

CITY RESIDENTIAL PACE COOPERATIVE AGREEMENT

THIS RESIDENTIAL PACE COOPERATIVE AGREEMENT (the **Agreement**) is made and entered into as of _____, 20____, between the CITY OF GREEN, GREEN, OHIO, a municipal corporation duly organized and validly existing under the constitution and laws of the State of Ohio (the **State**) and its Charter (the **Participating Political Subdivision**), the 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 under the registered trade name Akron-Summit County Energy Special Improvement District Residential Program Plan a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State (the **ESID**), and the TOLEDO-LUCAS COUNTY PORT AUTHORITY, a port authority and a body corporate and politic (the **Program Port Authority**) duly created, organized and existing under the laws of the State (the capitalized terms used in this Agreement and not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. 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 2o of the Ohio Constitution.

B. The Council of the Participating Political Subdivision (**Legislative Authority**) has adopted legislation approving the inclusion of certain parcels of real property within the boundaries of the Participating Political Subdivision within the territory of the ESID, approving the Articles of Incorporation of the ESID, and approving the ESID's Residential Program Plan.

C. Under the Residential Program Plan the ESID, among other services, shall assist property owners, whether private or public, who own residential real property within each of its participating political subdivisions obtain financing for special energy improvement projects that benefit or will benefit their real property.

D. The Program Port Authority will from time to time provide financing to pay the costs of special energy improvement projects undertaken by the owners of real property within the ESID in furtherance of the public purposes set forth in Article VIII, Sections 2o, 13 and 16 of the Ohio Constitution and Sections 4582.01 through 4582.20 of the Ohio Revised Code, both inclusive.

E. In order to obtain financing for special energy improvement projects and to create special assessment revenue available to pay and repay the costs of special energy improvement projects, owners of real property to be included within the territory of the ESID will submit Petitions and Plans requesting that the Legislative Authority levy special assessments against their properties.

F. In order to provide for the efficient administration of the financing of special energy improvement projects under the Residential Program Plan, the Participating Political Subdivision has determined, in its Ordinance [NUMBER], adopted on [DATE] (as it may be validly amended

and in effect from time to time, the **Residential Program Legislation**), to appoint the Program Port Authority as its delegate to approve or disapprove Petitions and Plans subject to the limitations stated in the Residential Program Legislation, the Residential Program Plan, and this Agreement.

G. The Participating Political Subdivision, the ESID, and the Program Port Authority each have determined that the most efficient and effective way to implement the financing, acquisition, construction, equipment, improvement, and installation of special energy improvement projects and to further the public purposes set forth above is through this Agreement, pursuant to the Act and on the terms set forth in this Agreement, with (i) the Program Port Authority acting on behalf of the Participating Political Subdivision to approve or disapprove petitions for special energy improvement projects and special assessments, (ii) the Program Port Authority acting on behalf of the Participating Political Subdivision and the ESID to finance or assist certain real property owners in obtaining financing for special energy improvement projects, (iii) the owners of real property within the ESID acting to acquire, construct, equip, improve, and install special energy improvement projects, (iv) the owners of real property within the ESID agreeing to make special assessment payments in an aggregate amount that will provide revenue sufficient to pay or repay the permitted costs of the special energy improvement projects, including associated program expenses, and (v) the Participating Political Subdivision agreeing to assign and transfer all amounts actually received by the Participating Political Subdivision to the Program Port Authority or its designee as Special Assessments to pay or repay the permitted costs of the special energy improvement projects, including associated program expenses.

H. The Participating Political Subdivision, the ESID, and the Program Port Authority 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 set forth their respective rights, duties, responsibilities, obligations, and contributions with respect to the implementation of special energy improvement projects on residential real property within the territory of the ESID and within the boundaries of the Participating Political Subdivision.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and agreements contained in this Agreement, the Participating Political Subdivision, the ESID, and the Program Port Authority agree as follows; provided, that any obligation of the Program Port Authority 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 Program Port Authority, or give rise to any pecuniary liability of the Program Port Authority, but any such obligation shall be payable solely out of amounts actually received by the Program Port Authority as Special Assessments, if any; provided, further, that any obligation of the Participating 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 Participating Political Subdivision, or give rise to any pecuniary liability of the Participating Political Subdivision, but any such obligation shall be payable solely from amounts actually received by the Participating Political Subdivision as Special Assessments, if any, following settlement in respect of the same with the County Treasurer; and provided, further, 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 amounts actually received by the ESID as Special Assessments, if any:

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, words and terms used in this Agreement with capitalized initial letters where the rules of grammar would not otherwise require capitalization shall have the meanings set forth 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, unless the sense indicates otherwise.

