

**AMENDED RESOLUTION NO. 03 – 18**

**By: Troy Markham**

**A Resolution Approving the Petition for Special Assessments for Special Energy Improvement Projects Under Ohio Revised Code Chapter 1710**

**WHEREAS,** 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, 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 assessments; and

**WHEREAS,** the City of Bexley, Ohio, as the owner of certain real property (in that capacity, the Owner) located within the City of Bexley, Ohio (in that capacity, the City), has identified certain real property located at 2242 East Main Street, Bexley, Ohio (the Project Site), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and

**WHEREAS,** the Columbus, Dublin, Whitehall, Worthington Regional Energy Special Improvement District (the District) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID 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).

**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,** the Owner has determined to submit to the Mayor and the Council of the City (the Council), a *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the Petition), together with a *Supplement to Plan for the Bexley City Hall Solar Project* (the Supplemental Plan), the *Amended Articles of Incorporation of the Columbus, Dublin, Whitehall, Worthington Regional Energy Special Improvement District, Inc.* (the Amended Articles of Incorporation), and the *Bexley Residential Solar Plan* (the Residential Solar Plan) all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Clerk of Council; and

**WHEREAS,** the Petition and Supplemental Plan request that the Project Site be added to the District and that the City levy special assessments on the Project Site to pay the costs of a special energy improvement project to be provided on the Project Site, all as described more particularly in the Petition and the Supplemental Plan (the Project); and

**WHEREAS,** the Residential Solar Plan sets forth the terms and conditions under which the City and the District will facilitate the financing of solar special energy improvement projects on real property located within the City and the District and delegates certain authority to the Director of Economic Development of the City to implement the Residential Solar Plan; and

**WHEREAS,** the Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Petition identifies the amount and length of the special assessments to be imposed with respect to the Project; and

**WHEREAS,** in furtherance of the future addition of any real property in any municipal corporation or township contiguous to the municipal corporations or townships in which a portion of the territory of the District is located, it is necessary, and this Council has determined, to approve the addition of such real property to the territory of the District, all in accordance with Ohio Revised Code Chapter 1710; and

**WHEREAS,** this Council, as mandated by Ohio Revised Code Chapter 1710, must approve or disapprove the Petition within 60 days of the submission of the Petition; and

**WHEREAS,** this Council has determined to approve the Petition, the Program Plan, the Supplemental Plan, the Amended Articles of Incorporation, and the Residential Solar Plan;

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

**Section 1** That this Council approves the Petition, the Program Plan, the Supplemental Plan, the Amended Articles of Incorporation, and the Residential Solar Plan now on file with the Clerk of Council.

**Section 2** That this Council, accordance with Ohio Revised Code Section 1710.04 and the Amended Articles of Incorporation, hereby authorizes the Mayor to appoint a member to serve on the Board of Directors of the District as the representative of the City on the Board. The Council further determines that all appointees to the Board shall serve for six year terms unless sooner terminated, **and that members shall be either a resident or employee of the City of Bexley.**

**Section 3** That this Council hereby approves and consents to (i) any addition of real property to the territory of the District within the boundaries of the City of Columbus, Ohio or any municipal corporation or any township which is contiguous to the City of Columbus, Ohio; (ii) the addition of the municipal corporation or township in which such real property is located as a “participating political subdivision,” as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize or effect such addition.

**Section 4** That this Council hereby appoints the Director of Economic Development of the City, for and on behalf of this Council, and as a part of this Council’s legislative approval of the Residential Solar Plan, to approve or disapprove Application Documents (as defined in the Residential Solar Plan) in his or her reasonable discretion, all as more fully described in the Residential Solar Plan. Without limiting the generality of the foregoing, the Director of Economic Development shall not approve any Application Documents unless the Application Documents shall conform in all respects with the terms and conditions with the Residential Solar Plan, including, without limitation, Exhibits A and B to the Residential Solar Plan, which are attached to and incorporated into this Resolution by this reference. For all purposes of Ohio Revised Code Chapter 1710, the decision of the Director of Economic Development under the authority

conferred in this Section 4 shall constitute the legislative decision of this Council on the Application Documents.

