

ORDINANCE NO. 42-2020

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

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF PARMA, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT; AND AUTHORIZING AN ENERGY PROJECT COOPERATIVE AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT, AND DECLARING AN EMERGENCY

WHEREAS, Midtown Parma Acquisition LLC (the “Owner”) has submitted its *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “Petition”) in order to provide for the completion of a special energy improvement project on real property owned by the Owner in the City of Parma, Ohio (the “City”); and

WHEREAS, this Council duly passed Resolution No. _____ on _____, 2020 (the “Resolution of Necessity”), which approved the Petition and added the Owner’s property, subject to the Petition, to the Northeast Ohio Advanced Energy District (the “District”) and declared 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 described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, this Council duly adopted Ordinance No. _____ on _____, 2020 and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Clerk of this Council and the City Auditor pursuant to the Resolution of Necessity; and

WHEREAS, the City intends to enter into an Energy Project Cooperative Agreement (the “Energy Project Cooperative Agreement”) with the District, the Owner, NextEra Energy Marketing, LLC (the “Investor”), and the Northeast Ohio Public Energy Council (“NOPEC”) to provide for, among other things, (i) the making of the Project Advance (as defined in the Energy Project Cooperative Agreement) to pay costs of the Project, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the Project and the transfer of the Special Assessments by the City to the Investor to pay principal and interest and other costs relating to the Project Advance; and

WHEREAS, to provide for the security for the Project Advance and for the administration of payments on the Project Advance and related matters, the City intends to enter into the Special Assessment Agreement with the County Treasurer of Cuyahoga County, Ohio, the District, the Owner, NOPEC, and the Investor; and

WHEREAS, the actual costs of the Project have been ascertained and have been certified to the City in the Petition for the Project.

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 the list of Special Assessments to be levied and assessed on the Property (as further described on Exhibit A) in an amount sufficient to pay the costs of the Project, which is \$577,474.92, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued 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, including any credit enhancement fees, trustee fees, and District administrative fees and expenses, which costs were set forth in the Petition and previously reported to this Council and are now on file in the offices of the Clerk of Council and the City Auditor, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, which shall accrue at the annual rate of 3.00%, together with amounts used to pay administrative expenses, has been determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds been issued by the District.

The Special Assessments are 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. The semi-annual installment of the Special Assessments shall be collected in each calendar year equal to a maximum semi-annual amount of Special Assessments as shown in Exhibit A, attached hereto and incorporated into this Resolution.

All Special Assessments shall be certified by the City Auditor to the County Fiscal Officer pursuant to the Petition and Ohio Revised Code Chapter 727.33 to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Petition and the List of Special Assessments attached hereto as Exhibit A and incorporated herein.

Section 3. That this Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

Section 4. That the Owner has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the City Auditor to the County Fiscal Officer of Cuyahoga County, Ohio as provided by the Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

Section 5. That the Special Assessments will be used by the City to pay the cost 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 6. That the City Auditor shall keep the Special Assessments on file in the Office of the City Auditor.

Section 7. That this Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file in the office of the Clerk of this Council. The Mayor, the Community Service and Economic Development Director, or either of them individually, shall sign and deliver, in the name and on behalf of the City, the Energy Project Cooperative Agreement, in substantially the form as is now on file with the Clerk of this Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Resolution and not substantially adverse to the City and that are approved the Mayor and the Community Service and Economic Development Director, or either of them individually, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Energy Project Cooperative Agreement or amendments to the Energy Project Cooperative Agreement.

Section 8. That this Council hereby approves the Special Assessment Agreement a copy of which is on file in the office of the Clerk of this Council. The Mayor, Community Service and Economic Development Director, or either of them individually, shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the Clerk of this Council. The Special Assessment Agreement is approved, together with any changes or amendments

that are not inconsistent with this Resolution and not substantially adverse to the City and that are approved by the Mayor and the Community Service and Economic Development Director, or either of them individually, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement.

Section 9. That the City is hereby authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the Mayor and the Community Service and Economic Development Director, or either of them individually, on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements.

Section 10. That in compliance with Ohio Revised Code Section 319.61, the Clerk of this Council is directed to deliver a certified copy of this Resolution to the County Fiscal Officer of Cuyahoga County, Ohio within 20 days after its passage.