Section 1.2. Interpretation. Any reference in this Agreement to the Participating Political Subdivision, the ESID, the Program Port Authority, the Program Port Authority Board, the Legislative Authority, the ESID Board 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. The Program Port Authority may hire or appoint one or more agents or designees to fulfill any obligations of the Program Port Authority under this Agreement.

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 Participating Political Subdivision, the ESID, or the Program Port Authority 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

Section 2.1. Cooperative Agreement Between the Participating Political Subdivision, the Program Port Authority, and the ESID. Each of the Parties has requested the assistance of the other Parties in the financing of special energy improvement projects on residential property within the territory of the ESID and the boundaries of the Participating Political Subdivision. 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 Parties have agreed to cooperate for the financing of special energy improvement projects within the territory of the ESID and the boundaries of the Participating Political Subdivision upon the terms and conditions of this Agreement. The Parties intend this Agreement to be, and it shall be, an agreement among the Parties under Ohio Revised Code Sections 4582.17(B) and 9.482 to cooperate in the financing, acquisition, construction, equipping, improvement, and installation of “special energy improvement projects” as defined in Ohio

Revised Code Section 1710.01, and of “port authority facilities,” as defined in Ohio Revised Code Section 4582.01. The Parties intend this Agreement to be, and it shall be construed as, an agreement to take effective cooperative action and to safeguard the Parties’ interests and an agreement whereby the Program Port Authority undertakes and is authorized by the Participating Political Subdivision to exercise the powers, perform the functions, and render the services on behalf of the Participating Political Subdivision described in this Agreement.

Upon the considerations stated above and subject to the terms and conditions of this Agreement, the Program Port Authority, on behalf of the Parties, shall (i) approve or disapprove Petitions and Plans submitted by owners of real property within the boundaries of the Participating Political Subdivision and to be included within the territory of the ESID, and (ii) finance or assist in the acquisition of financing for the special energy improvement projects. In consideration of that undertaking by the Program Port Authority, the Participating Political Subdivision shall assign, transfer, set over, and pay the Special Assessments received by the Participating Political Subdivision following the settlement in respect of the same with the County Treasurer to the Program Port Authority or its designee (or, alternatively, assign the Special Assessments to the Program Port Authority or its designee and cause the County Treasurer to transfer, set over, and pay the Special Assessments directly to the Program Port Authority or its designee) pursuant to the terms of this Agreement; provided, however, that the Participating Political Subdivision’s obligation to transfer the Special Assessments is limited to the Special Assessments actually received by or on behalf of the Participating Political Subdivision following the settlement in respect of the same with the County Treasurer. Such payments shall be used by the Program Port Authority to pay or repay the permitted costs of the special energy improvement projects, including associated program expenses, at the times and in the manner provided in this Agreement. The ESID hereby agrees to such assignments and transfers.

Anything in this Agreement to the contrary notwithstanding, any obligations of the Participating Political Subdivision under this Agreement, including the obligation to transfer the Special Assessments received by the Participating Political Subdivision to the Program Port Authority or its designee shall be a special obligation of the Participating Political Subdivision and shall be required to be made only from amounts actually received by or on behalf of the Participating Political Subdivision as Special Assessments, if any. The Participating 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 Participating Political Subdivision’s obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the Participating Political Subdivision’s faith and credit or taxing power, and the Program Port Authority and the ESID do not have and shall not have any right to have taxes levied by the Participating Political Subdivision for the transfer of the Special Assessments.

ARTICLE III: APPROVAL OF PETITIONS AND PLANS; LEVYING SPECIAL ASSESSMENTS; REDUCTION OF SPECIAL ASSESSMENTS

Section 3.1. Submission of Petitions and Plans.

As provided in Ohio Revised Code Chapter 1710 and the Residential Program Plan, owners of real property located within the boundaries of the Participating Political Subdivision may from time to time submit Petitions and Plans to the Participating Political Subdivision requesting that

the Participating Political Subdivision add the property to the territory of the ESID, or, if already included within the territory of the ESID, consent to additional special energy improvement projects that benefit or will benefit the property; approve special energy improvement projects that benefit or will benefit the property; and levy Special Assessments on the property to pay the permitted costs of the special energy improvement projects, including associated program expenses.

Under the Residential Program Legislation the Legislative Authority has determined to appoint the Program Port Authority as its delegate to receive any Petition and Plans submitted by the owners of residential real property located within the boundaries of the Participating Political Subdivision and to approve or disapprove those Petitions and Plans subject to the terms and conditions stated in the Residential Program Legislation, the Residential Program Plan, and this Agreement. All Petitions and Plans shall accordingly be submitted directly to the Program Port Authority through any means established by the Program Port Authority for the submission and receipt of Petitions and Plans, including, without limitation, by Electronic Means.

Section 3.2. Approval of Petitions and Plans.

