

Resolution No. 7 20 19

**A RESOLUTION APPROVING THE NECESSITY OF ACQUIRING CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF NORWOOD, OHIO IN COOPERATION WITH THE CITY OF NORWOOD, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY**

**WHEREAS**, Ohio Revised Code Section 1710.06(C) 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,

**WHEREAS**, 4620 Wesley, LLC (the "Owner") petitioned to add certain property owned by the Owner located at the commonly used mailing address 4643 Forest Avenue, Cincinnati, Ohio 45212 within the City of Norwood, Ohio (the "City") to the jurisdiction of the City of Norwood, Ohio Energy Special Improvement District (the "District"), in part to finance the costs of a special energy improvement project to be constructed on the property, which special energy improvement project consists of acquiring, constructing, equipping, improving, and installing energy efficiency improvements on its real property, including, without limitation, solar photovoltaic cells and related roof repairs, replacement of LED lighting systems, a data room cooling system and related improvements (the "Project"); and,

**WHEREAS**, the Council ("Council") of the City has, by Resolution No. 6, adopted on May 14, 2019 approved the Petition for Special Assessments for Special Energy Improvement Projects (the "Petition"), together with the City of Norwood, Ohio Energy Special Improvement District Project Plan Supplement to Plan for 4643 Forest Avenue, City of Norwood, Ohio Project (the "Supplemental Plan"), all in accordance with Ohio Revised Code Section 1710.06; and,

**WHEREAS**, the Petition, which is on file with the Clerk of the Council, has been signed by the Owner, as the owner of one hundred percent (100%) of the real property affected by the Petition (as further described in Exhibit A to the Petition, the "Property"), and proposes the necessity of acquiring, constructing, and improving the Project and financing the Project through the cooperation of the District; and,

**WHEREAS**, in the Petition, the Owner requests that the Project be paid for by special assessments assessed upon the Property (the "Special Assessments") in an amount sufficient to pay the costs of the Project, which is estimated to be \$4,577,688.16, and which includes other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City, the District, and such other parties as the City may deem necessary or appropriate; and,

**WHEREAS**, it is necessary for the immediate preservation of public peace, property, health and safety, that this Resolution take effect at the earliest possible date in order to allow the Owner to begin work on the special energy improvement project on the Property, and the District to take advantage of financing available to it for a limited time.

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORWOOD, OHIO:**

**Section 1.** That each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Petition.

**Section 2.** That this Council declares it necessary, and a vital and essential public purpose of the City, to improve the Property, which is located at 4643 Forest Avenue, Cincinnati, Ohio 45212, within the City, 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 Authorized Improvements 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 Authorized Improvements 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 other necessary expenditures, all as more fully described in the Petition and profiles, specifications, and estimates of cost of the Project, all of which are on file with the City Auditor and open to the inspection of all persons interested.

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

**Section 4.** That the Plans and Specifications and total cost of the Project now on file in the office of the Clerk of the Council are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project.

**Section 5.** That this Council has previously determined and by this Resolution ratifies and declares that the Project is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Petition. This Council determines and declares that the Project is conducive to the public peace, health, safety and welfare of the City and the inhabitants of the City.

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

**Section 7.** That the method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Property as set forth in the Petition.

**Section 8.** That 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 9.** That the Special Assessments shall be levied and paid in 46 semi-annual installments 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 the assessing Resolution. The period over which the services and improvements provided pursuant to the Plan are useful is determined to be 15 to 25 years.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$4,577,688.16. Each semi-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 Auditor of Hamilton County, Ohio may impose a special assessment collection fee with respect to any semi-annual payment certified to the County Auditor for collection, which amount, if any, will be added to the Special Assessments by the Auditor of Hamilton County, Ohio.

**Section 10.** That the City Auditor or the City Auditor's designee is authorized and directed to prepare and file in the office of the Clerk of the Council the estimated Special Assessments for the cost of the Project in accordance with the method of assessment set forth in the Petition and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

**Section 11.** That pursuant to the Petition, the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments, as provided in Ohio Revised Code Section 727.13, and that the City hereby accepts that waiver.

**Section 12.** That the City Auditor or the City Auditor's 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.** That the Special Assessments will be used by the City to provide the Authorized Improvements 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 consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner 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 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 City is authorized to enter into agreements by and among the City, the District, and such other parties as the City may deem necessary or appropriate in order to provide the Authorized Improvements, and that the Mayor, the Economic Development Director, and the Council President, or any of them, is authorized to execute, on the City's behalf, such agreements.

**Section 16.** That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this legislative resolution 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.

**Section 17.** That for the reasons stated in the preamble hereof, this Resolution is declared to be an emergency measure and shall take effect immediately upon its adoption.

**ADOPTED** at a meeting of the Council of the City of Norwood, on this 14 day of May, 2019.

**PASSED** 5/14/19  
Date

Leslie Stevenson  
~~Donna Laake~~ Leslie Stevenson  
President of Council Pro Tem

**ATTEST:**

Joseph S. Geers, the duly appointed Clerk of Council, attests that this Resolution was passed at a regular/special meeting of Norwood City Council on the 14 day of May, 2019, in compliance with the rules of Norwood City Council and the laws of the State of Ohio. The foregoing resolution was submitted to the Mayor of the City of Norwood, Ohio for his signature on the 14 day of MAY, 2019.

Joseph S. Geers  
Clerk of Council

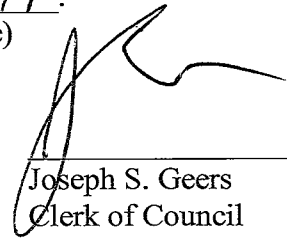
**APPROVED** 5/14/19  
Date

Donna M. Laake  
~~Thomas F. Williams~~ DONNA M. LAAKE  
**ACTING** Mayor

**CERTIFICATION OF PUBLICATION:**

Joseph S. Geers, the duly appointed Clerk of Council, attests that this resolution was published in the

Enquirer on 5/20/19 and 5/21/19.  
(Name of Newspaper) (Date) (Date)

  
\_\_\_\_\_  
Joseph S. Geers  
Clerk of Council

1<sup>st</sup> Reading \_\_\_\_\_  
Date

2<sup>nd</sup> Reading \_\_\_\_\_  
Date

3<sup>rd</sup> Reading \_\_\_\_\_  
Date

All 3 Readings 5/14/19  
Date

Tabled \_\_\_\_\_  
Date

Vetoed \_\_\_\_\_  
Date