

Ordinance No. 1366-2023

By Council Members Hairston and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

Approving the addition of certain property to the Northeast Ohio Advanced Energy District; accepting and approving a petition and plan from a property owner in the District identifying a special energy improvement project, declaring it necessary to conduct the special energy improvement project providing for the assessment of the cost of such special energy improvement project; and authorizing the Director of Economic Development to enter into an Energy Project Cooperative Agreement and a Special Assessment Agreement to implement the project; and declaring an emergency.

WHEREAS, this Council adopted Resolution No. 1078-10 and passed Ordinance No. 1551-13, which authorized the City of Cleveland to establish and participate in the Northeast Ohio Advanced Energy District, formerly known as the Cleveland First-Suburbs Development Council Advanced Energy Special Improvement District (the “District”); and

WHEREAS, the District is an energy special improvement district formed under Chapter 1710 of the Ohio Revised Code (the “Revised Code”) and is authorized to levy assessment to pay costs for developing and implementing plans for public improvements and public services that benefit the energy special improvement district; and

WHEREAS, Chapter 1710 of the Revised Code authorizes property owners to petition the City to add their property to the District and request the imposition of a special assessment on their property to support a special energy improvement project; and

WHEREAS, Superior Road Apartments LLC (the “Owner”) is the owner of Permanent Parcel No. 128-08-009, located at 11201 Shaker Boulevard, Cleveland, Ohio, 44104 (the “Property”), which constitutes one hundred percent of the property proposed to be added to the District, and has submitted a petition (the “Project Petition”) to the City and the District requesting that the Property be added to the District and that a special assessment be placed upon the Property to secure the Project Advance (as that term is defined in the Cooperative Agreement) from Northeast Ohio Public Energy Council (the “Lender”) to fund the special energy improvement project further described in the plans and specifications (the “Project Plan”) attached to the Project Petition; and

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WHEREAS, the District has reviewed and approved the Project Petition and the Project Plan and, under Section 1710.02(E) of the Revised Code, the Project Petition and the Project Plan are to be approved or disapproved by ordinance of this Council within sixty days of filing of the Project Petition with the City; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Project Petition and the Project Plan placed in **File No. 1366-2023-A** are approved, and this Council consents to the addition of the Property to the District.

Section 2. That it is determined and declared necessary and conducive to the public health, convenience, and welfare of the City to conduct the special energy improvements as defined in the Project Plan for a 15-year period and that the Property will be specifically benefited by the special energy improvement projects and shall be assessed to pay for the costs of the special energy improvement projects, calculated based on an Energy Project Cooperative Agreement between the City, the District, the Lender, and the Owner (the “Cooperative Agreement”).

Section 3. That the Project Plan placed in the above-mentioned file is approved at an estimated total cost of \$927, 127.20 which is sufficient to pay the costs of the Project, including other related financing costs set forth in the Project Petition 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 3.5%, 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 issued by the District.

The Special Assessments are to be assessed against the Property commencing in tax year 2024 for collection in 2025 and shall continue through tax year 2038 for

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collection in 2039; 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 2025, 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 the Project Petition.

All Special Assessments shall be certified by the Clerk of Council to the County Fiscal Officer pursuant to the Petition and Chapter 727.33 of the Revised Code 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 Project Petition.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Project Petition and the List of Special Assessments attached to the Project Petition.

Section 4. That no notes or bonds of the City of Cleveland shall be issued in anticipation of the levy or collection of the special assessments.

Section 5. That the Commissioner of Assessments and Licenses is authorized to prepare and file in the Office of the Clerk of Council a list of special assessments under the provisions of this ordinance showing the amount of the special assessments against each lot or parcel of land to be assessed in accordance with the Project Petition and the Project Plan. When the special assessments have been filed, the Clerk of Council shall cause notice of the adoption of this ordinance and the filing of the estimated special assessments to be served in the manner provided by law on the owners of all lots and parcels to be assessed.

Section 6. That the Director of Economic Development is authorized, on behalf of the City, to negotiate and enter into an Energy Project Cooperative Agreement and a Special Assessment Agreement to provide for the calculation, imposition, and payment of the special assessments.

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Section 7. That any such agreements shall be prepared by the Director of Law.

Section 8. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and the fees are appropriated to cover costs incurred in the preparation of the loan application, closing, and servicing of the special assessment. The fees shall be deposited to and expended from 17 SF 305, Loan Fees Fund.

Section 9. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 10. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the 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.

MC:nl
11-27-2023
FOR: Director McNair

