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4 CITY OF CUYAHOGA FALLS, OHIO

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6 RESOLUTION NO. 12 - 2024

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8 A RESOLUTION APPROVING THE PETITION FOR
9 SPECIAL ASSESSMENTS FOR A SPECIAL ENERGY
10 IMPROVEMENT PROJECT UNDER OHIO REVISED
11 CODE CHAPTER 1710 AND APPROVING THE
12 NECESSITY OF ACQUIRING, INSTALLING,
13 EQUIPPING, AND IMPROVING CERTAIN PUBLIC
14 IMPROVEMENTS IN THE CITY OF CUYAHOGA FALLS,
15 OHIO IN COOPERATION WITH THE AKRON-SUMMIT
16 COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT,
17 AND DECLARING AN EMERGENCY.
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20 WHEREAS, the Akron-Summit County Energy Special Improvement District
21 (the "District") was created by the City of Akron, Ohio under Ohio Revised Code
22 Chapters 1702 and 1710 as an energy special improvement district and is
23 governed by the Akron Energy Special Improvement District Project Plan (as
24 amended and supplemented from time to time, the "District Plan"), which was
25 adopted as a plan for public improvements and public services under Ohio
26 Revised Code Section 1710.02(F), which plan allows for additional properties
27 within the City of Akron and within any municipal corporation or township which
28 is adjacent to any other municipal corporation or township in which a portion of
29 the District's territory is located to be added to the territory of the District; and
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31 WHEREAS, since its creation, the territory of the District has expanded
32 beyond the City of Akron to include properties within the City of Barberton, Bath
33 Township, Village of Boston Heights, Copley Township, Coventry Township, City
34 of Cuyahoga Falls, City of Fairlawn, City of Green, City of Hudson, Village of
35 Lakemore, City of Macedonia, Village of Mogadore, City of New Franklin, Village
36 of Northfield, Northfield Center Township, City of Norton, Village of Richfield,
37 Springfield Township, City of Stow, City of Tallmadge, and City of Twinsburg;
38 and
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40 WHEREAS, pursuant to Ordinance No.7-2019, adopted by the City Council
41 of the City (the "Council") on February 12, 2019, the Council approved the
42 addition of certain real property located within the City to the territory of the
43 District and further approved the City's participation in the District as a
44 "participating political subdivision," as defined in Ohio Revised Code Section
45 1710.01(E); and
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47 WHEREAS, AKRON PEN 1972, LLC (the "Owner"), as the owner of certain real
48 property located within the City of Cuyahoga Falls, Ohio (the "City"), has
49 identified certain real property located at 1972 Akron Peninsula Road, Akron,
50 Ohio 44313 with Summit County Fiscal Officer Parcel ID No. 3507260 (the
51 "Property"), as an appropriate property for a special energy improvement project
52 pursuant to Ohio Revised Code Chapter 1710; and
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55 WHEREAS, the Owner has determined to submit to the Mayor and the City
56 Council (the "Council") of the City, a *Petition For Special Assessments for Special*
57 *Energy Improvement Projects* (the "Petition") and a Supplement to the Project Plan
58 for the 1972 Akron Peninsula PACE Project (the "Supplemental Plan"), all in
59 accordance with Ohio Revised Code Chapter 1710, each of which are now on file
60 with the Clerk of this Council; and
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62 WHEREAS, the Petition, which is on file with the Clerk of Council, has been
63 signed by the Owner, as the owner of one hundred percent (100%) of the Property
64 (as further described in Exhibit A to the Petition), and proposes the necessity of
65 undertaking and financing of certain special energy improvements through the
66 cooperation of the District (the "Project"); and
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68 WHEREAS, the Petition and Supplemental Plan requests that the Property be
69 added to the District and that the City levy special assessments on the Property
70 to pay the costs of the Project, all as described more particularly in the Petition
71 and the Supplemental Plan; and
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73 WHEREAS, the Petition is for the purpose of developing and implementing
74 special energy improvement projects in furtherance of the purposes set forth in
75 Section 20 of Article VIII of the Ohio Constitution, including, without limitation,
76 the Project, and further, the Petition identifies the amount and length of the
77 special assessments to be imposed with respect to the Project; and
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79 WHEREAS, in furtherance of the future addition of any real property in any
80 municipal corporation or township contiguous to the municipal corporations or
81 townships in which a portion of the territory of the District is located, it is
82 necessary, and this Council has determined, to approve the addition of such real
83 property to the territory of the District, all in accordance with Ohio Revised Code
84 Chapter 1710; and
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86 WHEREAS, by the Petition, the Owner requests that the Project be paid for
87 by special assessments assessed upon the Property (the "Special Assessments")
88 in an amount sufficient to pay the costs of the Project, which is estimated to be
89 \$10,261,145.70, and requests that the Project be undertaken cooperatively by
90 the City, the District, and such other parties as the City may deem necessary or
91 appropriate; and
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WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision which has approved a petition for special assessments for public improvements in an energy special improvement district and a plan pursuant to Ohio Revised Code Sections 1710.02(F) and 1710.06 shall levy the requested special assessments pursuant to Ohio Revised Code Chapter 727; and

