

Resolution No. R2017-0191

Sponsored by: **County Executive Budish/Department of Sustainability**

A Resolution authorizing a Cooperative Agreement with Cleveland-Cuyahoga County Port Authority in order to make certain agreements to share the interest rate subsidy to be paid by the United States of America with respect to interest paid on not-to-exceed \$2,775,000.00 of revenue bonds issued by the Port Authority as “qualified energy conservation bonds” for purposes of Section 54D of the Internal Revenue Code, as amended; authorizing the County Executive to execute the Cooperative Agreement and all other documents consistent with the Cooperative Agreement and this Resolution; authorizing the County Executive to make certain designations and representations under the Internal Revenue Code, as amended; and declaring the necessity that this Resolution become immediately effective.

WHEREAS, the County has, by Ordinance No. O2016-0009 of the County Council approved on March 22, 2016 (the “County QECB Ordinance”), established the Cuyahoga County Green Community Program to implement Section 54D of the Internal Revenue Code, as amended, within the jurisdiction of the County, including to authorize financing for energy efficiency and alternative energy projects through energy special improvement districts established under Chapter 1710 of the Ohio Revised Code by which property owners are able to pay for the costs of the improvements by an assessment on their property tax bill; and

WHEREAS, the Cleveland-Cuyahoga County Port Authority (the “Port Authority”) has, by Resolution of the Board of Directors of the Port Authority approved on October 12, 2017, authorized the issuance of certain revenue bonds (the “Bonds”) to be designated as “qualified energy conservation bonds” in order to finance the acquisition, construction, installation, equipping, and improvement of certain energy efficiency improvements constituting “port authority facilities” as

WHEREAS, pursuant to County Council's approval, the County Executive intends to enter into a Cooperative Agreement with the Port Authority in order to make certain agreements to share the interest rate subsidy to be paid by the United States of America with respect to interest paid on not to exceed Two Million Seven Hundred Seventy-Five Thousand Dollars (\$2,775,000.00) of revenue bonds issued by the Port Authority as "qualified energy conservation bonds" for purposes of Section 54D of the Internal Revenue Code, as amended; and

WHEREAS, it is necessary that this Resolution become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of a County entity.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. That the Cuyahoga County Council hereby authorizes a Cooperative Agreement with the Cleveland-Cuyahoga County Port Authority in order to make certain agreements to share the interest rate subsidy to be paid by the United States of America with respect to interest paid on not-to-exceed Two Million Seven Hundred Seventy-Five Thousand Dollars (\$2,775,000.00) of revenue bonds issued by the Port Authority as "qualified energy conservation bonds" for purposes of Section 54D of the Internal Revenue Code, as amended. The County shall endeavor to spend the subsidy it receives in years 2018 to 2022 on items related to the Cuyahoga County Sustainability Plan and/or for other sustainability programs/expenses. Any subsidy received after year 2022 may be used for any lawful purpose.

SECTION 2. That the County Executive or his designee is authorized to execute the Cooperative Agreement and all other documents consistent with the Cooperative Agreement and this Resolution.

SECTION 3. That the County Executive or his designee is authorized and directed (1) to make or effect any election, selection, designation, choice, approval or waiver on behalf of the County with respect to the Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Bonds or the interest on the Bonds or assisting compliance of the Port Authority with requirements for that purpose or to apply for the payment to the Port Authority of any sums in respect of the credit provided in Section 6431 of the Internal Revenue Code, as amended, with respect to the Bonds; (2) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the County, as may be appropriate to assure the status of some or all of the Bonds

the County pertaining to Section 148 of the Internal Revenue Code, as amended, and the regulations promulgated thereunder, and the representations, warranties and covenants of the County regarding compliance by the County with Section 54A, Section 54D or Sections 141 through 150 of the Internal Revenue Code, as amended, and the regulations promulgated thereunder, as applicable.

SECTION 4. It is necessary that this Resolution become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Resolution receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 5. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Ms. Simon, seconded by Ms. Conwell, the foregoing Resolution was duly adopted.

Yeas: Jones, Brown, Hairston, Simon, Baker, Miller, Tuma, Gallagher, Schron, Conwell and Brady

Nays: None


County Council President

11-15-17
Date


County Executive

11-15-17
Date



Committee(s) Assigned. Education, Health

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November 14, 2017