Upon receipt of any Petition and Plan, the Program Port Authority, within 60 days of receipt, shall determine whether: (i) the Petition and Plan conform in all material respects to the requirements set forth in the Residential Program Legislation, the Residential Program Plan, and this Agreement, and (ii) the information contained in the Petition and Plan regarding the owner, the property, the special energy improvement projects, the Special Assessments, the terms and conditions of financing to be made available to pay the permitted costs of the special energy improvement projects, including associated program expenses, and any other information required or permitted to be set forth in the Petition and the Plan complies in all material respects with the guidelines set forth in the Residential Program Legislation, the Residential Program Plan, and this Agreement. If, in the Program Port Authority's reasonable discretion, the Petition and Plan meet the criteria described above, the Program Port Authority promptly shall approve the Petition and Plan. If, however, in the Program Port Authority's reasonable discretion the Petition and Plan fail to meet the criteria described above, the Program Port Authority promptly shall disapprove the Petition and Plan.

If any Petition and Plan are approved, the Program Port Authority promptly shall notify the owner of the real property submitting the Petition and the Plan and the Participating Political Subdivision in writing (including by Electronic Means) of the approval. The notice to the Participating Political Subdivisions shall include: (i) a copy of the Petition, (ii) a copy of the Plan, (iii) a statement that the Program Port Authority has approved the Petition and the Plan on behalf of the Legislative Authority pursuant to the Residential Program Legislation, the Residential Program Plan, and this Agreement, and (iv) a summary stating (a) owner or owners of the property submitting the Petition and Plan, (b) the mailing address or addresses and permanent parcel identification number or numbers of the property subject to the Petition and Plan, (c) the special energy improvement projects installed or to be installed for the benefit of the property, and (d) a schedule of Special Assessments to be levied to pay the permitted costs of the special energy improvement projects, including associated program expenses, identified in the Petition and the Plan.

If any Petition and Plan are disapproved, the Program Port Authority promptly shall notify the owner of the real property submitting the Petition and Plan and the Participating Political Subdivision in writing (including by Electronic Means) of the disapproval. The notice to each of the owner and the Participating Political Subdivision shall include a statement providing the reason(s) for disapproval.

As provided in the Residential Program Legislation, any action by the Program Port Authority pursuant to the terms and conditions of the Residential Program Legislation, the Residential Program Plan, and this Agreement in approving or disapproving any Petition and Plan shall constitute the legislative approval or disapproval of the Legislative Authority for all purposes of law, including, without limitation, Ohio Revised Code Chapter 1710, and all legal consequences appertaining to the Legislative Authority's legislative approval or disapproval of Petitions and Plans 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 the Legislative Authority.

Section 3.3. Levying Special Assessments; Special Assessment Fund.

As required under Ohio Revised Code Sections 1710.02(F) and 1710.06, the Participating Political Subdivision shall from time to time, but in any case no less frequently than once per calendar year, and in any event in advance of the last day on which municipal corporations may certify special assessments to the County Auditor for collection in the immediately following calendar year (the **Special Assessment Certification Deadline**), levy Special Assessments and modify or correct previously levied Special Assessments within its boundaries to pay (i) the costs of any Petitions and Plans approved by the Program Port Authority under the Residential Program Legislation, the Residential Program Plan, and this Agreement, and (ii) any amounts required by the Participating Political Subdivisions, the ESID, the County, or the Program Port Authority as associated program expenses or administrative fees with respect to such approved costs. The levy or modified or corrected levy shall be for the term and amounts requested by each owner of real property on which Special Assessments are to be levied in the related Petitions and Plans and shall not cause any Special Assessments levied on any real property to exceed the amounts of Special Assessments requested in the related Petitions and Plans, except that the levy or modified or corrected levy may include any associated program expenses or administrative fees required by the Participating Political Subdivisions, the ESID, the County, or the Program Port Authority.

The Participating Political Subdivision shall provide notice of the adoption of any legislation providing for the levy or modification or correction of the Special Assessments to the County Auditor in accordance with, and within the timing requirements provided under, Ohio Revised Code Section 319.61, and a copy of such notice shall be provided to the Program Port Authority within the same timing requirements.

The Participating Political Subdivision shall establish and maintain, for the receipt and keeping of the Special Assessments, a separate fund or funds or separate sub-fund or sub-funds in the custody of the Participating Political Subdivision (the **Residential PACE Special Assessment Fund**). All Special Assessments shall be received to the credit of, and deposited in, the Residential PACE Special Assessment Fund and used exclusively to pay the costs of Petitions and Plans, including general costs of the Residential Program Plan. No other moneys except Special Assessments shall be received to the credit of or deposited in the Residential PACE Special

Assessment Fund. Subject to any other legal requirements, the Participating Political Subdivision may credit and deposit all Special Assessments to be received under the Residential Program Plan into one fund or sub-fund representing the Residential PACE Special Assessment Fund or may credit and deposit Special Assessments to be received under the Residential Program Plan into multiple funds or sub-funds, all of which shall collectively constitute the Residential PACE Special Assessment Fund. The Participating Political Subdivision may, in lieu of establishing and maintaining the Residential PACE Special Assessment Fund and crediting, depositing, and using Special Assessments in the Residential PACE Special Assessment Fund as required by this paragraph may, in a written agreement by and among the Participating Political Subdivision, the County Treasurer, and the Program Port Authority, cause the County Treasurer to transfer, set over, and pay the Special Assessments directly to the Program Port Authority or its designee or to act as custodian of the Residential PACE Special Assessment Fund on behalf of the Participating Political Subdivision.

