execution and delivery of the Cooperative Agreement by all of the parties to it, this Council hereby appoints the Program Port Authority as its delegate to, for, and on behalf of this Council, receive and approve or disapprove Petitions and Plans in its discretion and subject to certain terms and conditions stated in the Residential PACE Plan, the Cooperative Agreement, and this Ordinance. The approval or disapproval of any Petitions and shall constitute the legislative approval or disapproval of this Council for all purposes of law, including, without limitation, Ohio Revised Code Chapter 1710, and all legal consequences appertaining to a legislative authority's legislative approval or disapproval of petitions and plans for public improvements or public services under Ohio Revised Code Chapter 1710 shall appertain to the Program Port Authority's approval or disapproval of Petitions and Plans for and on behalf of this Council.

The Program Port Authority shall not approve any Petitions and Plans unless the Petitions and Plans and the information regarding the properties, special energy improvement projects, financing terms, and other facts and terms certified within the Petitions and Plans conform and comply in all material respects with the terms and conditions of the Residential PACE Plan, which is attached to, and incorporated into, this ordinance by this reference.

SECTION FIVE:

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

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in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

SECTION SIX:

This Ordinance is hereby declared to be an emergency measure necessary in order to allow residents of the City of Green to take advantage of financing for the costs of special energy improvement projects available to them for a limited time, and provided it receives the approval of two-thirds of the members of Council, shall be in full force and effect from and after the earliest period allowed by law.

ADOPTED: _____

Molly Kapeluck, Clerk of Council

Bob Young, Council President

APPROVED: _____, 2019

Gerard M. Neugebauer, Mayor

ENACTED EFFECTIVE: _____, 2019

ON ROLL CALL: Babbitt Dyer Humphrey Shaughnessy
 Speight Yeargin Young

Suburbanite publication on _____ and _____

Molly Kapeluck, Clerk of Council

10/03/2019 Approved as to form and content by William G. Chris, Director of Law, Interim _____