

1 RESOLUTION NO. 2019-363

Late Filing

2
3 SPONSOR Ms. Shapiro

4
5 DATE September 23, 2019

COMMITTEE: Planning

6
7 **An amended Resolution ratifying the County Executive’s execution of a Preliminary**
8 **Financing Term Sheet relating to the acquisition, construction, and expansion of The**
9 **Smithers Group Inc. World Headquarters Project at 47 N. Main Street and certain nearby**
10 **properties, in Council District 5, and authorizing the Executive to execute a Cooperative**
11 **Agreement, and all other agreements and documents necessary to consummate the**
12 **transactions contemplated in the Preliminary Financing Term Sheet, upon terms**
13 **substantially similar to and not materially adverse to the County, and pledging County**
14 **nontax revenue for the payment of any nontax revenue bonds necessary to satisfy its**
15 **obligations under the same, for the Executive’s Department of Community and Economic**
16 **Development, and declaring an emergency.**

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18 WHEREAS, the Development Finance Authority of Summit County (“DFA”) is the
19 owner of certain real property located at 47 N. Main St. in Akron, Ohio, in Council District 5,
20 and identified as Parcel No. 6763392, which has been used since 2011 as the headquarters for the
21 Austen BioInnovation Institute in Akron (“ABIA Building”); and

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23 WHEREAS, in March 2011, the Development Finance Authority issued its Summit
24 County Port Authority, Ohio Development Revenue Bonds, Series 2011 (Austen BioInnovation
25 Institute In Akron Project) in the aggregate principal amount of \$7,000,000 (the “Existing
26 Bonds” as defined in the Term Sheet) and entered into a Research and Development loan
27 agreement with the State of Ohio in the aggregate principal amount of \$2,500,000 (“Existing
28 Loan”); and

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30 WHEREAS, the Existing Bonds are secured by a certain mortgage against the ABIA
31 Building for the benefit of the bondholders, recorded as instrument number 55770046 in the
32 Summit County Records (“Existing Bonds Mortgage”) and the Existing Loan is secured by a
33 mortgage against the ABIA Building for the benefit of the State of Ohio, recorded as instrument
34 number 55770047 in the Summit County Records (“Existing Loan Mortgage”); and

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36 WHEREAS, the proceeds of the Existing Bonds and the Existing Loan were used to
37 renovate the ABIA Building for use by the Austen BioInnovation Institute in Akron; and

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39 WHEREAS, the County is obligated to repay the Existing Bonds and Existing Loan in
40 the event of a default or non-payment by the Austen BioInnovation Institute in Akron; and

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42 WHEREAS, the County is the owner of certain real property located at 42 N. High St.
43 and 21-35 N. Main St. in Akron, in Council District 5, and identified as Parcel Nos. 6763390 and
44 6763391, adjacent to the ABIA Building, which was used in part to support the ABIA Building
45 and in part was previously utilized for the County’s Department of Job and Family Services (the
46 “County-Owned Property”) and

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2 PAGE TWO

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4 WHEREAS, the City of Akron (“City”) is the owner of certain vacant real property
5 adjacent to the County-Owned Property in Council District 5, identified as Parcel Nos. 6854276,
6 6804446, and 6756146, (the “City-Owned Property”, and collectively with the ABIA Building
7 and the County-Owned Property the “Project Site”); and

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9 WHEREAS, the County, City, DFA and The Smithers Group, Inc. (“Smithers”) have
10 entered into a Preliminary Financing Term Sheet (the “Term Sheet”) whereby they will enter into
11 a Cooperative Agreement and subsequent agreements and documents, pursuant to which the
12 parties will undertake certain obligations in connection with the acquisition, construction, and
13 expansion of the Project Site (“The Smithers Group Inc. World Headquarters Project”); and

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15 WHEREAS, as contemplated in the Term Sheet, the County, City, DFA and Smithers
16 will enter into a Cooperative Agreement whereby on or before closing, the County will take all
17 actions necessary to satisfy the obligations under the Existing Bonds and the Existing Loan, and
18 satisfy and release the Existing Bonds Mortgage and the Existing Loan Mortgage, and any
19 additional encumbrances on the Project Site (subject to permitted encumbrances allowed by
20 Smithers) as defined in the Preliminary Financing Term Sheet; and

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22 WHEREAS, the Term Sheet further provides that the City of Akron will adopt an
23 ordinance providing for a Tax Increment Finance (“TIF”) structure for a portion of the Project
24 Site, whereby Smithers will make certain service payments (“TIF Service Payments”) in lieu of
25 the payment of real estate property taxes on certain improvements at the Project Site; and