Section 3.4. Certifying Special Assessments.

The Participating Political Subdivision shall in each year, prior to the Special Assessment Certification Deadline, certify all Special Assessments levied in connection with the Residential Program Plan and schedules to be collected beginning in the next following calendar year to the County Auditor for collection in accordance with Ohio Revised Code Sections 727.30, 727.33, and 319.61. All Special Assessments levied under the Residential Program Plan and this Agreement shall be certified to the County Auditor for collection and shall be collected in the manner and at the times that other real property taxes, special assessments, payments in lieu of taxes, and other governmental charges are collected by the County Auditor and the County Treasurer. Promptly upon its certification of Special Assessments to the County Auditor, the Participating Political Subdivision shall provide written notice (including by Electronic Means) to the Program Port Authority of all Special Assessments levied, noticed to the County Auditor, and certified to the County Auditor and evidence of their levying, notice, and certification.

Section 3.5. Modification, Reduction, Correction and Adjustment of Special Assessments Under Certain Circumstances, Including Prepayment.

Following any event pursuant to which Special Assessments are to be modified, reduced, corrected or adjusted under the terms and conditions of agreements for financing the costs of special energy improvement projects or any related Petitions or Plans, the Program Port Authority shall notify the Participating Political Subdivision of a modification, reduction, correction or adjustment in the amount of the Special Assessments so that following the modification, reduction, correction or adjustment the amount of Special Assessments remaining to be collected shall equal the amounts, if any, to be paid or remaining to be paid pursuant to the terms and conditions of agreements or any related Petitions or Plans for financing the permitted costs of the special energy improvement projects, including associated program expenses and administrative fees, for which the Special Assessments are levied or to be levied; provided, however, that any modification, reduction, correction or adjustment shall not cause any Special Assessments levied on any real property to exceed the Special Assessments necessary to fund the permitted costs of the Project requested in the Petition and Plan for that real property except that the levy or modified, reduced, corrected or adjusted levy may include any associated program expenses or administrative fees required by the Participating Political Subdivisions, the ESID, the County, or the Program Port

Authority. Upon its receipt of such notification from the Program Port Authority, the Participating Political Subdivision shall cause the Special Assessments levied on, and to be collected against, the property to be modified, reduced, corrected or adjusted so that the Special Assessments remaining to be collected shall equal the amount identified in the notification from the Program Port Authority to the Participating Political Subdivision.

The Parties agree that Special Assessments, subject to the terms and conditions of agreements for financing the costs of special energy improvement projects for which the Special Assessments are levied, may be prepaid by an owner of property against which Special Assessments are levied. In the event of a prepayment of Special Assessments, the Participating Political Subdivision shall transfer prepaid Special Assessment amounts to the Program Port Authority or its designee promptly upon the Participating Political Subdivision's receipt of those amounts.

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 owners of property or the transfer of the Special Assessments by the Participating Political Subdivision to Program Port Authority or its designee.

ARTICLE IV: ASSIGNMENT AND TRANSFER OF SPECIAL ASSESSMENTS

Section 4.1. Special Assessments; Transfer of Special Assessments.

- (a) Assignment of Special Assessments. Subject to the terms and conditions of this Agreement, the Participating Political Subdivision shall account for each Special Assessment governed by this Agreement separately in accordance with the Participating Political Subdivision's customary accounting and fiscal practices in effect from time to time, and in accordance with all applicable laws and regulations. The Participating Political Subdivision hereby assigns to the Program Port Authority all of its right, title and interest in and to, and grants to the Program Port Authority a security interest in: (i) the Special Assessments received by the Participating Political Subdivision under this Agreement, (ii) the Residential PACE Special Assessment Fund and any special assessment funds or accounts established for the special energy improvement projects of the ESID under the Residential Program Plan with respect to, and to the extent of, the Special Assessments which have been assigned to the Program Port Authority under this Agreement, and (iii) any other property, including, without limitation, the proceeds of enforcement of the lien of any delinquent Special Assessments, including any penalties and interest, received or to be received from the Participating Political Subdivision related to any Special Assessments levied in connection with the Residential Program Plan and this Agreement (collectively, items (i) to (iii) being referred to as **Program Revenues**).
- (b) Transfer of Special Assessments. Promptly following, but not later than 14 calendar days, after receipt from the County Treasurer of any final settlement under Ohio Revised Code Section 321.24 or otherwise relating to Program Revenues, the Participating Political Subdivision shall deliver all such Program Revenues to the