**Section 5** 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.

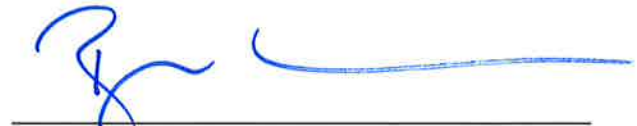
**Section 6** That this Resolution shall go into effect and be in full force from and after the earliest period allowed by law.

Passed April 10, 2018

  
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President of Council

Attest: , 2018  
Clerk of Council

Approved: April 10, 2018

  
\_\_\_\_\_  
Mayor

First Reading: March 13, 2018  
Second Reading: March 27, 2018  
Third Reading: April 10, 2018

EXHIBIT A

ELIGIBLE SOLAR PROJECTS

[Insert from Residential Solar Plan]

EXHIBIT B

FINANCING CRITERIA

[Insert from Residential Solar Plan]



## COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN

### BEXLEY RESIDENTIAL SOLAR PLAN

The Columbus Regional Energy Special Improvement District (the *District*) administers a property assessed clean energy (*PACE*) program for commercial properties (the *Commercial Program*). The Commercial Program is described in the Columbus Regional Energy Special Improvement District Program Plan (the *Commercial Plan*). Under the Commercial Program, the District facilitates financing secured by special assessments on real property for special energy improvement projects.

The District is a special improvement district under Chapter 1710 of the Ohio Revised Code organized for the purpose of facilitating the financing of special energy improvement projects (an *Energy Special Improvement District*). This Bexley Residential Plan (the *Plan*) refers to Chapter 1710 and any and all future amendments to the Energy Special Improvement District provisions of Chapter 1710 as the "*Act*." Please be advised that any specific reference to the Act or to any other law in this Plan also refers to any succeeding or amending provision of law.

Under this Plan, the District will facilitate the financing of certain special energy improvement projects on residential properties as more fully described in this Plan (the *Bexley Residential Solar Program*).

Participation in the District's Bexley Residential Solar Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Bexley Residential Solar Program's terms and conditions. Those terms and conditions are described in this Plan, and include, without limitation, a petition, a supplemental plan, a schedule of assessments to be levied against property (*Assessment Schedule*), a description of the special energy improvement projects to be installed on the property (*Project Description*), and the governing documents forming the District.

The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District (the *District Board*), and the applicable resolutions and ordinances of Bexley (collectively, the *Governing Documents*). As a condition to participation in the District and the Bexley Residential Solar Program, each property owner must review and agree to the Governing Documents. This Plan refers to the Governing Documents, this Plan, the petitions, the supplemental plans, the Assessment Schedules, and the Project Descriptions as the "*District Documents*." In addition to the District Documents, property owners may be required to agree to, and sign, an agreement to impose special assessments as a condition to receiving financing of special energy improvement projects facilitated by the District.

The District Documents establish the terms and conditions of the Bexley Residential Solar Program. The Bexley Residential Solar Program terms and conditions may be amended from time to time as described in [ ] of this Plan.

**By agreeing to, and signing, the District Documents, each property owner consents to the terms and conditions of all District Documents.**

1. Purpose of the Bexley Residential Solar Program

The Bexley Residential Solar Program is intended to assist residential property owners, whether private or public, who own residential real property within Bexley to obtain financing for certain special energy improvement projects more particularly described on **Exhibit A** attached to this Plan, (**Solar Projects**). Obligations, including but not limited to special assessment reimbursement agreements, special assessment revenue bonds and revenue notes, loan obligations or other evidences of indebtedness, and nonprofit corporation securities (collectively, the **Program Obligations**) may be issued by the District or on behalf of the District by a third party. Program Obligations or the proceeds from the sale of the Program Obligations may be used to finance Solar Projects that benefit properties within the District and any costs incurred by the District in connection with the issuance of Program Obligations. Bexley shall levy special assessments on real property included in the District. The payment of those special assessments may pay the Program Obligations and the costs of administering the Program.

