City of Dublin

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Memo

To: Members of Dublin City Council

From: Dana L. McDaniel, City Manager

Date: August 10, 2017

Initiated By: Colleen Gilger, Director of Economic Development
Jeremiah Gracia, Economic Development Administrator

Re: Resolutions 60-17 and 61-17 - Property Assessed Clean Energy (PACE) Special Improvement for 5500 Frantz Road – Scioto Corporate Center

Background

The City of Dublin is focused on setting appropriate conditions to encourage investment and economic development. City Council continues to support our strategies and tactics to ensure Dublin's office space remains competitive in the market. One particular tool the economic development team has brought to our existing building owners' attention is the use of a favorable financing tool for major building energy efficiency improvements.

Property Assessed Clean Energy (PACE) programs represent a great mechanism available for financing energy efficiency and renewable energy improvement projects. PACE-enabling legislation is active in 33 states plus the District of Columbia, and PACE programs are now active (launched and operating) in 19 states plus DC. PACE allows qualifying energy improvements to be financed through assessments on a property owner's real estate tax bill. A summary of PACE is provided as an attachment to this memo.

PACE special assessments are used to secure local government bonds issued to fund the improvements without requiring the borrower or the sponsoring local government to pledge its credit. By allowing participating property owners to pay for energy improvements to their properties via a bond issue tied to a special assessment on their property tax bill, PACE financing enables property owners to reduce energy costs with no upfront investment.

Financing for PACE eligible projects in Central Ohio is provided by the Columbus-Franklin County Finance Authority (Finance Authority). The Finance Authority established the Columbus Regional Special Improvement District that allows for additional properties within the City of Columbus, Ohio and within any municipal corporation or township that is adjacent to any other municipal corporation or township to opt-in to the District. Projects between $200,000 - $6,000,000 may be financed through the Finance Authority's bond fund. Eligible uses of funds include LED lighting, energy management and controls that includes, HVAC and boiler replacement, building envelope, and other improvements that result in bottom line operation savings for building owners and tenants.

The building ownership at 5500 Frantz Road is requesting the use of PACE Financing for its energy efficiency improvement project totaling $515,883. A signed PACE Project Development Agreement has been executed between the owner, Frantz Investments, LLC, and the project manager, Plug

Smart. The scope of work includes interior and exterior LED lighting upgrades, boiler replacement, and other temperature control upgrades. In order to satisfy this request, the City of Dublin must consider a series of Resolutions and Ordinances at the August 14 and August 28 Council meetings to allow building ownership to petition to opt-in to the Regional Special Improvement District. The City has no financial obligations with the establishment of a Special Improvement District for this project.

Below is a summary of the current and future resolutions, ordinances, and special assessments City Council will review at the August 14 and August 28 Council meetings. Timing is of the essence for these documents so that the building owner may schedule a closing and complete the necessary energy improvements to their office building.

August 14 Council Meeting:

1. A RESOLUTION APPROVING THE PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS UNDER OHIO REVISED CODE CHAPTER 1710 (5500 FRANTZ ROAD PROJECT)

2. A RESOLUTION APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF DUBLIN, OHIO IN COOPERATION WITH THE COLUMBUS REGIONAL ENERGY SPECIALIMPROVEMENT DISTRICT (5500 FRANTZ ROAD PROJECT)

August 28 Council Meeting:

1. AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF DUBLIN, OHIO IN COOPERATION WITH THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT

2. AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF DUBLIN, OHIO IN COOPERATION WITH THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT

3. AN ORDINANCE AUTHORIZING AND APPROVING AN ENERGY PROJECT COOPERATIVE AGREEMENT BY AND BETWEEN THE CITY OF DUBLIN, OHIO, THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, FRANTZ INVESTMENTS, LLC, AND THE COLUMBUS-FRANKLIN COUNTY FINANCE AUTHORITY, A SPECIAL ASSESSMENT AGREEMENT BY AND BETWEEN THE CITY OF DUBLIN, OHIO, THE COUNTY TREASURER OF FRANKLIN COUNTY, OHIO, THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, AND FRANTZ INVESTMENTS, LLC, AND RELATED AGREEMENTS, ALL OF WHICH PROVIDE FOR

THE FINANCING OF SPECIAL ENERGY IMPROVEMENTS PROJECTS (5500 FRANTZ ROAD PROJECT)

a. Energy Project Cooperative Agreement
b. Special Assessment Agreement

Recommendation

Staff recommends Council approval of Resolution Nos. 60-17 and 61-17 on August 14, 2017. Representatives of the Columbus-Franklin County Finance Authority will be present at the August 14 Council meeting to respond to questions related to the financing process. Please also feel free to contact Colleen Gilger or Jeremiah Gracia with questions.