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

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WHEREAS, this Council has determined to approve the Petition and the Supplemental Plan.

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NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cuyahoga Falls, County of Summit and State of Ohio, that:

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Section 1. That this Council approves the Petition and Supplemental Plan now on file with the Clerk of Council.

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Section 2. That this Council declares necessary, and a vital and essential public purpose of the City, to improve the Property, by providing for the acquisition, installation, equipping, and improvement of the Project by the Owner, as set forth in the Petition and Supplemental Plan, 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; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued or incurred to provide a loan or to secure an advance of funds to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, as defined herein and identified in the Petition and Supplemental Plan, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District or the Development Finance Authority of Summit County as its conduit financing entity to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had

139 been issued by the District or the Development Finance Authority of Summit
140 County as its conduit financing entity to pay the costs of the Project; together
141 with all other necessary expenditures, all as more fully described in the Petition,
142 the Supplemental Plan, and profiles, specifications, and estimates of cost of the
143 Project, all of which are on file with the Finance Director and open to the
144 inspection of all persons interested.

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146 Section 3. That this Council determines that the Project's elements are so
147 situated in relation to each other that in order to complete the acquisition,
148 instillation, equipping and improvement of the Project's elements in the most
149 practical and economical manner, they should be acquired, installed, equipped,
150 and improved at the same time, with the same kind of materials, and in the same
151 manner; and that the Project's elements shall be treated as a single
152 improvement, pursuant to Ohio Revised Code Section 727.09, and the Project's
153 elements shall be treated as a joint improvement to be undertaken cooperatively
154 by the City and the District pursuant to Ohio Revised Code Section 9.482 and
155 Ohio Revised Code Chapter 1710.

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157 Section 4. That the plans and specifications and total cost of the Project now
158 on file in the office of the Clerk of Council are approved, subject to changes as
159 permitted by Ohio Revised Code Chapter 727. The Project shall be made in
160 accordance with the plans, specifications, profiles, and estimate of costs for the
161 Project.

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163 Section 5. That this Council determines and declares that the Project is an
164 essential and vital public, governmental purpose of the City as a special energy
165 improvement project, as defined in Ohio Revised Code Section 1710.01(I); and
166 that in order to fulfill that essential and vital public purpose of the City, it is
167 necessary and proper to provide, in cooperation with the District, for the
168 acquisition, installation, equipping, and improvement of the Project in the
169 manner contemplated by the Petition and Supplemental Plan. This Council
170 determines and declares that the Project is conducive to the public peace, health,
171 safety and welfare of the City and the inhabitants of the City.

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173 Section 6. That pursuant to and subject to the provisions of a valid Petition
174 signed by the owners of one hundred percent (100%) of the Property, the entire
175 cost of the Project shall be paid by the Special Assessments levied against the
176 Property, which is the benefited property. The provisions of the Petition and the
177 Supplemental Plan are ratified, adopted, approved and incorporated into this
178 Resolution as if set forth in full in this Resolution. The portion of the costs of the
179 Project allocable to the City will be zero percent (0%). The City does not intend
180 to issue securities in anticipation of the levy or the collection of the Special
181 Assessments.

