

3/16/2020

L-41-2020

ORDINANCE NO. 41-2020

BY: **KRISTIN L. SABAN**
(By Request: Mayor)

AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF PARMA, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT, AND DECLARING AN EMERGENCY

WHEREAS, the Council ("Council") of the City of Parma, Ohio (the "City") duly adopted Resolution _____ on _____, 2020 (the "Resolution of Necessity"), (i) declaring the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, LED lighting, energy efficient windows, energy efficient roofing, and related improvements (the "Project," as more fully described in the Petition referenced in this Ordinance) located on real property owned by Midtown Parma Acquisition LLC (the "Owner") at 1650-1860 Snow Road and 1852-1942 Snow Road within the City (the "Property", as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, installation, equipment, and improvement of the Project by the Owner, as set forth in the Owner's *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the "Petition"), including by levying and collecting special assessments to be assessed upon the Property (the "Special Assessments") in an amount sufficient to pay the costs of the Project, which was estimated to be \$577,474.92 in the Petition, which includes other related costs of financing the Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Northeast Ohio Advanced Energy Improvement District ("District") administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the District; and

WHEREAS, the claims for damages alleged to result from, and objections to, the Project have been waived by one hundred percent (100%) of the Owners, and no claims for damages alleged to result from, or objections to, the Project have been filed within the times prescribed by Ohio Revised Code Sections 727.15 and 727.18.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

Section 2. That this Council declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, installation, equipment, and improvement of the Project described in the Petition and the Resolution of Necessity. The Project shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the City Auditor and the Clerk of Council.

Section 3. That the Special Assessments to pay costs of the Project, which are estimated to be \$577,474.92 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 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 or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Petition and the Resolution of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of any principal repayment and interest and administrative fees payable with respect to the Project. The Special Assessments shall be assessed against the Property commencing in tax year 2020 for collection in 2021 and shall continue through tax year 2028 for collection in 2029; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Fiscal Officer of Cuyahoga County, Ohio determines that collections shall not commence in 2021, then the collection schedule may be deferred by one year. In addition to the Special Assessments, the County Fiscal Officer of Cuyahoga County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount, if imposed, will be added to the Special Assessments by the County Fiscal Officer of Cuyahoga County, Ohio.

Section 4. That the estimated Special Assessments for costs of the Project prepared and filed in the office of the Clerk of this Council and in the office of the City Auditor, in accordance with the Resolution of Necessity, are adopted.

Section 5. That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Fiscal Officer of Cuyahoga County, Ohio within 15 days after the date of its passage.

Section 6. That all contracts for the construction of the Project will be let in accordance with the Petition and the Program Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

Section 7. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance 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 meetings open to the public in compliance with all legal requirements.

Section 8. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the City of Parma, and for the further reason that this measure is necessary to allow the Owner and the District to access financing that is available for a limited time, and this Ordinance shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: _____
PRESIDENT OF COUNCIL

ATTEST: _____ APPROVED: _____
CLERK OF COUNCIL

FILED WITH
THE MAYOR: _____
MAYOR, CITY OF PARMA, OHIO

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of Ordinance _____ duly adopted by the Council of the City of Parma, Ohio on _____, 2020, and that a true copy of such Ordinance was certified to the County Fiscal Officer of Cuyahoga County, Ohio within 15 days after its passage.

Clerk of the Council

RECEIPT OF COUNTY FISCAL OFFICER FOR
LEGISLATION DETERMINING TO
PROCEED WITH ACQUISITION, INSTALLATION,
EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF PARMA, OHIO
IN COOPERATION WITH THE NORTHEAST OHIO
ADVANCED ENERGY DISTRICT

I, Michael W. Chambers, the duly elected, qualified, and acting Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of Ordinance No. _____ duly passed by the Council of the City of Parma, Ohio on _____, 2020, determining to proceed with the acquisition, installation, equipment, and improvement of certain public improvements in the City of Parma, Ohio in cooperation with the Northeast Ohio Advanced Energy District, was filed in this office on _____, 2020.

WITNESS my hand and official seal at Cleveland, Ohio on _____, 2020.

[SEAL]

Fiscal Officer
Cuyahoga County, Ohio