Section 11. 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 12. 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 20 days after its passage.

Clerk of the Council

EXHIBIT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

LIST OF SPECIAL ASSESSMENTS

| <u>Name</u> | <u>Assessed Properties Description</u> | <u>Portion of Benefit and Special Assessment</u> | <u>Amount of Special Assessments</u> |
|----------------------------------|--|--|--|
| Midtown Parma Acquisition LLC | 445-26-002 | 75% | \$433,105.92 |
| Midtown Parma Acquisition LLC | 445-26-004 | 25% | \$144,369.00 |

SCHEDULE OF SPECIAL ASSESSMENTS
FOR CUYAHOGA COUNTY PARCEL NOS.:

445-26-002¹

The following schedule of Special Assessment charges shall be certified for collection in 18 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2021 through 2029:

| Special Assessment Payment Date ² | Special Assessment Installment Amount ³ |
|---|---|
| January 31, 2021 | \$24,061.44 |
| July 31, 2021 | 24,061.44 |
| January 31, 2022 | 24,061.44 |
| July 31, 2022 | 24,061.44 |
| January 31, 2023 | 24,061.44 |
| July 31, 2023 | 24,061.44 |
| January 31, 2024 | 24,061.44 |
| July 31, 2024 | 24,061.44 |
| January 31, 2025 | 24,061.44 |
| July 31, 2025 | 24,061.44 |
| January 31, 2026 | 24,061.44 |
| July 31, 2026 | 24,061.44 |
| January 31, 2027 | 24,061.44 |
| July 31, 2027 | 24,061.44 |
| January 31, 2028 | 24,061.44 |
| July 31, 2028 | 24,061.44 |
| January 31, 2029 | 24,061.44 |
| July 31, 2029 | 24,061.44 |

¹ As identified in the records of the County Fiscal Officer of Cuyahoga County, Ohio as of December 5, 2019.

² Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified above are subject to adjustment by the Cuyahoga County Fiscal Officer under certain conditions.

³ Pursuant to Ohio Revised Code Section 727.36, the Cuyahoga County Fiscal Officer may charge and collect a fee in addition to the amounts listed in the above schedule.

SCHEDULE OF SPECIAL ASSESSMENTS
FOR CUYAHOGA COUNTY PARCEL NOS.:

445-26-004⁴

The following schedule of Special Assessment charges shall be certified for collection in 18 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2021 through 2029:

| Special Assessment Payment Date ⁵ | Special Assessment Installment Amount ⁶ |
|---|---|
| January 31, 2021 | \$8,020.50 |
| July 31, 2021 | 8,020.50 |
| January 31, 2022 | 8,020.50 |
| July 31, 2022 | 8,020.50 |
| January 31, 2023 | 8,020.50 |
| July 31, 2023 | 8,020.50 |
| January 31, 2024 | 8,020.50 |
| July 31, 2024 | 8,020.50 |
| January 31, 2025 | 8,020.50 |
| July 31, 2025 | 8,020.50 |
| January 31, 2026 | 8,020.50 |
| July 31, 2026 | 8,020.50 |
| January 31, 2027 | 8,020.50 |
| July 31, 2027 | 8,020.50 |
| January 31, 2028 | 8,020.50 |
| July 31, 2028 | 8,020.50 |
| January 31, 2029 | 8,020.50 |
| July 31, 2029 | 8,020.50 |

⁴ As identified in the records of the County Fiscal Officer of Cuyahoga County, Ohio as of December 5, 2019.

⁵ Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified above are subject to adjustment by the Cuyahoga County Fiscal Officer under certain conditions.

⁶ Pursuant to Ohio Revised Code Section 727.36, the Cuyahoga County Fiscal Officer may charge and collect a fee in addition to the amounts listed in the above schedule.

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION LEVYING SPECIAL ASSESSMENTS
FOR THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING,
AND IMPROVING 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 _____, duly adopted by the Council of the City of Parma, Ohio on _____, 2020 levying special assessments for the purpose of acquiring, installing, equipping, and improving certain public improvements in the City of Parma, Ohio in cooperation with the Northeast Ohio Advanced Energy District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges shall be certified for collection in 18 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2021 through 2029, was filed in this office on _____, 2020.

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

[SEAL]

Fiscal Officer
Cuyahoga County, Ohio