PACE

Property Assessed Clean Energy

WHAT IS PACE?

Property Assessed Clean Energy (PACE) is a financing mechanism that enables low-cost, long-term funding for energy efficiency, renewable energy and water conservation projects. PACE financing is repaid as an assessment on the property's regular tax bill, and is processed the same way as other local public benefit assessments (sidewalks, sewers) have been for decades. Depending on local legislation, PACE can be used for commercial, nonprofit and residential properties.

HOW DOES IT WORK?

PACE is a national initiative, but programs are established locally and tailored to meet regional market needs. State legislation is passed that authorizes municipalities to establish PACE programs, and local governments have developed a variety of program models that have been successfully implemented. Regardless of model, there are several keystones that hold true for every PACE program.

- PACE is voluntary for all parties involved.
- PACE can cover 100% of a project's hard and soft costs.
- Long financing terms up to 20 years.
- Can be combined with utility, local and federal incentive programs.
- Energy projects are permanently affixed to a property.
- The PACE assessment is filed with the local municipality as a lien on the property.

WHY IS IT SO POPULAR?

Property owners love PACE because they can fund projects with no out-of-pocket costs. Since PACE financing terms extend to 20 years, it's possible to undertake deep, comprehensive retrofits that have meaningful energy savings and a significant impact on the bottom line. The annual energy savings for a PACE project usually exceeds the annual assessment payment, so property owners are cash flow positive immediately. That means there are increased dollars that can be spent on other capital projects, budgetary expenses, or business expansion.

Local governments love PACE because it's an Economic Development initiative that lowers the cost of doing business in their community. It encourages new business owners to invest in the area, and creates jobs using the local workforce. PACE projects also have a positive impact of air quality, creating healthier, more livable neighborhoods.

HOW CAN I GET PACE?

www.PACENation.us has all the tools and resources you need to get started with PACE. Check to see if your state has passed a PACE statute, and if your area has an active program. If not, contact us to find out if there is a local initiative in development and we may be able to put you in touch with a working coalition. We look forward to hearing from you!

BENEFITS OF PACE

WORKFORCE DEVELOPMENT: Creates local jobs

ECONOMIC DEVELOPMENT: Lowers cost of doing business

BUILDING STOCK: Maintained and upgraded

BOTTOM LINE: Directly impacts local businesses

HEALTHY AIR: Environmental impact

PACENation
Building the clean energy economy

PACENation is the national, nonprofit advocate for PACE financing. We provide leadership, data, support and resources for the growing marketplace.

www.pacenation.us
info@pacenow.org

Dayton Legal Blank, Inc., Form No. 30045

Resolution No. 61-17 Passed _____, 20____

A RESOLUTION APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF DUBLIN, OHIO IN COOPERATION WITH THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT (5500 FRANTZ ROAD PROJECT)

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, the Columbus Regional Energy Special Improvement District (the "District") was created under Ohio Revised Code Chapters 1702 and 1710 as an energy special improvement district and established pursuant to Resolution No. 0261X-2015 of the Council of the City of Columbus, Ohio approved on November 23, 2015 (the "Creation Resolution"); and

WHEREAS, pursuant to the Creation Resolution, the Columbus Regional Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the "Program Plan") was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F), which plan allows for additional properties within the City of Columbus, Ohio and within any municipal corporation or township which is adjacent to any other municipal corporation or township in which a portion of the District's territory is located to be added to the territory of the District; and

WHEREAS, Frantz Investments, LLC (the "Owner") petitioned to add property owned by it to the District pursuant to Ohio Revised Code Chapter 1710 in part in order to finance the costs of a special energy improvement project to be constructed on such property, which special energy improvement project consists of acquiring, constructing, equipping, improving, and installing energy efficiency improvements on its real property, including, without limitation, interior high-efficiency LED lighting upgrades, exterior high-efficiency LED lighting upgrades, DDC controls, boiler upgrades, variable speed pumping, and related improvements (the "Project"); and

