

**ORDINANCE NO. 11-18**

**AN ORDINANCE TO LEVY SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF EAST CLEVELAND, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT; AND AUTHORIZING THE MAYOR AND THE CITY ADMINISTRATOR TO ENTER INTO AN ENERGY PROJECT COOPERATIVE AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT**

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

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

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WHEREAS, the Board of Directors of the East Cleveland Public Library (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 East Cleveland, Ohio (the "City"); and

WHEREAS, this Council duly passed **Ordinance No. 11-18** on August 21, 2018 (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, 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 described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, this Council duly adopted **Ordinance No. 11-18** on August 21, 2018 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 Finance Director 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, and the Northeast Ohio Public Energy Council (the "Investor") 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, 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 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 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 **\$295,155.00**, 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 Finance Director, 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 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. 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 Finance Director 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 Finance Director 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 Finance Director shall keep the Special Assessments on file in the Office of the Finance Director.

**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 or his designee 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 or his designee, 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 or his designee 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 or his designee, 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 or his designee, 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 the 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 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 12.** 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.

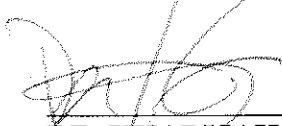
**Passed: August 21, 2018**



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**JOIE N. GRAHAM  
PRESIDENT OF COUNCIL**

8/22/18  
Date of Signature

ATTEST:



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

8/22/18  
Date of Signature

**APPROVED:**

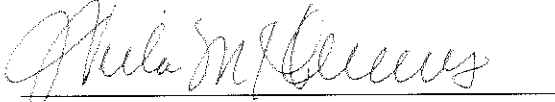


\_\_\_\_\_  
**BRANDON L. KING, MAYOR**

8-22-18  
Date of Signature

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

APPROVED AS TO FORM:



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

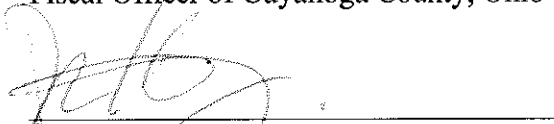
8/24/18  
Date of Signature

Emergency  First Read n/a Second Read n/a

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

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of **Ordinance 11-18** 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 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>
Board of Trustees of the East Cleveland Public Library	672-11-011	100%	\$295,155.00

SCHEDULE OF SPECIAL ASSESSMENTS  
FOR CUYAHOGA COUNTY PARCEL NOS.:

672-11-011<sup>1</sup>

The following schedule of Special Assessment charges shall be certified for collection in 20 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2019 through 2028:

Special Assessment Payment Date <sup>2</sup>	Special Assessment Installment Amount <sup>3</sup>
January 31, 2019	\$14,757.75
July 31, 2019	14,757.75
January 31, 2020	14,757.75
July 31, 2020	14,757.75
January 31, 2021	14,757.75
July 31, 2021	14,757.75
January 31, 2022	14,757.75
July 31, 2022	14,757.75
January 31, 2023	14,757.75
July 31, 2023	14,757.75
January 31, 2024	14,757.75
July 31, 2024	14,757.75
January 31, 2025	14,757.75
July 31, 2025	14,757.75
January 31, 2026	14,757.75
July 31, 2026	14,757.75
January 31, 2027	14,757.75
July 31, 2027	14,757.75
January 31, 2028	14,757.75
July 31, 2028	14,757.75

<sup>1</sup> As identified in the records of the County Fiscal Officer of Cuyahoga County, Ohio as of August 10, 2018.

<sup>2</sup> 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.

<sup>3</sup> 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 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 11-18** duly adopted by the Council of the City of East Cleveland, Ohio on August 21, 2018 levying special assessments for the purpose of acquiring, installing, equipping, and improving certain public improvements in the City of East Cleveland, 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 20 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2019 through 2028, was filed in this office on \_\_\_\_\_, 2018.

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

[SEAL]

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