

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO.

67-2024

7 AN ORDINANCE DETERMINING TO PROCEED WITH THE
8 ACQUISITION, INSTALLATION, EQUIPMENT, AND
9 IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN
10 THE CITY OF CUYAHOGA FALLS, OHIO IN COOPERATION
11 WITH THE AKRON-SUMMIT COUNTY ENERGY SPECIAL
12 IMPROVEMENT DISTRICT, AND DECLARING AN
13 EMERGENCY.
14

15 WHEREAS, the Council duly adopted Resolution No. 11-2024 on September 23,
16 2024 (the "Resolution of Necessity"), (i) declaring the necessity of acquiring, installing,
17 equipping, and improving energy efficiency improvements, including, without limitation,
18 HVAC systems and LED lighting (the "Project," as more fully described in the Petition
19 referenced in this Ordinance) located on real property owned by AKRON PEN 1972, LLC
20 (the "Owner"), at 1972 Akron Peninsula Road, Akron, Ohio 44313 with Summit County
21 Fiscal Officer Parcel ID No. 3507260 within the City of Cuyahoga Falls, Ohio (the "City")
22 (the "Property", as more fully described in Exhibit A to the Petition); (ii) providing for the
23 acquisition, installation, equipping, and improvement of the Project by the Owner, as
24 set forth in the Owner's *Petition For Special Assessments for Special Energy Improvement*
25 *Projects* (the "Petition"), including by levying and collecting special assessments to be
26 assessed upon the Property (the "Special Assessments") in an amount sufficient to pay
27 the costs of the Project, which was estimated to be \$10,261,145.70 in the Petition,
28 including other related costs of financing the Project, which may include, without
29 limitation, the payment of principal of and interest on nonprofit corporate obligations
30 issued to pay the costs of the Project and other interest, financing, credit enhancement,
31 and issuance expenses and ongoing trustee fees and Akron-Summit County Energy
32 Special Improvement District ("District") administrative fees and expenses; and (iii)
33 determining that the Project will be treated as a special energy improvement project to
34 be undertaken cooperatively by the City and the District; and
35

36 WHEREAS, the claims for damages alleged to result from, and objections to, the
37 Project have been waived by the Owner as the owner of one hundred percent (100%) of
38 the Property, and following notice of the adoption of the Resolution of Necessity which
39 was personally delivered by the Clerk of Council to the Owner on September 24, 2024,
40 and no claims for damages alleged to result from, or objections to, the Project have been
41 filed within the times prescribed by Ohio Revised Code Sections 727.15 and 727.18.
42

43 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,
44 County of Summit and State of Ohio:
45

46 Section 1. That each capitalized term not otherwise defined in this Ordinance or by
47 reference to another document shall have the meaning assigned to it in the Resolution
48 of Necessity.
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50 Section 2. That this Council declares that its intention is to proceed or to cooperate
51 with the District to proceed with the acquisition, installation, equipping, and
52 improvement of the Project described in the Petition and the Resolution of Necessity.
53 The Project shall be made in accordance with the provisions of the Resolution of
54 Necessity and with the plans, specifications, profiles, and estimates of cost previously
55 approved and now on file with the Finance Director and the Clerk of this Council.
56

57 Section 3. That the Special Assessments to pay costs of the Project, which are
58 estimated to be \$10,261,145.70 including any and all architectural, engineering, legal,
59 insurance, consulting, energy auditing, planning, acquisition, installation,
60 construction, surveying, testing, and inspection costs; the amount of any damages
61 resulting from the Project and the interest on such damages; the costs incurred in
62 connection with the preparation, levy and collection of the special assessments; the cost
63 of purchasing and otherwise acquiring any real estate or interests in real estate;
64 expenses of legal services; costs of labor and material; trustee fees and other financing
65 costs incurred in connection with the issuance, sale, and servicing of securities,
66 nonprofit corporate obligations, or other obligations issued or incurred to provide a loan
67 or to secure an advance of funds to the Owner or otherwise to pay costs of the Project
68 in anticipation of the receipt of the Special Assessments, capitalized interest on, and
69 financing reserve funds for, such securities, nonprofit corporate obligations, or other
70 obligations so issued or incurred, including any credit enhancement fees, trustee fees,
71 program administration fees, financing servicing fees, and District administrative fees
72 and expenses; an amount to reflect interest on unpaid Special Assessments which shall
73 be treated as part of the cost of the Project for which the Special Assessments are made
74 at an interest rate which shall be determined by the District to be substantially
75 equivalent to the fair market rate that would have been borne by notes or bonds if notes
76 or bonds had been issued by the District or another issuer of notes or bonds to pay the
77 costs of the Project; together with all other necessary expenditures, shall be assessed
78 against the Property in the manner and in the number of semi-annual installments
79 provided in the Petition and the Resolution of Necessity. Each semi-annual Special
80 Assessment payment represents the payment of a portion of any principal repayment
81 and interest and administrative fees payable with respect to the Project. The Special
82 Assessments shall be assessed against the Property commencing in tax year 2025 for
83 collection in 2026 and shall continue through tax year 2039 for collection in 2040;
84 provided, however, if the proceedings relating to the Special Assessments are completed
85 at such time that the County Fiscal Officer of Summit County, Ohio determines that
86 collections shall not commence in 2026, then the collection schedule may be deferred
87 by one year. In addition to the Special Assessments, the County Fiscal Officer of Summit
88 County, Ohio may impose a special assessment collection fee with respect to each semi-
89 annual payment, which amount, if imposed, will be added to the Special Assessments
90 by the County Fiscal Officer of Summit County, Ohio.
91

92 Section 4. That the estimated Special Assessments for costs of the Project prepared
93 and filed in the office of the Clerk of this Council and in the office of the Finance Director,
94 in accordance with the Resolution of Necessity, are adopted.
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96 Section 5. That in compliance with Ohio Revised Code Section 319.61, the Clerk of
97 Council is directed to deliver a certified copy of this Ordinance to the County Fiscal
98 Officer of Summit County, Ohio within 15 days after the date of its passage.
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100 Section 6. That all contracts for the construction of the Project will be let in
101 accordance with the Petition and the Plan, and the costs of the Project shall be financed
102 as provided in the Resolution of Necessity.
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104 Section 7. That the Council finds and determines that all formal actions of this
105 Council relating to the passage of this Ordinance have been taken at open meetings of
106 this Council; and that deliberations of this Council and of its committees, resulting in
107 such formal action, took place in meetings open to the public, in full compliance with
108 all statutory requirements including the requirements of Section 121.22 of the Ohio
109 Revised Code.
110


111 Section 8. This Ordinance is hereby declared to be an emergency measure
112 necessary for the immediate preservation of the public peace, health, and safety of the
113 residents of the City and for the purpose of immediately authorizing the Project to be
114 undertaken on a timely basis; wherefore, this ordinance shall be in full force and effect
115 immediately upon its adoption and approval by the Mayor, otherwise it shall take effect
116 and be in force at the earliest period allowed by law.
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119 Passed: 10-14-2024




President of Council

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125 Clerk of Council



Clerk of Council

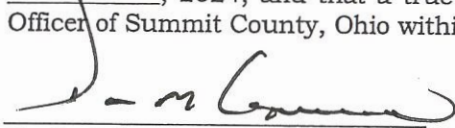
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129 Approved: 10-14-2024
130
131 9/23/24



Mayor

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of Ordinance 67-2024 duly adopted by the Council of the City of Cuyahoga Falls, Ohio on 10-14, 2024, and that a true copy of such Ordinance was certified to the County Fiscal Officer of Summit County, Ohio within 15 days after its passage.



Clerk of the Council

