

RESOLUTION NO. 040-2016

APPROVING BY LEGISLATIVE RESOLUTION THE PETITION AND ARTICLES OF INCORPORATION FOR THE CREATION AND GOVERNANCE OF AN ENERGY SPECIAL IMPROVEMENT DISTRICT UNDER OHIO REVISED CODE CHAPTER 1710, AND APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FINDLAY, OHIO IN COOPERATION WITH THE CITY OF FINDLAY, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY

WHEREAS, as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to create energy special improvement districts ("ESIDs") upon a petition to a municipal corporation or township, 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 assessment; and,

WHEREAS, pursuant to Ohio Revised Code Section 1710.02, the property owner petitioning for the creation of an ESID is authorized to propose an initial plan setting forth certain special energy improvement projects that the ESID will undertake, which plan may outline the area in which such projects will be provided, the method of special assessment to be used with respect to the projects, the period of time during which any such special assessments are to be levied, the procedures by which additional territory may be added to the ESID, and such other provisions that the ESID shall deem appropriate, and the legislative authority of the municipal corporation to which such plan is submitted is authorized to approve the plan along with the petition; and,

WHEREAS, Findlay Surgical Properties, Ltd., a property owner, has identified the property consisting of the commonly used mailing address: 1709 Medical Boulevard, Findlay, Ohio 45840 (the "Property") in the City of Findlay, Ohio (the "City"), as an appropriate property for a special energy improvement project; and,

WHEREAS, on October 28, 2016, pursuant to Ohio Revised Code Section 1710.02, Findlay Surgical Properties, Ltd. submitted (1) a petition entitled *Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects* (the "Petition"), (2) an initial plan entitled *City of Findlay, Ohio Energy Special Improvement District Plan* (the "Plan"), and (3) *Articles of Incorporation of the City of Findlay, Ohio Energy Special Improvement District, Inc.* (the "Articles") to the Council of the City and to the Mayor of the City, and said Petition, Plan, and Articles are on file with the Clerk of Council; and,

WHEREAS, said Petition, Plan, and Articles are for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 20 of Article VIII of the Ohio Constitution, including, without limitation, the special energy improvement project to be located at the Property; and,

WHEREAS, in accordance with Ohio Revised Code Section 1710.02, the Petition requests that this Council create the City of Findlay, Ohio Energy Special Improvement District (the "District"), which District is to be governed by the City of Findlay, Ohio Energy Special Improvement District, Inc., an Ohio nonprofit corporation, in accordance with Ohio Revised Code Chapters 1710 and 1702 and in accordance with the Articles; and,

WHEREAS, the Petition and Articles set forth that the members of the District will be the property owners who voluntarily include their properties in the District; and,

WHEREAS, pursuant to Ohio Revised Code Section 1710.04 and the Petition and Articles, the members of the board of directors of the District will include at least three representatives of one or more property owners who have voluntarily included their properties in the District, one representative appointed by the Council, as the City's legislative authority, and the Mayor, as the City's municipal executive, or a person who the Mayor designates to serve in his stead and who is an employee of the City and involved with the City's planning or economic development functions; and,

WHEREAS, the Plan defines the special energy improvement project to be completed at the Property and identifies the amount and length of special assessments for the special energy improvement project, and such special assessments shall require formal authorization from Council pursuant to Ohio Revised Code Chapters 727 and 1710; and,

WHEREAS, this Council, as mandated by Ohio Revised Code Section 1710.02(E), must approve or disapprove the Petition, the Plan, and the Articles within 60 days of the submission of the Petition, Plan, and Articles; and,

WHEREAS, this Council has determined to approve the Petition, Plan, and Articles and thereby create the District and cause the City of Findlay, Ohio Energy Special Improvement District, Inc. to be established; and,

WHEREAS, this Council, pursuant to Ohio Revised Code Section 1710.02(G)(4), has determined that the energy special improvement project to be constructed and implemented on the Property is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City as those that will promote the welfare of the people of the City; to improve the quality of life and the general and economic well-being of the people of City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources; and,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FINDLAY, OHIO:

SECTION 1. Approval of Petition; Creation of District. That this Council approves the Petition, further approves the Plan, and further approves the Articles in substantially the forms now on file with the Clerk of Council.

SECTION 2: Filing with Secretary of State. That the Clerk of Council is directed to file or cause to be filed a copy of the Articles and a copy of this Resolution with the Ohio Secretary of State.

SECTION 3: Appointment of Mayor and Council Representatives to Board. That pursuant to Ohio Revised Code Section 1710.04, this Council shall appoint a Council appointee/designee to the Board, and the Mayor shall serve or appoint her designee to serve on the board of directors of the City of Findlay, Ohio Energy Special Improvement District, Inc.

SECTION 4. That the plans, specifications, estimates of costs, and profiles of the proposed Findlay Surgical Properties special energy improvement projects identified in Exhibit B and C of the District plan on file with the Clerk of Council and open to inspection are hereby approved, and the special energy improvement projects shall be acquired, installed and constructed in accordance with those plans and specifications.

SECTION 5: That this Council hereby finds and determines that (i) the special energy improvement projects are conducive to the public health, convenience and welfare of the City and its inhabitants and (ii) the property of Findlay Surgical Properties identified in the petition are specially benefited by those projects.

SECTION 6: This Council hereby 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, Chapter 727 of the Revised Code, the Findlay City Charter and the Findlay Municipal Code, and consents to the immediate imposition of the special assessments upon the properties as identified in the Petition. This waiver encompasses but is not limited to waivers of the following rights under the Revised Sections referred to below:


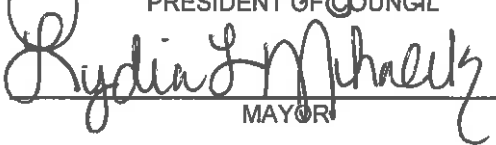
- The right to notice of the adoption of the Resolution of Necessity under Sections 727.13 and 727.14;
- The right to limit the amount of the special assessment under Sections 727.03 and 727.06;
- The right to file an objection to the special assessment under Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Sections 727.16 and 727.17;
- The right to file any claim for damages under Sections 727.18 through 727.22 and Section 727.43;
- The right to notice that bids or quotations for Findlay Surgical Properties special energy improvement projects may exceed estimates by 15%;
- The right to seek a deferral of payments of special assessments under Section 727.251; and
- The right to notice of the passage of the assessing ordinance under Section 727.26.
- Any and all procedural defects, errors or omissions in the special assessment process.

SECTION 7: That the total cost of the special energy improvement projects shall be assessed against the properties of Findlay Surgical Properties identified in the Petition in proportion to the benefits resulting from the special energy improvement projects.

SECTION 8: Transfer of Energy Special Improvement Project. That pursuant to Ohio Revised Code Section 1710.02(G)(4), this Council determines that the energy special improvement project to be constructed and implemented on the Property is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the board of directors of the City of Findlay, Ohio Energy Special Improvement District, Inc. to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented on the Property. The consideration the board of directors of the City of Findlay, Ohio Energy Special Improvement District, Inc. must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project on the Property is any consideration greater than or equal to \$1.00.

SECTION 9: Compliance with Public Meetings Requirements. 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.

WHEREFORE, this Resolution shall take effect and be in force from and after its passage and approval by the Mayor.


PRESIDENT OF COUNCIL

MAYOR

PASSED November 15, 2016

ATTEST Denise DeVore
CLERK OF COUNCIL

APPROVED November 15, 2016