Special assessment payments levied to finance Solar Projects will be due and payable by property owners at the same time real property taxes are due. Alternatively, certain Program Obligations may require special assessments to be due and payable by property owners only to the extent that those property owners fail to pay an obligation of the property owner secured by special assessments, such as a loan. In that case special assessments will only be due and payable by property owners if actually levied.

**Please be advised that there may be other types of financing available. None of Bexley, the District, the District Board, or any of the directors, officers, agents, members, independent contractors, or employees of the District or the District Board represent that the Bexley Residential Solar Program is the best financing option available. Nothing in this Plan should be construed as a guarantee of the suitability of the Bexley Residential Solar Program for your property. Please do your research and select the option that is most appropriate for you.**

2. Eligibility and Approval

To be eligible for participation in the Bexley Residential Solar Program, each property owner must file a petition, a Supplemental Plan (as defined below), an Assessment Schedule, and a Project Description (the **Application Documents**) with the Director of Economic Development of Bexley. The petition will request that Bexley add the property described in the petition to the District. It will further request that Bexley levy special assessments to be used to pay or secure Program Obligations issued or used to finance the Solar Projects described in the Application Documents.



**Please note that by submitting Application Documents to the Director of Economic Development, you are requesting and authorizing Bexley to levy special assessments as an additional real property tax charge against your property.**

To be eligible for participation in the Bexley Residential Solar Program, each property owner must agree to be bound by the terms of this Plan. This Plan may be amended and supplemented from time to time, including, specifically, by supplements to the Plan. To be eligible for participation in the Bexley Residential Solar Program, each property owner must file a supplement to this Plan (each a **Supplemental Plan**) with the Director of Economic Development as part of the Application Documents. Each Supplemental Plan will supplement this Plan by identifying the Solar Project to be undertaken for the real property described in the Supplemental Plan. Supplemental Plans shall include any other information as may be required by the Director of Economic Development. Supplemental Plans shall conform to the requirements of the Act and any requirements in this Plan.

Each parcel of real property added to the District must have at least one Solar Project. A property owner may file more than one set of Application Documents and may amend or withdraw any Application Documents filed at any time before the Application Documents are approved or disapproved by the Director of Economic Development. Application Documents shall conform to the requirements of the Act and any requirements in this Plan.

The Application Documents submitted under this Plan shall constitute a petition submitted under Section 1710.02 of the Act.

Bexley has authorized the Director of Economic Development to approve or disapprove, on behalf of the Council of Bexley (the **Council**), Bexley's legislative authority, the Application Documents submitted under this Plan. If Application Documents submitted under this Solar Plan comply in every way with the Plan's terms and conditions, the Director of Economic Development shall approve the Application Documents on behalf of the Council. If Application Documents do not comply in any way with this Bexley Residential Solar Plan, the Director of Economic Development shall not approve the Application Documents on behalf of the Council. The Director's approval or disapproval of the Application Documents shall constitute the Council's approval or disapproval of the Application Documents for all purposes of the Act.

If the Director of Development approves Application Documents on behalf of the Council, the Council shall levy the special assessments described in the Assessment Schedule.

**Please be aware that if you proceed to incur costs of Solar Projects prior to receiving approval of your Application Documents from the Director of Economic Development, you risk incurring costs that may not be able to be financed as part of the Bexley Residential Solar Program.**

**Special Assessments. You, as a property owner, must pay any special assessments levied against your property following approval of your Application Documents regardless of personal financial circumstances, the condition of the property, or the performance of the Solar Project.**

**Do not submit Application Documents if you are not certain you can pay the special assessments described in the Assessment Schedule. Like any debt secured by real property, such as a mortgage, the failure to pay your special assessments—in full or in part—may result in financial repercussions, including penalties, interest, and, eventually, foreclosure of your property by Franklin County.**

If you use an escrow account to pay your semi-annual property taxes, you must notify your escrow company of your special assessment payments. You will need to increase your monthly payments to the escrow account by an amount equivalent to your annual special assessments divided by 12 months.

