



CITY OF FAIRVIEW PARK

20777 Lorain Road
Fairview Park, Ohio 44126-2018
- Established in 1910 -

Patrick J. Cooney, Mayor

AGENDA BOARD OF CONTROL

Tuesday, September 8, 2020

6:00 p.m.

Via Zoom Tele/Video Conference

Meeting Dial-In# (Audio Only): (646) 558-8656 or (301) 715-8592

Join Video Meeting: <https://zoom.us/j/94648943534?pwd=bzV2MVlIU2ZuQmpMeGNhTEtDMVQ4dz09>

Meeting ID: 946 4894 3534 | Password: 980176 (For Audio and Video)

- A. Call to Order
- B. Roll Call
- C. Old Business (Approve August 17, 2020 Meeting Minutes)
- D. New Business
 - 1. HVAC Preventative Maintenance Services by Smith & Oby
 - RFP Process completed
 - Interviews between two highest firms conducted
 - Smith & Oby pricing submitted for \$26,000 as budgeted
 - 2. Purchase of (3) Sani Spray Disinfectant machines
 - Graco units include an electric powered pump that develops high pressure atomized spray for all surfaces. Includes training for the equipment. \$3,600 each
 - Best / most responsive quote from Sherwin Williams \$9,924.05.
- E. Adjournment



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Meeting called to order at 6:00 p.m. on August 17, 2020. Roll call included: Councilmember William Minek, Finance Director Greg Cingle, Director of Law Timothy Riley, Director of Service & Development Mary Kay Costello and Mayor Patrick Cooney.

The Board approved the minutes from the May 11, 2020 meeting.

The following new business was discussed:

The City was awarded a BWC GRANT FUNDED SAFETY EQUIPMENT and part of the grant listed products from Kundel Production Safety Systems and the items were approved in grant. Materials approved in grant: trench box, tools and equipment for trench and personnel. Kundel was the best and most responsive quote for the materials. The award was for \$11,208.93 in grant funds – City's matching requirement \$2,802.23 will be taken from the Permanent Improvement Fund. Mayor Cooney joined the Board of Control in congratulating Community Planner Jordan for this securing this important safety equipment. The total purchase totals \$14,011.16. Director Cingle motioned for approval, Mayor Cooney seconded – 5 Ayes – 0 Nays.

The City requests approval for RENTAL FOR AERIAL TRUCK USE IN SERVICE DEPARTMENT. The current equipment is unsafe and placed out of service. The City's lowest and best quote was from Custom Truck / One Source for renting a forestry truck with 70' boom with bucket. Other higher quotes were collected from TRL, Colvin's Inc. and CAT. The costs are: \$4,010 / month and \$8,020 for two-month rental (City requests 2-month rental). This equipment will be used to remove dead trees and prune and maintain existing trees in the public right-of-way or public spaces. The costs will be removed from the General Fund. Director Cingle indicated that the costs would be paid from the General Fund. Director Cingle motioned for approval – Mayor Cooney seconded – 5 Ayes – 0 Nays.

The City also requests permission to pay CONSTRUCTION RESOURCES for technical Assistance to make necessary improvements to adapt to COVID-19 protocol (regarding doors / entry – exits) at the Gemini Center and at City Hall. The price quoted is \$5,800 for consulting (guidance for purchasing / installation of materials). These costs would be paid from the General Fund to be reimbursed by COVID-19 funding. Director Cingle motioned for approval – Mayor Cooney seconded - 5 Ayes – 0 Nays.

The Fairview Park Police Department also requests authorization for a purchase from Vance's Law Enforcement for ammunition, slings, sights and adapters for minimizing flash and noise. This purchase will replace 2006 rifles that have been repaired and are at the end of their useful potential and will be traded in for \$1,200 towards the new equipment. The costs total \$7,211.72. This purchase will be paid through the Law Enforcement Trust Fund. Director Cingle motioned for approval, Mayor Cooney seconded – 5 Ayes – 0 Nays.

Update: HVAC – preventative maintenance for City buildings / facilities to be discussed at next Board of Control Meeting. City requests a Board of Control Meeting September 8, 2020.

Mayor Cooney motioned to adjourn the meeting at 6:18 p.m. Councilmember Minek seconded. Meeting adjourned.