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27 WHEREAS, in consideration of the County satisfying the Existing Bonds and the
28 Existing Loan, the net proceeds of the TIF Service Payments will be paid to the County, which
29 may use the same in its sole discretion; and

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31 WHEREAS, as additional consideration for (i) the County satisfying the Existing Bonds
32 and the Existing Loan, (ii) the assistance provided by the City and DFA to Smithers, and (iii) the
33 additional assistance provided to Smithers by FirstEnergy Corp. and JobsOhio under the Term
34 Sheet, Smithers will create 84 new jobs in the City between September 2018 to 2023 and will
35 retain 111 jobs in the City with a 12-month baseline pay roll of \$5,880,000.00 and
36 \$9,400,000.00, respectively.

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38 WHEREAS, the County, City, DFA and Smithers anticipate that the total investment at
39 the Project Site will be over \$16,890,000.00; and

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41 WHEREAS, in addition to the investment at the Project Site, and as further contemplated
42 in the Term Sheet, it is anticipated that Smithers will locate its product testing operations in a
43 facility within the City at a location other than the Project Site (“Product Testing Site”); and

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4 WHEREAS, in the event Smithers acquires or enters into a lease agreement to lease the
5 Product Testing Site no later than the closing of the transactions contemplated in the Term Sheet,
6 the County will pay to Smithers, or, in the event of a lease, to Smithers' landlord, the sum of
7 \$640,000 ("Product Test Site Grant") for the costs of the construction, renovation or
8 improvement of the Product Testing Site, including, in the event Smithers leases the Product
9 Testing Site, towards tenant improvement costs of the same; and

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11 WHEREAS, in the event the County pays the Product Test Site Grant as set forth in the
12 Term Sheet, the Product Test Site Grant will be reimbursed to the County, by the City, over a
13 period of 10 years; and

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15 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
16 that it is necessary and in the best interest of the County of Summit, to ratify the County
17 Executive's execution of the Term Sheet and to further authorize the execution of a Cooperative
18 Agreement and all other agreements and documents necessary to consummate the transactions
19 contemplated in the Term Sheet, upon terms consistent with such Term Sheet; and

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21 NOW THEREFORE, BE IT RESOLVED by the Council of the County of Summit, State
22 of Ohio, that:

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24 SECTION 1

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26 This Council hereby ratifies the County Executive's execution of the Preliminary Financing
27 Term Sheet ("Term Sheet"), a copy of which is attached hereto as Exhibit A.

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29 SECTION 2

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31 This Council further authorizes the County Executive to execute a Cooperative
32 Agreement and all other agreements and documents necessary to consummate the transactions
33 contemplated in the Preliminary Financing Term Sheet, and any necessary modifications or
34 amendments thereto, upon terms substantially similar to and not materially adverse to the
35 County, that are otherwise consistent with such Term Sheet.

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37 SECTION 3

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39 This Council hereby authorizes the pledge of County nontax revenues to secure the
40 payment of debt service charges on the any nontax revenue bonds issued by the Development
41 Finance Authority of Summit County to perform its obligations under the aforementioned
42 Cooperative Agreement. That pledge, and the use of the County nontax revenues to pay debt
43 service on the nontax revenue bonds, is not subject to non-appropriation by this County, but is an
44 unconditional and continuing obligation of the County.

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4 SECTION 34

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6 This Resolution is declared to be an emergency in the interest of the health, safety and
7 welfare of the residents of the County of Summit and for the further reason to immediately
8 authorize the County's financial assistance in The Smithers Group Inc. World Headquarters Project
9 so that the same can be commenced and completed as expeditiously as possible.

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11 SECTION 45

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13 Provided this Resolution receives the affirmative vote of eight members, it shall take effect
14 immediately upon its adoption and approval by the Executive; otherwise it shall take effect and be
15 in force at the earliest time provided by law.

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17 SECTION 56

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

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27 INTRODUCED September 9, 2019

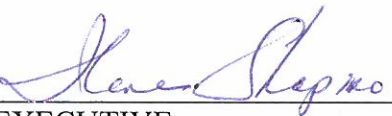
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30 ADOPTED September 23, 2019

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33 _____
34 CLERK OF COUNCIL



PRESIDENT OF COUNCIL

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38 APPROVED September 24, 2019

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42 EXECUTIVE

September 24, 2019

ENACTED EFFECTIVE

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44 Voice Vote YES: 10-0 - Dickinson, Donofrio, Feeman, Hamilton,
45 Koehler, McKenney, Prentice, Rodgers, Schmidt, Walters
46 ABSENT: Wilhite

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