Program Port Authority or its designee. The Participating Political Subdivision shall deliver the Program Revenues to the Program Port Authority or its designee pursuant to payment instructions provided by the Program Port Authority to the Participating Political Subdivision from time to time. With each transfer of Program Revenues under this Agreement the Participating Political Subdivision shall deliver to the Program Port Authority a detailed settlement statement stating the amounts received as Program Revenues, identifying each of the properties to which those amounts relate and the amounts relating to each such property, and any delinquencies in the amounts received as Special Assessments of which the Participating Political Subdivision has actual knowledge.

- (c) Collection of Delinquent Special Assessments. The Participating Political Subdivision hereby authorizes the Program Port Authority to take any and all actions in the name of, for, and on behalf of, the Participating Political Subdivision to collect delinquent Special Assessments levied by the Participating 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, the County Auditor, and the County Treasurer, as necessary, to institute prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used under the terms and conditions this Agreement.

Section 4.2. Obligations Unconditional; Place of Payments. The Participating Political Subdivision's obligation to transfer the Program Revenues to the Program Port Authority or its designee under Section 4.1 of this Agreement shall be absolute and unconditional (to the extent permitted by law), and the Participating 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 Participating Political Subdivision may have or assert against the Program Port Authority, the designee of the Program Port Authority, the ESID, the owners of real property on which the Special Assessments are levied, or any other Person; but the Participating Political Subdivision's obligation to transfer the Program Revenues is limited in all cases to amounts actually received by or on behalf of the Participating Political Subdivision as Program Revenues.

Section 4.3. Appropriation by the Participating Political Subdivision; No Further Obligations. The Participating Political Subdivision, to the extent required by law, shall annually appropriate the amounts received as Program Revenues under the Residential Program Plan and this Agreement to pay the Participating Political Subdivision's obligations under this Agreement. Upon the Participating Political Subdivision's receipt of each approved Petition and Plan from the Program Port Authority under this Agreement, all of the amounts received or to be received by the Participating Political Subdivision as Program Revenues shall be deemed to have been appropriated to pay the Participating Political Subdivision's obligations under this Agreement. During the years during which this Agreement is in effect, the Participating Political Subdivision shall take such further actions as may be necessary or desirable in order to appropriate the transfer of the amounts actually received by the Participating Political Subdivision as Program Revenues

in such amounts and at such times as will be sufficient to enable the Participating Political Subdivision to satisfy its obligations under this Agreement; but the Participating Political Subdivision shall not be responsible for the costs and expenses of any collection or enforcement actions, except to the extent of any amounts actually received by the Participating Political Subdivision as Program Revenues. The Participating Political Subdivision has no obligation to use or apply to the payment of the Program Revenues any funds or revenue from any source other than the moneys actually received by the Participating Political Subdivision as Program Revenues; but nothing in this Agreement shall be deemed to prohibit the Participating 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 4.4. ESID Assignment of Interest in Special Assessments. To secure the transfer of amounts received as Program Revenues by the Participating Political Subdivision to the Program Port Authority or its designee, and in accordance with the Special Assessment Act, the ESID hereby assigns, transfers, sets over, and shall pay any and all right, title, and interest in and to amounts actually received by or on behalf of the Participating Political Subdivision as Program Revenues that it may have to the Program Port Authority or its designee. The ESID does not assign, transfer, set over, or pay any of its right, title, or interest in or to any Special Assessments or portions of any Special Assessments actually received by or on behalf of the Participating Political Subdivision which, pursuant to the terms of this Agreement, any Petition and Plan, or any agreement for financing the costs of special energy improvement projects are payable to the ESID, with all such right, title, and interest being retained by the ESID.

ARTICLE V: REPRESENTATIONS AND WARRANTIES

Section 5.1. The Program Port Authority's Representations. The Program Port Authority represents and warrants as of the date of this Agreement and warrants for the term of this Agreement that:

- (a) It is a port authority, and a body corporate and politic, duly created and organized, and validly existing under the Act and the other 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 Program Port Authority that would impair its ability to carry out its obligations under 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 Program Port Authority's knowledge, that execution, delivery, and performance does not and will not violate or conflict with any provision of law applicable to the Program Port Authority, and does not and will not conflict with, or result in a default under, any agreement or instrument to which the Program Port Authority is a party or by which it is bound.
- (d) It, by proper action, has duly authorized, executed, and delivered this Agreement, and the Program Port Authority has taken any and all steps necessary to establish this Agreement and the Program Port Authority's obligations under this Agreement

as valid and binding obligations of the Program Port Authority, enforceable in accordance with their terms.