August 17, 2020 Minutes Approved:

Mayor Patrick Cooney

Councilmember William Minek



CITY OF FAIRVIEW PARK
CITY COUNCIL MEETING

AGENDA

TUESDAY, SEPTEMBER 8, 2020

SPECIAL COMMITTEE MEETING

REGULAR COUNCIL MEETING

via Zoom Telephone/Video Conference & Live Streamed on City's YouTube Channel

Meeting Dial-In# (Audio Only): (646) 558-8656 or (301) 715-8592

Join Video Meeting: <https://zoom.us/j/94648943534?pwd=bzV2MVlIU2ZuQmpMeGNhTEtDMVO4dz09>

Meeting ID: 946 4894 3534 | Password: 980176 (For Audio and Video)

YouTube Channel: https://www.youtube.com/channel/UC207O_m7DfOP_FcDvoDR5og

PLEASE NOTE THAT THERE WILL BE A BOARD OF CONTROL MEETING AT 6:00 pm PRIOR TO THE CITY COUNCIL MEETINGS VIA THE SAME ZOOM MEETING LINK

6:15 p.m. – SPECIAL COMMITTEE MEETING/COUNCIL CAUCUS

MEETING CALLED TO ORDER

FINANCE – Councilwoman King, Chair | Councilwoman Adler, Vice Chair

- Ord. 20-29 | Authorizing Purchases with P&P Valley View Holdings, LLC
- Res. 20-11 | PACE 1_Form of Resolution of Necessity for Public Improvements for Brookpark Rd Projects
- Ord. 20-30 | PACE 2_Ordinance to Proceed with Improvements for Brookpark Rd Projects
- Ord. 20-31 | PACE 3_Ordinance Levying Assessments for Public Improvements for Brookpark Rd Projects
- Ord. 20-32 | Amending Section 129.01 Restructuring Personnel Composition of Police Department
- Ord. 20-__ | Weed Cutting Charges for Certain Properties

BOARDS & COMMISSIONS REPORTS

ROUNDTABLE

7:00 p.m. - COUNCIL MEETING

Meeting Called to Order | Moment of Silent Prayer

Pledge of Allegiance

Roll Call

Written Communications, Petitions and Claims

Committee Reports

Finance – Councilwoman King, Chair | Councilwoman Adler, Vice Chair

Continued on next page →

~ LEGISLATIVE AGENDA ~

Legislation on for First Reading

COUNCILMAN MINEK

Res. 20-__ | Allowing Purchase of Police Service Weapon

COUNCILWOMAN KING

Ord. 20-__ | Authorizing Contract with RJ Platten Contracting Co for Improvements to Thomas Lane Park

Ord. 20-__ | Issuance and Sale of Series 2012 Bonds (Refunding)_Gemini Center

Res. 20-__ | 2021 Tax Rate Resolution

Legislation on for Second Reading

COUNCILWOMAN KING

Ord. 20-29 | Authorizing Purchases with P&P Valley View Holdings, LLC

Ord. 20-32 | Amending Section 129.01 Restructuring Personnel Composition of Police Department

Audience Input on Legislation Up For Passage

Legislation on for Passage Without Three Readings

COUNCILWOMAN KING

Ord. 20-__ | Weed Cutting Charges for Certain Properties

Res. 20-11 | PACE 1_Form of Resolution of Necessity for Public Improvements for Brookpark Rd
Projects

Ord. 20-30 | PACE 2_Ordinance to Proceed with Improvements for Brookpark Rd Projects

Ord. 20-31 | PACE 3_Ordinance Levying Assessments for Public Improvements for Brookpark Rd Projects

Reports and Communications from Mayor, Directors and Other City Officials

Public Session

Miscellaneous Business and Reports from Council

Adjournment

CITY OF FAIRVIEW PARK
ORDINANCE NO. 20-29
REQUESTED BY: MARY KAY COSTELLO
SPONSORED BY: COUNCILWOMAN KING

AN ORDINANCE AUTHORIZING THE MAYOR TO PURCHASE NECESSARY DEBRIS DISPOSAL SERVICES AND ROAD REPAIR MATERIALS FROM BOYAS EXCAVATING AND BOYAS AGGREGATES AND MATERIALS NKA P & P VALLEY VIEW HOLDINGS, LLC AND DECLARING AN EMERGENCY

WHEREAS, the City of Fairview Park is required to properly dispose of debris accumulated from street projects, storm cleanup and other miscellaneous city projects; and

WHEREAS, the City of Fairview Park purchases road repair material and top soil and mulch in order to complete necessary repairs and projects; and

WHEREAS, Boyas Excavating nka P & P Valley View Holdings, LLC, is the closest and most cost effective contractor to provide said disposal services; and

WHEREAS, Boyas Aggregates and Materials nka P & P Valley View Holdings, LLC is a supplier that the City of Fairview Park occasionally uses to purchase road repair materials and topsoil and mulch; and

WHEREAS, the Mayor has performed legal services for some of the owners of P & P Valley View Holdings, LLC, dba Boyas Excavating and Boyas Aggregates and Materials in his capacity as a private attorney; and

WHEREAS, the Mayor has also performed legal services for Pete & Pete Container Services, Inc., which is an affiliate of P & P Valley View Holdings, LLC, in his capacity as a private attorney; and

