

ORDINANCE NO: 19-0-02  
SPONSOR: MAYOR ADAMSON  
INTRODUCED: FEBRUARY 6, 2019

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

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

WHEREAS, the County of Summit, Ohio (the "Owner"), as the owner of certain real property located within the City, has identified certain real property located at 5765 Overture Way, New Franklin, Ohio 44216 (the "Project Site"), as an appropriate property for special energy improvement projects pursuant to Ohio Revised Code Chapter 1710; and

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

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

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

WHEREAS, as permitted under Ohio Revised Code Section 1710.02, the Plan and the Articles of Incorporation allow for the addition of

NOW THEREFORE, BE IT ORDAINED by the Council of the City of New Franklin, Ohio:

**Section 1:** This Council approves the Petition and the Supplemental Plan now on file with the Board and the Director of Finance. Under the Creation Resolution, Plan, and the Articles of Incorporation, the Project Site is added to the territory of the District. The Mayor, or his or her designee, is hereby appointed to serve on the Board of Directors of the District as provided in Ohio Revised Code Section 1710.04(A).

**Section 2:** This Council approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or any city which is contiguous to the municipal corporations or cities in which a portion of the territory the District is located; (ii) the addition of the municipal corporation or city in which such real property is located as a "participating political subdivision," as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize and effect such addition.

**Section 3:** Each capitalized term used in this Ordinance where the rules of grammar would otherwise not require and not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Petition.

**Section 4:** This Council declares necessary, and a vital and essential public purpose of the City, to improve the Property by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition, and providing for the payment of the costs of the project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses; together with all

**Section 10.** The lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit "A" to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

**Section 11.** The Special Assessments shall be levied and paid in one annual installment pursuant to the list of estimated Special Assessments set forth in the Petition, and the Owner has waived its option to pay the Special Assessment in cash within 30 days after the passage of this Ordinance. The period over which the services and improvements provided pursuant to the Plan are useful is determined to exceed one year.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$525.00. Each annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the Summit County Fiscal Officer (the "County Fiscal Officer") may impose a special assessment collection fee with respect to each annual payment, which amount will be added to the Special Assessments by the County Fiscal Officer.

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

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

**Section 12.** That the Director of Finance or any designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

**Section 13.** The Director of Finance or any designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special

**EXHIBIT A**

**LIST OF SPECIAL ASSESSMENTS AND  
SCHEDULE OF SPECIAL ASSESSMENTS**

LIST OF SPECIAL ASSESSMENTS

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
County of Summit, Ohio	6006096 2500062	100.00%	\$675.00

SCHEDULE OF SPECIAL ASSESSMENTS  
FOR SUMMIT COUNTY PARCEL NOS.:

6006096  
2500062

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

Special Assessment Date*	Special Assessment Amount**
January 1, 2020	\$337.50
July 1, 2020	\$337.50

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

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

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

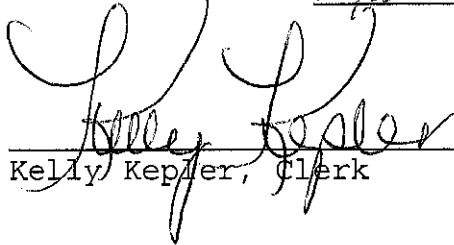
**Section 17.** That this Council hereby approves the Loan Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor shall sign and deliver, in the name and on behalf of the City, the Loan Agreement, in substantially the form as is now on file with the Clerk of Council. The Loan Agreement is approved, together with any changes or amendments (including the addition or subtraction of any parties) that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Loan Agreement or amendments thereto.

**Section 18.** That this Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the Clerk of Council. The Special Assessment Agreement is approved, together with any changes or amendments (including the addition or subtraction of any parties) that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be

ENACTED EFFECTIVE: February 20, 2019

ON ROLL CALL:	Cotts	<u>Yes</u>	Jones	<u>Yes</u>	Harget	<u>Yes</u>
	Fetterman	<u>Yes</u>	Stock	<u>Yes</u>	Hawk	<u>Yes</u>
	Norris	<u>Yes</u>				

Publications on March 1, 2019 and March 8, 2019

  
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Kelly Kepner, Clerk