- (e) There is no litigation pending, or to its knowledge threatened, against or by the Program Port Authority in which an unfavorable ruling or decision would materially adversely affect the Program Port Authority's ability to carry out its obligations under this Agreement.

Section 5.2. The Participating Political Subdivision's Representations and Warranties. The Participating Political Subdivision represents and warrants as of the date of this Agreement and warrants for the term of this Agreement that:

- (a) It is a municipal corporation, duly organized, and validly existing under the Constitution and applicable laws of the State and its Charter.
- (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 Participating 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. That execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the Participating Political Subdivision, including its Charter, and does not and will not conflict with, or result in a default under, any agreement or instrument to which the Participating Political Subdivision is a party or by which it is bound.
- (d) It, by proper action, has duly authorized, executed, and delivered this Agreement, and the Participating Political Subdivision has taken all steps necessary to establish this Agreement and the Participating Political Subdivision's obligations under this Agreement as valid and binding obligations of the Participating Political Subdivision, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the Participating Political Subdivision in which an unfavorable ruling or decision would materially adversely affect the Participating Political Subdivision's ability to carry out its obligations under this Agreement.
- (f) The assignment under Section 4.1(a) is a valid and binding obligation of the Participating Political Subdivision with respect to the Special Assessments actually received by the Participating Political Subdivision in connection with this Agreement.

Section 5.3. The ESID's Representations and Warranties. The ESID represents and warrants as of the date of this Agreement and warrants for the term of this Agreement 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, has duly authorized, executed, and delivered this Agreement, and the ESID has taken and all steps necessary to establish this Agreement and the ESID's obligations under 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.

ARTICLE VI: EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any of the following shall occur, such occurrence shall be an "Event of Default" under this Agreement:

- (a) The Participating Political Subdivision shall fail to levy Special Assessments within its boundaries to pay for the costs of any Petitions and Plans approved by the Program Port Authority under the Residential Program Legislation, the Residential Program Plan, and this Agreement within the time specified in this Agreement; or
- (b) The Participating Political Subdivision shall fail to transfer, or cause the transfer of, any of the Special Assessments to the Program Port Authority or its designee within the time specified in this Agreement; or
- (c) The Participating Political Subdivision, the ESID, or the Program Port Authority shall fail to observe and perform any other agreement, term, or condition contained in this Agreement, and that failure shall continue for 60 days after written notice of the failure shall have been given to the Participating Political Subdivision, the ESID, or the Program Port Authority, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; except that if the failure is other than the payment of money, and is of a 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 Participating Political Subdivision, the ESID, or the Program Port Authority, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;

The declaration of an Event of Default above and the exercise of remedies upon any declaration of an Event of Default 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.

Section 6.2. 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 aggrieved Party or Parties may, on reasonable notice and at reasonable times, have access to, inspect and examine such information of the defaulting Party or Parties pertaining directly and specifically to the Event of Default; or
- (b) The aggrieved Party or Parties 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 the defaulting Party or Parties under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the other Parties; provided, however, that nothing in this Agreement is intended to or shall give to the Parties, and they shall not have, the right to accelerate or otherwise declare due and payable any payments of Special Assessments not otherwise then due and payable; and provided, further, that the Parties' damages under this Agreement (if any) shall be limited to the amount of the Special Assessments actually received by the Participating Political Subdivision following settlement with the County Treasurer, it being agreed that no other funds or property of the Participating Political Subdivision shall be implicated or in any way affected by this Agreement.

Section 6.3. 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. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or be construed to be a waiver of that right or power, 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 them under this Agreement, 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 6.4. No Waiver. No failure by any Party to insist upon the strict performance by the other Parties of any provision of this Agreement shall constitute a waiver of that 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 6.5. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement promptly 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, passage of time, or both, would become an Event of Default.

ARTICLE VII: MISCELLANEOUS

Section 7.1. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of execution and delivery until such time as the Parties shall mutually agree in a writing signed by each of the Parties to terminate this Agreement. Any attempted termination of this agreement that shall not be in writing and signed by each of the Parties to this Agreement shall be void. Notwithstanding the foregoing, any Party may, by 180 days' prior written notice to the other Parties, prospectively terminate this Agreement (which shall mean that this Agreement shall cease to be effective with respect to all Special Assessments for which the Program Port Authority has not approved a Petition by the 180th day following the other Parties' receipt of such notice); provided, that this sentence shall in no way limit or waive the Participating Political Subdivision's continuing obligations with respect to any Special Assessments for any applications for financing that have been approved by the Program Port Authority or any of its capital providers prior to such date all of which shall continue as binding obligations of the Participating Political Subdivision until the Special Assessments have been paid in full.