### 3. Eligible Solar Projects

In order to be eligible to participate in the Bexley Residential Solar Program, Application Documents submitted to the Director of Economic Development must identify Solar Projects to be undertaken on the subject property in the Project Description submitted with the Application Documents. The Director of Economic Development shall review the Application Documents submitted to him or her, and shall determine, in his or her reasonable discretion, whether each of the improvements described in the Application Documents constitute Solar Projects. Only Application Documents that describe Solar Projects will be approved by the Director of Economic Development. No improvements other than Solar Projects are eligible for participation in the Bexley Residential Solar Program.

### 4. Eligible Financing Terms

In order to be eligible to participate in the Bexley Residential Solar Program, Application Documents submitted to the Director of Economic Development must meet certain financing criteria described in **Exhibit B** attached to this Plan. The Director of Economic Development shall review the Application Documents submitted to him or her, and shall determine, in his or her reasonable discretion, whether each of the terms of financing described in the Application Documents meet the criteria described in **Exhibit B**. Financing that does not meet the criteria described in **Exhibit B** is not eligible for participation in the Bexley Residential Solar Program.

### 4. Fees

Bexley and the District Board are each hereby authorized to charge to property owners, as costs of administering the Bexley Residential Solar Program, any costs permitted by the Act. Those costs may include, without limitation, the following:

- (A) The cost of creating and operating the District, including creating and operating the nonprofit corporation formed to govern the District, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Solar Project or services under this Plan or any Supplemental Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan or any Supplemental Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by Bexley or the District in implementing this Plan or any Supplemental Plans;
- (D) Any damages resulting from implementing this Plan or any Supplemental Plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Solar Projects or services under this Plan or any Supplemental Plan; and
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which a Solar Project has been acquired, installed, equipped, or improved.

The program costs described above may be included in the amount of special assessments levied on real property within the District.

Bexley is further authorized to set and charge an application fee for Bexley Residential Solar Program services provided by Bexley. The application fee may be non-refundable. The application fee may be credited to the costs of Solar Projects if the Application Documents are approved and Solar Projects are made to the property described in the Application Documents.

## 5. Renewable Energy Regulations and Requirements

Renewable Energy Credits. The District Board is hereby authorized to adopt rules governing renewable energy credits associated with Solar Projects financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with District Board requirements related to renewable energy credits.

Monetizing Other Renewable Energy Attributes. The District Board is hereby authorized to adopt rules governing the monetization of any energy efficiency or renewable energy attributes of any Solar Projects financed with Program Obligations or the proceeds of Program Obligations. Property owners shall comply with District Board requirements in furtherance of the monetization of such attributes.

6. Requirements Under the Act and Other Applicable Law

As provided in the District Documents:

(A) Additional territory may be added to the District under the Act, this Plan, and the rules established by the District Board.

(B) The District Documents may be amended or supplemented in accordance with their terms.

(C) As described in this Plan, the District Board is authorized to implement and amend this Plan, any Supplemental Plan, and any other plans for Solar Projects, public improvements, and public services, all in accordance with the Act.

(D) The public improvements to be provided by the District are the Solar Projects identified in **Exhibit A** to this Plan and each Supplemental Plan. The area where the Solar Projects will be undertaken will be the area identified in each petition submitted under this Plan. The method of assessment shall be in proportion to the special benefits received by each property within the District as a result of Solar Projects.

(E) For the purpose of levying an assessment, the District Board may combine levies for Solar Projects, public improvements, and public services into one special assessment to be levied against each specially benefited property within the District.

7. Changes in State and Federal Law

The ability to issue or use Program Obligations to finance Solar Projects and to have special assessments levied for that purpose is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Solar Projects through the District's Bexley Residential Solar Program.

