

Ordinance No. 838-2020

**By Council Members McCormack,
Johnson and Kelley (by departmental
request)**

AN EMERGENCY ORDINANCE
Authorizing an agreement with the Cleveland Browns Stadium Company LLC relating to making capital repairs to First Energy Stadium.

WHEREAS, under the Lease by Way of Concession between Cleveland and the Cleveland Browns Stadium Company LLC (the “Cleveland Browns”) (the “Lease”), Cleveland is required to make capital repairs to First Energy Stadium (the “Stadium”) in accordance with the terms in the Lease; and

WHEREAS, under the Lease, capital repairs include, among other things, repairs necessary to maintain the structural integrity of the Stadium and preserve its usefulness as a sports facility; and

WHEREAS, the repairs made to the Stadium become the property of the City upon completion; and

WHEREAS, the repairs made to the Stadium will help to ensure that the Stadium remains a sound and valuable asset of the City over the remainder of the Lease term; 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 Directors of Public Works, Finance and Mayor’s Office of Capital Projects are authorized to enter into an agreement with the Cleveland Browns that provides as follows:

The City shall deposit \$12 million in the Capital Repair Fund established under the Lease (the “\$12 Million Deposit”) to be used exclusively for making the following types of Capital Repairs under the Lease as proposed by the Cleveland Browns:

- (1) Full replacement of pedestrian ramps and structural repairs;
- (2) Replace domestic hot water tanks;
- (3) Install chiller lines;
- (4) Replace walk-in cooler and freezer compressors;
- (5) Replace Stadium Lighting Control System;
- (6) Replace corroded fire sprinkler lines;
- (7) Replace full depth of concrete slab;
- (8) Patch overhead and vertical concrete surfaces;
- (9) Patch and repair horizontal concrete surfaces;
- (10) Structural crack repair;
- (11) Non-structural crack repair;

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- (12) LED lighting replacement;
- (13) Architectural and General Trade repairs;
- (14) Additional capital repairs identified by the City of Cleveland in the 2018 Capital Repair Audit;
- (15) Install field heating system; and
- (16) Install grease interceptors.

Annually, the Cleveland Browns may propose these types of Capital Repairs to be made by the City from the proceeds of the \$12 Million Deposit during the following construction season for so long as any remaining proceeds of the deposit exist. After review, the City will determine whether the proposed work is a Capital Repair meeting one of the above types to be made by the City at the Stadium during the following calendar year. The City may prepare plans and specifications to design the needed capital improvements, to be reimbursed for the cost from the Capital Repair Fund under the Lease. The Finance Department-Division of Purchasing and Supplies will procure services by way of public improvement contracts. In the alternative, the Cleveland Browns at its cost may prepare the plans and specifications for the Capital Repairs authorized by the City and supply them to the City. If the Cleveland Browns want to prepare the plans and specifications and be reimbursed for the cost from the Capital Repair Fund under the Lease, the City will, upon ordinance authority, enter into an agreement to reimburse these costs from the Capital Repair Fund. If the City determines that proposed work is a Capital Repair meeting one of the above types to be made by the City at the Stadium during the following calendar year, the City will bid and contract for the making of the work following City procedures from the \$12 Million Deposit within an available construction time period of January through July 31st. All contractors to be selected for work paid from the \$12 Million Deposit will meet prequalification criteria mutually agreed upon by the City and the Cleveland Browns. The City shall receive a credit against the scheduled deposits required by Schedule 14(f) of the Lease in the amount of \$850,000 in calendar year 2020, \$5,900,000 in calendar year 2021 and \$5,250,000 in calendar year 2022 because of the \$12 Million Deposit. This provision applies solely to the making of Capital Repairs from the proceeds of the \$12 Million Deposit and shall not alter or amend the provisions of the Lease for any other purpose, though any inconsistencies between this provision and the Lease will be resolved in favor of this provision.

Section 2. That the agreement authorized shall be prepared by the Director of Law and shall contain such terms and conditions necessary to protect the City's interest.

Section 3. 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.

RB:nl
11-4-2020
FOR: Directors Cox, Dumas and Spronz

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REPORT
after second Reading

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READ FIRST TIME on NOVEMBER 4, 2020
and referred to DIRECTORS of Capital Projects, Public Works,
Finance, Law;
COMMITTEES on Municipal Services and Properties, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

PASSAGE RECOMMENDED BY
COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