Section 7.2. 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 finance the special energy improvement projects. The notifying Party's prompt notice shall be accompanied by its written statement describing 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 applicable Party. The City, the ESID, and the Program Port Authority shall use their best efforts to qualify any information so received for any applicable exemptions from Ohio public records laws and shall, to the extent permitted by law, not disclose any information so received.

Section 7.3. Notices. All notices, certificates, requests, or other communications under this Agreement shall be in writing (including Electronic Means) and shall be deemed to be sufficiently given when (i) mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address, or (ii) provided by Electronic Means. Any Party, 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 7.4. 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, the performance of which shall be duties resulting from an office, trust, or station. 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 Participating Political Subdivision, the ESID, the Program Port Authority, the Legislative Authority, the ESID Board, or the Program Port Authority Board in other than his or her official capacity; and none of the members of the Legislative Authority, the ESID Board the Program Port Authority, or any official 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 Participating Political Subdivision, the ESID, or the Program Port Authority contained in this Agreement.

Section 7.5. Binding Effect. This Agreement shall inure to the benefit of, and shall be binding in accordance with its terms upon, the Parties. This Agreement shall not be assigned by any Party except: (i) as may be necessary in the Program Port Authority's sole discretion to enforce or secure payment of the Special Assessments, (ii) as may be approved in writing signed by each of the Parties to this Agreement, or (iii) as may be necessary, in the Program Port Authority's sole discretion, to secure financing for special energy improvement projects to be provided in consideration of Special Assessments under this Agreement. Any attempt to assign this Agreement except as provided in the previous sentence shall be null and void. This Agreement may be enforced only by the Parties, their permitted assignees, and others, who may, by law, stand in their respective places. This Agreement is the complete agreement of the Parties and supersedes all previous understandings and agreements relating to the subject matter of this Agreement.

Section 7.6. 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. Any attempt to amend, change, modify, alter, or terminate this Agreement except by unanimous written agreement signed by each of the Parties, or as otherwise provided in this Agreement, shall be void.

Section 7.7. 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 7.8. 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 7.9. 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.

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IN WITNESS WHEREOF, the Participating Political Subdivision, the ESID, and the Program Port Authority have each caused this Agreement to be duly executed in their respective names, all as of the date first written above.

TOLEDO-LUCAS COUNTY PORT
AUTHORITY, as the Program Port Authority

By: _____

Name: _____

Title: _____

CITY OF GREEN, SUMMIT COUNTY, OHIO

By: _____

Name: _____
Gerard M. Neugebauer, Mayor

Approved as to Form:

William G. Chris, Law Director, Interim

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., D/B/A:

AKRON-SUMMIT COUNTY ENERGY
SPECIAL IMPROVEMENT DISTRICT, INC.

By: _____

Name: _____

Title: _____

PROGRAM PORT AUTHORITY FISCAL OFFICER CERTIFICATE

The undersigned fiscal officer of the Toledo-Lucas County Port Authority hereby certifies that the moneys required to meet the obligations of the Program Port Authority during the year 20_____ under the foregoing Residential PACE Cooperative Agreement have been lawfully appropriated by the Board of Directors of the Program Port Authority for such purposes and are in the treasury of the Program Port Authority or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Assistant Secretary and Fiscal Officer
Toledo-Lucas County Port Authority

Dated: _____, 20____

PARTICIPATING POLITICAL SUBDIVISION FISCAL OFFICER CERTIFICATE

The undersigned fiscal officer of the Participating Political Subdivision hereby certifies that the moneys required to meet the obligations of the Participating Political Subdivision during the year 20__ under the foregoing Residential PACE Cooperative Agreement (\$0.00) are “other revenue in the process of collection” under Ohio Revised Code Section 5705.41(E), and are therefore deemed to have been lawfully appropriated by the Legislative Authority of the Participating Political Subdivision for such purposes and in the treasury of the Participating 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.

Steven Schmidt, Fiscal Officer
City of Green, Summit County, Ohio

Dated: _____, 2019

EXHIBIT A
DEFINITIONS

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

Act means Ohio Revised Code Sections 4582.01 through 4582.20, both inclusive, as enacted and amended at the time, and includes Article VIII, Sections 13 and 16 of the Ohio Constitution and any other applicable law pertaining to expenditures for economic development and housing, as the same may be amended, modified, revised, supplemented, or superseded from time to time.

Agreement means this City Residential PACE Cooperative Agreement, dated as of _____, 20____, among the Participating Political Subdivision, the ESID, and the Program Port Authority, as it may be validly amended and in effect from time to time.

County means the County of Summit, Ohio.

County Auditor means the Auditor of the County or any officer exercising the powers and functions of a county auditor under law, including under a county charter.