WHEREAS, the City Council ("Council") of the City of Dublin, Ohio (the "City") has, by Resolution No. 60-17, adopted on _____, 2017 approved the *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the "Petition"), together with the *Columbus Regional Energy Special Improvement District Program Plan* and the *Supplement to Plan for 5500 Frantz Road, Dublin, Ohio Project* (the "Supplemental Plan") in accordance with Ohio Revised Code Section 1710.02; and

WHEREAS, the Petition, which is on file with the Clerk of 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, by 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 $792,079.67, including the costs identified in Section 2 of this Resolution, 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.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Dublin, State of Ohio, _____ of the elected members that:

Section 1. 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. This Council declares necessary, and a vital and essential public purpose of the City, to improve the Property, which is located at 5500 Frantz Road in the City, by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition and the Supplemental Plan, 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; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued or incurred to provide a loan or to secure an advance of funds 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 or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District or the Columbus-Franklin County Finance Authority as its conduit financing entity to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District, the Columbus-Franklin County Finance Authority, or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, all as more fully described in the Petition, the Supplemental Plan, and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Director of Finance and open to the inspection of all persons interested.

Section 3. 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. The plans and specifications and total cost of the Project now on file in the office of the Clerk of 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 estimate of costs for the Project.

Section 5. This Council determines 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 and the Supplemental Plan. 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. 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 and the Supplemental Plan 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 or the collection of the Special Assessments.

Section 7. 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 and the Supplemental Plan.

Section 8. 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. The Special Assessments shall be levied and paid in 30 semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition and the Supplemental Plan (which list is incorporated herein by reference), and the Owner has waived its option to pay the Special Assessment in cash within 30 days after the first publication of the notice of the assessing ordinance.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is $792,079.67. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued or incurred 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, shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds had notes or bonds been issued by the City or another issuer of notes or bonds to pay the costs of the Project. In addition to the Special Assessments, the County Auditor of Franklin County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount will be added to the Special Assessments by the County Auditor of Franklin County, Ohio.

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

Section 11. Notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the Owner of the Assessed Property as provided in Ohio Revised Code Section 727.13 shall be delivered by the Clerk of Council to the Owner promptly following adoption of this Resolution.

Section 12. The Director of Finance or the Director of Finance'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. The Special Assessments will be used by the City to pay the costs of the Project 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. 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 the Charter of the City of Dublin, Ohio, 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. 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 City Manager is authorized to execute, on the City's behalf, such agreements.

Section 16. 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.

Signed:

_____
Mayor – Presiding Officer

Attest:

_____
Clerk of Council

Passed: _____, 2017

Effective: _____, 2017

NOTICE TO PROPERTY OWNER
OF SPECIAL ASSESSMENTS

TO: Frantz Investments, LLC

You are hereby notified that on August 14, 2017, the City Council of the City of Dublin, Ohio, adopted Resolution No. 61-17, declaring it necessary, and a vital and essential public purpose of the City, to improve the Property, which is located at 5500 Frantz Road in the City, by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition and the Supplemental Plan, and providing for the payment of the related costs of the Project, all as more fully described in the Petition, the Program Plan and the Supplemental Plan, and the profiles, specifications, and estimates of cost of the Project, all of which are on file with the Clerk of Council and open to the inspection of all persons interested. All defined terms used herein shall have the meaning set forth in the referenced Resolution.

The Resolution approves the plans, specifications, profiles and estimate of cost for the Project, which are now on file in the office of the Clerk of Council of the City, and provides that the entire cost of the Project shall be assessed against the Property.

The estimated special assessments for the Project based on the estimate of cost are now on file in the office of the Clerk of Council of the City, and are available for inspection by any interested person.

Objections to the special assessments or claims for damages must be filed in writing in the office of the Clerk of Council of the City within two weeks from the date of completion of the service of this notice.

By order of the City Council of the City of Dublin, Ohio.

Dated: August 14, 2017

_____
Clerk of Council
City of Dublin, Ohio