

**ORDINANCE NO. 10-18**

**AN ORDINANCE TO DETERMINE TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF EAST CLEVELAND, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT**

**Requested By: Mayor Brandon L. King**

**Sponsored By: Timothy R. Austin and Nathaniel Martin, Councilors at-Large**

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**WHEREAS**, the Council (“Council”) of the City of East Cleveland, Ohio (the “City”) duly adopted **Ordinance 10-18** on August 21, 2018 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, LED lighting, an energy efficient boiler, energy efficient HVAC controls and recommissioning, a high efficiency HVAC unit, an energy efficient building envelope, and related improvements (the “Project,” as more fully described in the Petition referenced in this Resolution) located on real property owned by the Board of Trustees of the East Cleveland Public Library (the “Owner”) at 14101 Euclid Avenue 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 \$295,155.00 in the Petition, including 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 East Cleveland, Ohio, four-fifths (4/5) of all members concurring:

**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 Finance Director and the Clerk of this Council.

**SECTION 3.** That the Special Assessments to pay costs of the Project, which are estimated to be \$295,155.00 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 2018 for collection in 2019 and shall continue through tax year 2027 for collection in 2028; 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 2019, 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 Finance Director, 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 this legislative authority hereby finds and determines that all formal actions taken relative to the adoption of this Ordinance were taken in an open meeting of this legislative authority, and that all deliberations of this legislative authority and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, included Section 121.22 of the Ohio Revised Code.

**SECTION 8.** That this Ordinance is hereby declared to be an emergency measure necessary for the health, safety and welfare of the residents of the City and provided it receives the affirmative vote of four-fifths (4/5) of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

**Passed: August 21, 2018**



**JOIE N. GRAHAM  
PRESIDENT OF COUNCIL**

8/23/18  
Date of Signature

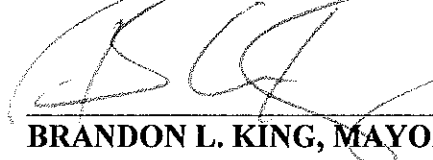
ATTEST:



**DR. KHADIJAH F. GUY  
CLERK OF COUNCIL**

8/23/18  
Date of Signature

**APPROVED:**



**BRANDON L. KING, MAYOR**

ORD 10-18  
August 21, 2018

\_\_\_\_\_  
Date of Signature

**VETO:**  
**YES** \_\_\_ **NO** \_\_\_

APPROVED AS TO FORM:



**WILLA M. HEMMONS**  
**DIRECTOR OF LAW**

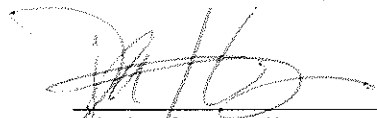
8/24/18  
\_\_\_\_\_  
Date of Signature

Emergency  First Read n/a Second Read n/a

	Yea	Nay
<b>Councilor Joie N. Graham</b>	<b>excused</b>	
<b>Councilor Ernest L. Smith</b>	<b>x</b>	
<b>Councilor Barbara J. Thomas</b>	<b>x</b>	
<b>Councilor Nathaniel Martin</b>	<b>x</b>	
<b>Councilor Timothy R. Austin</b>	<b>x</b>	

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of **Ordinance 10-18** duly adopted by the Council of the City of East Cleveland, Ohio on August 21, 2018, 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.

  
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Clerk of 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 EAST CLEVELAND, OHIO  
IN COOPERATION WITH THE NORTHEAST OHIO  
ADVANCED ENERGY DISTRICT

I, Dennis G. Kennedy, the duly elected, qualified, and acting Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of **Ordinance 10-18** duly passed by the Council of the City of East Cleveland, Ohio on August 21, 2018, determining to proceed with the acquisition, installation, equipment, and improvement of certain public improvements in the City of East Cleveland, Ohio in cooperation with the Northeast Ohio Advanced Energy District, was filed in this office on \_\_\_\_\_, 2018.

WITNESS my hand and official seal at Cleveland, Ohio on \_\_\_\_\_, 2018.

[SEAL]

\_\_\_\_\_  
Fiscal Officer  
Cuyahoga County, Ohio