

**ORDINANCE NO. 125-2017**

**TITLE: ORDINANCE TO PROCEED**

**AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF BARBERTON IN COOPERATION WITH THE AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Council of the City of Barberton, Ohio (the “Council”) duly adopted Resolution No. 124-2017 on October 9, 2017 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, and improving energy efficiency improvements, including, without limitation, high-efficiency LED lighting and related improvements (the “Project”, as more fully described in the Petition referenced in this Resolution) located on real property owned by the City of Barberton, Ohio (the “Owner”) at 535 West Park Ave. within the City of Barberton, Ohio (the “Property”, as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Owner’s Petition for Special Assessments for Special Energy Improvement Projects (the “Petition”) and the Akron-Summit County Energy Special Improvement District Plan Supplement to Plan for 535 West Park Ave., Barberton, Ohio, Project (the “Plan”) including by levying and collecting special assessments to be assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which is estimated to be \$10,990.98, and which include other related costs of financing the Project, which include, without limitation, the payment of principal of, and interest on, nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Akron-Summit County Energy Special Improvement District (“District”) administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City of Barberton, Ohio (the “City”) and the District; and

**WHEREAS**, the claims for damages alleged to result from and objections to the Project have been waived by 100% of the affected property owners and no claims for damages have been filed.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Barberton, State of Ohio:

**SECTION 1.** That 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 Resolution of Necessity.

**SECTION 2.** That this Council declares that its intention is to proceed with the acquisition, construction, and improvement of the Project described in the Petition and the Resolution of Necessity. The Project shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Director of Finance and the Council.

**SECTION 3.** The Special Assessments to pay costs of the Project, which are estimated to be \$10,990.98, including other related 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, shall be assessed against the Property in the manner and in the number of annual installments provided in the Petition and the Resolution of Necessity. Each annual Special Assessment payment represents the payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and the scheduled amounts payable as any applicable District administrative fees and trustee fees. The Special Assessments shall be assessed against the Property in tax year 2018 for collection in 2019. In addition to the Special Assessments, the County Fiscal Officer Summit County, Ohio (the "County Fiscal Officer"), may impose a special assessment collection fee with respect to each annual payment, which amount, if imposed, will be added to the Special Assessments by the County Fiscal Officer.

**SECTION 4.** That the estimated Special Assessments for costs of the Project, which have been prepared and filed in the office of the Council and in the office of the Director of Finance in accordance with the Resolution of Necessity, are adopted, and that the usefulness of the services and improvements provided pursuant to the plan are determined to exceed one year.

**SECTION 5.** That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council, the Director of Finance, either of their designees, or any of them, is directed to deliver a certified copy of this Resolution to the County Auditor within 15 days after the date of its passage.

**SECTION 6.** That all contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code, the Petition, and the Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

**SECTION 7.** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

**SECTION 8.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience, and welfare of the City of Barberton and the inhabitants thereof, for the reason that it is necessary 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, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed \_\_\_\_\_ 2017

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved \_\_\_\_\_ 2017

\_\_\_\_\_  
Mayor

CERTIFICATE

The undersigned Clerk of Council of the City of Barberton, Ohio, hereby certifies that the foregoing is a true copy of Ordinance No. 125-2017 duly adopted by the Council of the City on October 9, 2017, and that a true copy of the Ordinance was certified to the County Fiscal Officer of Summit County, Ohio, within 15 days of the Ordinance's adoption as provided in Ohio Revised Code Section 319.61.

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Clerk of Council  
City of Barberton, Ohio

RECEIPT OF COUNTY FISCAL OFFICER FOR  
LEGISLATION DETERMINING TO  
PROCEED WITH ACQUISITION, CONSTRUCTION,  
AND IMPROVEMENT OF CERTAIN PUBLIC  
IMPROVEMENTS IN THE CITY OF BARBERTON, OHIO  
IN COOPERATION WITH  
THE AKRON-SUMMIT COUNTY REGIONAL  
ENERGY SPECIAL IMPROVEMENT DISTRICT

I, Kristen M. Scalise, the duly elected, qualified, and acting Fiscal Officer in and for Summit County, Ohio hereby certify that a certified copy of Ordinance No. 125-2017 duly adopted by the Council of the City of Barberton, Ohio (the “City”) on October 9, 2017, determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City in cooperation with the Akron-Summit County Regional Energy Special Improvement District, was filed in this office on \_\_\_\_\_, 2017.

WITNESS my hand and official seal at Akron, Ohio on \_\_\_\_\_, 2017.

[SEAL]

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Fiscal Officer  
Summit County, Ohio