



Legislation Text

File #: O-287-19, Version: 1

Residential PACE Program
Department of Neighborhoods and Business Development
Amy Odum (x3647)
(Revised)

Approving the Northwest Ohio Advanced Energy Improvement District Residential Program Plan; authorizing and approving the execution, delivery, and performance of a City Residential PACE Cooperative Agreement with respect to property assessed clean energy transactions in cooperation with the Northwest Ohio Advanced Energy Improvement District and the Toledo-Lucas County Port Authority; authorizing the Toledo-Lucas County Port Authority to approve petitions and plans for public improvements or public services submitted by the owners of real property within the City requesting that their property be added to the territory of the Northwest Ohio Advanced Energy Improvement District and assessed for the costs of such plans on behalf of the Council of the City.

SUMMARY & BACKGROUND:

As set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (ESIDs) upon a petition to a municipal corporation or township. ESIDs are voluntary organizations of municipal corporations, townships, and property owners who undertake special energy improvement projects that benefit real property and finance those special energy improvement projects through voluntary special assessments.

The Toledo, Oregon, Maumee, Northwood, Perrysburg, Sylvania, Whitehouse, Township of Monclova, Township of Springfield, Township of Swanton, Township of Sylvania, Ohio Advanced Energy Improvement Corporation, doing business under the registered trade name Northwest Ohio Advanced Energy Improvement District (the District) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID and established pursuant to Resolution No. 207-11 of the Council of the City approved on May 18, 2011.

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

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

In order to provide for the efficient implementation of the Residential PACE Plan, the District and the Toledo-

Lucas County Port Authority, a port authority and political subdivision of the State of Ohio (the Program Port Authority), have entered into an Ohio Residential PACE Cooperative Agreement to establish acceptable program parameters and consumer protections for residential PACE financing programs in Ohio.

In order to provide for the efficient implementation of the Residential PACE Plan, the City has determined to enter into a City Residential PACE Cooperative Agreement as a cooperative agreement with the Program Port Authority (the Cooperative Agreement). Under the Cooperative Agreement the City and the Program Port Authority will cooperatively agree to cause the Program Port Authority to exercise certain powers, perform certain functions, and render certain services on behalf of the City, all as authorized under this Ordinance, the Cooperative Agreement, and Ohio Revised Code Sections 4582.17(B) and 9.482.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Residential PACE Plan.

SECTION 2. That this Council approves the Residential PACE Plan now on file with the Clerk of Council. Any petitions by the owners of residential real property located within the boundaries of the City for special assessments to finance the costs of special energy improvement projects on their properties shall be considered, and, if approved, implemented, under and subject to the terms and conditions of the Residential PACE Plan.

SECTION 3. That this Council approves the cooperative agreement, substantially in the form now on file with the Clerk of Council, with any amendments or modifications to it as are not materially adverse to the City, are consistent with this Ordinance, and are approved by the officer or officers of the City signing the cooperative agreement, all of which shall be conclusively demonstrated by the signature of the duly authorized officer or officers of the City on the cooperative agreement. The Mayor, the Commissioner of the Department of Neighborhoods & Business Development, or either of them, or either of their designees, together or individually, are authorized, for and on behalf of the City, to execute and deliver the cooperative agreement, including any amendments or modifications to the cooperative agreement as are not materially adverse to the City, are consistent with this Ordinance, and are approved by the officer or officers of the City signing the cooperative agreement, all of which shall be conclusively demonstrated by the signature of the duly authorized officer or officers of the City on the cooperative agreement. The City is authorized to perform the terms and conditions of the cooperative agreement, as it may be amended and in effect at any time. The Mayor, the Commissioner of the Department of Neighborhoods & Business Development, or either of them, or either of their designees, together or individually, are authorized, for and on behalf of the City, to execute and deliver any additional amendments, agreements, certificates, or instruments as may be reasonably necessary to carry out the purposes of the cooperative agreement, and the City is hereby authorized to perform the terms and conditions of any of those amendments, agreements, certificates, or instruments.

SECTION 4. That under the cooperative agreement, the City shall, pursuant to Ohio Revised Code Sections 4582.17(B) and 9.482, authorize and request the Program Port Authority to act on behalf of the City during the term of the cooperative agreement to receive and approve or disapprove Petitions and Plans (as defined in the Residential PACE Plan and the cooperative agreement) in its reasonable discretion and subject to certain terms and conditions stated in the Residential PACE Plan, the cooperative agreement, and this Ordinance. Upon the execution and delivery of the cooperative agreement by all of the parties to it, this Council appoints the Program Port Authority as its delegate to, for, and on behalf of this Council, receive and approve or disapprove petitions and plans in its discretion and subject to certain terms and conditions stated in the

Residential PACE Plan, the cooperative agreement, and this Ordinance. With the first submission of a petition and plan, the Program Port Authority shall, for and on behalf of this Council, formally approve the Residential PACE Plan attached to and incorporated into this Ordinance as **Exhibit A**. The approval or disapproval of any petitions and plans (including the initial approval of the Residential PACE Plan) shall constitute the legislative approval or disapproval of this Council for all purposes of law, including, without limitation, Ohio Revised Code Chapter 1710, and all legal consequences appertaining to a legislative authority's legislative approval or disapproval of petitions and plans for public improvements or public services under Ohio Revised Code Chapter 1710 shall appertain to the Program Port Authority's approval or disapproval of petitions and plans for and on behalf of this Council.

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

SECTION 5. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Passed: _____: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

_____.

Attest: _____
Clerk of Council