## 8. Releases and Indemnifications

The District has been created with the approval of Bexley, as a participating political subdivision, for the purposes of implementing this Plan and administering the Bexley Residential Solar Program. The District and Bexley shall not be responsible or liable for the installation, operation, financing, refinancing, or maintenance of Solar Projects. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Solar Projects. Participation in the Bexley Residential Solar Program does not in any way obligate the District or Bexley to ensure the viability of Solar Projects. Owners of assessed real property must pay the special assessments regardless of whether the Solar Projects are properly installed or operate as expected.

**By agreeing to this Plan and signing and submitting Application Documents, you agree to release, defend, indemnify, and hold harmless the District, the District Board, and Bexley, including their directors, officers, members, agents, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of, or connected with, your participation in the Bexley Residential Solar Program, except as may arise from the acts or omissions of the District or the District Board in breach of the Governing Documents or the District Documents or the negligence of the District or the District Board.**

## 9. Changes in the Bexley Residential Solar Program's Terms; Severability

Participation in the Bexley Residential Solar Program is subject to the District Documents' terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the terms and conditions of the District Documents at any time upon not less than 10 days' prior written notice. No such change will affect a property owner's rights or obligations under this Plan, including, without limitation, the payment (including the time schedule of payment) described in the District Documents.

If any provision of the District Documents is determined to be unlawful, void, or for any reason unenforceable, that provision shall be severed from the District Documents and shall not affect the validity and enforceability of any remaining provisions.

## 10. Disclosure of Property Owner Information

The District and Bexley may disclose information of the District to any agent of the District or to third parties when disclosure is essential either to the conduct of the District's business or to provide services to property owners, including, but not limited to where such disclosure is necessary to (i) comply with the law (ii) enable the District and Bexley and their agents to provide services or otherwise perform their duties, and (iii) obtain and provide credit reporting

information. In order to receive funding for the Bexley Residential Solar Program and to enable communication regarding the State of Ohio's energy programs, property owners' names and contact information may be disclosed to their current electric utilities. Property owners' names, contact information, and utility usage data further may be disclosed to the District and its agents for the purpose of conducting surveys and evaluating the Bexley Residential Solar Program. The District shall not disclose personal information to third parties for telemarketing, e-mail, or direct mail solicitation unless required to by law or court order.

**Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 et seq. Each owner of real property located within agrees to the disclosure of certain property owner information as stated in this Plan.**

## EXHIBIT A

### ELIGIBLE SOLAR PROJECTS

***“Solar Projects”*** eligible for participation in the Bexley Residential Solar Program described in the Bexley Residential Solar Plan and other District Documents each shall qualify as “special energy improvement projects” under Ohio Revised Code Section 1710.01(l). Specifically, Solar Projects eligible for participation in the Bexley Residential Solar Program include the following:

- 1) Photovoltaic Solar Panel installations with an output of at least 2.0 kWh, and representing an investment of at least \$5,000.

## **EXHIBIT B**

### **FINANCING CRITERIA**

Eligible Projects must meet the following financing criteria:

**1) Loan-to-value ratios**

- a) In order for a property to be eligible, the loan-to-value ratio (LTV), inclusive of any and all primary and secondary mortgages or similar liens, may not exceed 80%.
- b) The value of the property as defined by the Franklin County Auditor, or by a mortgage loan appraisal prepared within one year of the date of application, or by an appraisal prepared by an independent third party licensed appraiser within 6 months of the date of application.

**2) Cost of improvements relative to value of property**

- a) Eligible projects may not exceed 20% of the value of the property

**3) Underwriting standards**

- a) Applicants must have a credit score of at least 700 from Experian, TransUnion, or Equifax.
- b) The applicant's total cost of debt service, inclusive of any and all primary and secondary mortgages or similar liens, and inclusive of debt service pertaining to The Project, may not exceed a debt-to-income ratio of 36%.

**4) Term of financing**

- a) Eligible projects may be financed for up to 20 years
- b) Interest rates may not exceed 8.00% APR

**5) Equipment Warranty**

- a) In order to be eligible, equipment warranties must extend through the length of the financing term.