County Prosecutor means the Prosecuting Attorney of the County or any officer exercising the powers and functions of a county prosecuting attorney under law, including under a county charter.

County Treasurer means the Treasurer of the County or any officer exercising the powers and functions of a county treasurer under law, including under a county charter.

Electronic Means means any electronic communications methods agreed upon by the Parties as available for use in connection this Agreement, and initially includes, without limitation, e-mail, facsimile transmission, and secure electronic transmission containing applicable authorization codes, passwords, and authentication keys.

ESID means the 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 the Akron-Summit County Energy Special Improvement District, Inc., a nonprofit corporation and special improvement district organized under the laws of the State of Ohio.

ESID Board means the Board of Directors of the ESID.

Legislation Levying Assessments means any resolution or ordinance passed, enacted, or adopted by the Participating Political Subdivision pursuant to Ohio Revised Code Chapter 1710, Ohio Revised Code Section 727.25, or both, or pursuant to any municipal charter, with respect to levying Special Assessments on residential real property within the ESID under the Residential Program Plan.

Legislation to Proceed means any resolution or ordinance passed, enacted, or adopted by the Participating Political Subdivision pursuant to Ohio Revised Code Chapter 1710 and Ohio Revised Code Section 727.23 with respect to levying Special Assessments on residential real property within the ESID under the Residential Program Plan.

Legislative Authority means the Council of the Participating Political Subdivision.

Notice Address means:

(a) As to the Program Port Authority: Toledo-Lucas County Port Authority
One Maritime Plaza, 7th Floor
Toledo, Ohio 43604
Attention: President

With a Copy To: J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 S. Third Street
Columbus, Ohio 43215

(b) As to the Participating Political Subdivision: City of Green, Summit County, Ohio

Attention: _____

(c) As to the ESID: Akron-Summit Energy Special Improvement District, Inc.

Attention: _____

With a Copy To: J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 S. Third Street
Columbus, Ohio 43215

Participating Political Subdivision means the City of Green, Summit County, Ohio, a municipal corporation and political subdivision duly organized and validly existing under the Constitution and laws of the State and under its Charter.

Parties means, collectively, the Participating Political Subdivision, the ESID, and the Program Port Authority.

Party means, individually, any of the Parties.

Petition means any petition submitted by the owner of real property located within the boundaries of the Participating Political Subdivision requesting that the Participating Political

Subdivision add the property to the territory of the ESID or, if already included within the territory of the ESID, consent to additional special energy improvement projects that benefit or will benefit the property; approve special energy improvement projects that benefit or will benefit the property; and levy special assessments on the property to pay the permitted costs of the special energy improvement projects, including associated program expenses.

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

Plan means any plan for public improvements or plan for public services, including supplemental plans for public improvements or supplemental plans for public services, submitted in connection with a Petition.

Program Port Authority means the Toledo-Lucas County Port Authority, a port authority and body corporate and politic duly organized and validly existing under the Constitution and laws of the State.

Program Port Authority Board means the Board of Directors of the Program Port Authority.

Residential Program Legislation means the Legislative Authority's Ordinance No. [NUMBER] adopted on [DATE], a copy of which is attached to and incorporated into this Agreement as **Exhibit B**, as it may be validly amended and in effect from time to time.

Residential Program Plan means the Akron-Summit County Energy Special Improvement District Residential Program Plan adopted by the Participating Political Subdivision by its Residential Program Legislation, a copy of which is attached to and incorporated into this Agreement as **Exhibit C**, as it may be validly amended and in effect from time to time.

Resolution of Necessity means any resolution or ordinance passed, enacted, or adopted by the Participating Political Subdivision pursuant to Ohio Revised Code Chapter 1710 and Ohio Revised Code Section 727.12 with respect to levying Special Assessments on residential real property within the ESID under the Residential Program Plan.

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 Residential Program Legislation, and each and every Resolution of Necessity, Legislation to Proceed, or Legislation Levying Assessments, if any, passed, enacted, or adopted by the Legislative Authority of the Participating Political Subdivision with respect to levying Special Assessments on residential real property within the ESID under the Residential Program Plan.

Special Assessment Certification Deadline means the last day of any calendar year on which municipal corporations may certify special assessments to the County Auditor for collection in the immediately succeeding calendar year.

Special Assessments means amounts representing or collected in respect of special assessments (including any delinquent special assessments, interest, penalties, and proceeds from enforcement of the lien of any special assessments) levied on real property: (i) that is included within the territory of the ESID, (ii) on or for which special energy improvement projects have been or will be implemented, and (iii) that is subject to the terms and conditions of the Residential Program Plan.

State means the State of Ohio.

EXHIBIT B

RESIDENTIAL PROGRAM LEGISLATION

[See Attached]

EXHIBIT C

RESIDENTIAL PROGRAM PLAN

[See Attached]