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183 Section 7. That the method of levying the Special Assessments shall be in
184 proportion to the benefits received, allocated among the parcels constituting the
185 Property as set forth in the Petition and the Supplemental Plan.
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187 Section 8. That the lots or parcels of land to be assessed for the Project shall
188 be the Property, described in Exhibit A to the Petition, all of which lots and lands
189 are determined to be specially benefited by the Project.
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191 Section 9. That the Special Assessments shall be levied and paid in 30 semi-
192 annual installments pursuant to the list of estimated Special Assessments set
193 forth in the Petition and Supplemental Plan (which list is incorporated herein by
194 reference), and the Owner has waived its option to pay the Special Assessment
195 in cash within 30 days after the first publication of the notice of the assessing
196 resolution or ordinance.
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198 The aggregate amount of Special Assessments estimated to be necessary to
199 pay the costs of the Project is \$10,261,145.70. Each semi-annual Special
200 Assessment payment represents payment of a portion of the principal of and
201 interest on obligations issued or incurred to pay the costs of the Project and of
202 administrative expenses. The interest portion of the Special Assessments, if any,
203 together with amounts used to pay administrative expenses, shall be treated as
204 part of the cost of the Project for which the Special Assessments are made at an
205 interest rate which shall be determined by the District to be substantially
206 equivalent to the fair market rate that would have been borne by notes or bonds
207 had notes or bonds been issued by the City or another issuer of notes or bonds
208 to pay the costs of the Project. In addition to the Special Assessments, the County
209 Fiscal Officer of Summit County, Ohio may impose a special assessment
210 collection fee with respect to each semi-annual payment, which amount will be
211 added to the Special Assessments by the County Fiscal Officer of Summit
212 County, Ohio.
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214 Section 10. That the Finance Director is authorized and directed to prepare
215 and file in the office of the Clerk of Council the estimated Special Assessments
216 for the cost of the Project in accordance with the method of assessment set forth
217 in the Petition, the Supplemental Plan and this Resolution, showing the amount
218 of the assessment against each lot or parcel of land to be assessed.
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220 Section 11. Notice of the adoption of this Resolution and the filing of the
221 estimated Special Assessments upon the Owner of the Assessed Property as
222 provided in Ohio Revised Code Section 727.13 shall be delivered by the Clerk of
223 Council to the Owner promptly following adoption of this Resolution.
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225 Section 12. That the Finance Director is authorized, pursuant to Ohio Revised
226 Code Section 727.12, to cause the Special Assessments to be levied and collected
227 at the earliest possible time including, if applicable, prior to the completion of
228 the acquisition, installation and equipping of the Project.

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Section 13. That the Special Assessments will be used by the City to pay the costs of 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 14. That this 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, Ohio Revised Code Chapter 1710, and the Charter of the City of Cuyahoga Falls, Ohio, 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, as the owner of the Property, 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 resolution or ordinance under Ohio Revised Code Section 727.26; and
- (ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

Section 15. That the Council finds and determines that all formal actions of this Council relating to the adoption of this Resolution have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in full compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

Section 16. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the City and for the purpose of immediately approving the Petition and Supplemental Plan and determining the necessity of the Project so that the Project may proceed on a timely basis; wherefore, this resolution shall

275 be in full force and effect immediately upon its adoption and approval by the
276 Mayor. Otherwise, it shall take effect and be in force at the earliest period allowed
277 by law.

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280 Passed: 9-23-2024

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288 Approved: 9-23-2024

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291 9/9/2024

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President of Council



Clerk of Council



Mayor

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of Resolution No. 12-2024 duly adopted by the Council of the City of Cuyahoga Falls, Ohio on 9-23-2024, 2024, and that a true copy of such Resolution was certified to the County Fiscal Officer of Summit County, Ohio within 15 days after its passage.



Clerk of Council