

# Ordinance No. 1071-2021

**By Council Members Griffin, Brancatelli  
and Kelley (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 property owners 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.

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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, The Cleveland Clinic Foundation, the City of Cleveland Land Reutilization Program, Activity Holding LLC, and Fairfax Renaissance Development Corporation (the “Owners”) are the owners of Permanent Parcel Nos. 121-18-011, 121-18-012, 121-18-013, 121-18-014, 121-18-015, 121-18-016, 121-18-017, 121-18-054, 121-18-055, and 121-18-056 (the “Property”); and

WHEREAS, the Property constitutes one hundred percent of the property now proposed to be added to the District and the Owners have submitted a petition (the “Project Petition”) to the City and the District requesting that the Property be added to the District and that special assessments be placed upon the Property (the “Special Assessments”) to secure the Project Advance, as that term is defined in the Energy Project Cooperative Agreement (the “Cooperative Agreement), from Western Alliance

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Business Trust (the “Lender”) to fund the special energy improvement project (the “Project”) further described in the plans and specifications (the “Project Plan”) attached to the Project Petition; and

WHEREAS, OC 105 CC-FRDC, LLC, the anticipated purchaser of the Property, joined in the execution of the Project Petition, thereby acknowledging and consenting to the submission of the Project Petition to the City; and

WHEREAS, FMCFP LLC, the anticipated ground lessee of the Property, pursuant to a certain ground lease between OC 105 CC FRDC, LLC and FMCFP LLC, plans to implement the Project and be subject to the Special Assessments and joined in the execution of the Project Petition, thereby acknowledging and consenting to the submission of the Project Petition to the City; and

WHEREAS, the City of Cleveland Land Reutilization Program, Fairfax Renaissance Development Corporation, the Ohio Department of Transportation, Verna Daniels, and Renee Cansler Davis, the owners of one hundred percent of property expected to be sold and consolidated with the Property into a single tax parcel (the “Additional Property”), joined in the execution of the Project Petition, thereby acknowledging their intent to sell the Additional Property to be consolidated with the Property and subject to the Special Assessments; and

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 in accordance with Section 1710.06(B) of the Revised Code; 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. 1071-2021-A** are approved, and this Council consents to the addition of the Property and the Additional 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 Project as defined in

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the Project Plan for a 27-year period and that the Property will be specifically benefited by the Project and shall be assessed to pay for the costs of the Project, calculated according to the Cooperative Agreement.

Section 3. That the Project Plan placed in the above-mentioned file is approved with an aggregate amount of Special Assessments of \$19,987,148.52, 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 4.59%, 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 2050 for collection in 2051; 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, and the Additional Property as applicable, 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

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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. The Commissioner of Assessments and Licenses and the Director of Finance are authorized and directed to deliver to the Cuyahoga County Fiscal Officer a certified copy of this Ordinance and any related certificate or cover page required by the Cuyahoga County Fiscal Officer for the certification of special assessments within 15 days after the passage of this Ordinance.

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

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 and the fees are appropriated to cover costs incurred in processing the Project Petition and servicing the Special Assessments. 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  
11-22-2021  
FOR: Interim Director Ebersole

**By Council Members Griffin, Brancatelli and Kelley  
(by departmental request)**

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**READ FIRST TIME on NOVEMBER 22, 2021**

**REPORTS**

**and referred to DIRECTORS of Economic Development,  
City Planning Commission, Finance, Law;  
COMMITTEES on Development Planning and Sustainability, Finance**

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**CITY CLERK**

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**READ SECOND TIME**

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**CITY CLERK**

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**READ THIRD TIME**

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**PRESIDENT**

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**CITY CLERK**

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**APPROVED**

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**MAYOR**

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**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
DEVELOPMENT, PLANNING AND  
SUSTAINABILITY**

FILED WITH COMMITTEE

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**PASSAGE RECOMMENDED BY  
COMMITTEE ON  
FINANCE**

FILED WITH COMMITTEE

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