WHEREAS, in order to remove the appearance of any impropriety, the Mayor requests Council to allow the Mayor to approve invoices from Boyas Excavating and/or Boyas Aggregates and Materials nka P & P Valley View Holdings, LLC, in an amount not to exceed a combined total of \$15,000 per year; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. The Mayor is hereby authorized to approve invoices from Boyas Excavating and Boyas Aggregates and Materials nka P & P Valley View Holdings, LLC, in an amount not to exceed a total of \$15,000 per year on a continual basis to be paid through the General Fund;

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 08.17.20
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrook, Clerk of Council



MEMORANDUM

TO: Fairview Park City Council

FROM: Mary Kay Costello, Director of Public Service and
Development

DATE: August 11, 2020

RE: P & P Valley View Holdings, LLC

Attached is legislation authorizing Mayor Patrick J. Cooney to sign invoices for P & P Valley View Holdings, LLC dba Boyas Excavating and Boyas Aggregates and Materials (collectively referred to as "Boyas"). Boyas Excavating provides disposal services for debris accumulated from street projects, storm clean-up and other City projects. Boyas Aggregates and Materials supplies aggregate material (i.e. stone, topsoil, and mulch) used for street repairs and other municipal projects.

This authorization is requested as the Mayor, in his capacity as a private attorney, has performed legal services for

Sue and Pete Ristagno, two of the principals of P & P Valley View Holdings, LLC. The Mayor has also performed legal services for Pete & Pete Container Services, Inc., an affiliate of P & P Valley View Holdings, LLC. The Ristagno family purchased the assets of Boyas in 2019 and Sue and Pete Ristagno are also principals of Pete & Pete.

It is my understanding the City has been using the services of Boyas for about 25 years. Copies of printouts for the purchases made by the City from Boyas Excavating from 2015-2020 and Boyas Aggregates and Materials from 2015-2020 are attached. The City is seeking to continue doing business with Boyas as it is the least costly and most efficient alternative available to the City especially with regard to the disposal of road material. Boyas, which is located in Valley View, currently charges the City \$12.50 per cubic foot and the loads are usually about 15 cubic feet or \$190.00 per load. It is one of the few local landfills that collects this debris and does so at an inexpensive cost.

The City has reached out to other providers of disposal services and a recap of their policies and/or quotes is described below.

1. Kurtz Brothers (in Avon) no longer takes our excavation debris and Rosby in Brooklyn Hts. also will not take excavation debris.
2. Cuyahoga Regional Landfill will take excavation debris but are located in Solon which would consume a considerable amount of our employee time to travel to the facility. Once there, if the landfill operator sees any clay pipe in the excavation debris or any other materials they can deem the load 'not clean fill' (for example, debris from a sewer repair or rebar from a street repair) and they would not allow the load to be dumped. The debris then must be taken to a separate MSW Landfill for special waste disposal.
3. Another option is to use containers that are filled at City Hall and taken off our site by a contractor— a quote from Republic Services is attached. The hauling fees from Republic Services are over \$1,000 and during certain months the City would require more than one container.

With respect to the purchase of aggregates Boyas is not the primary source used by the City. However, if there is a debris

drop-off that coincides with a need for aggregate material the City will use Boyas for convenience and/or out of necessity depending upon the time or project at hand.

CITY OF FAIRVIEW PARK

RESOLUTION NO. 20-11 AMENDED *(amended by full substitution in Committee 9/8/20)*

REQUESTED BY: MARYKAY COSTELLO, DIRECTOR OF PUBLIC SERVICE AND DEVELOPMENT

SPONSORED BY: COUNCILWOMAN KING

CO-SPONSORED BY: COUNCILMAN MINEK

A RESOLUTION TO APPROVE TWO PETITIONS FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS UNDER OHIO REVISED CODE CHAPTER 1710 AND APPROVE THE NECESSITY OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FAIRVIEW PARK, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT (21000 BROOKPARK ROAD PROJECTS)

WHEREAS, Ohio Revised Code Section 1710.02(F) provides that a political subdivision which has approved a petition for special assessments for public improvements in an energy special improvement district and a plan pursuant to Ohio Revised Code Sections 1710.02(F) and 1710.06 shall levy the requested special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, 21000 Brookpark Landlord LLC, as the owner of certain real property (together with its successors in interest, the “K Building Owner”) located within the City of Fairview Park, Ohio (the “City”), has identified certain real property located at 21000 Brookpark Road, having Cuyahoga County Parcel ID Number 331-35-002, and being more particularly described in Exhibit “B” to the K Building Petition (as defined below, and attached as Exhibit “1” herein) (the “K Building Project Site”), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, 21000 Brookpark Landlord LLC, as the owner of certain real property (together with its successors in interest, the “L Building Owner,” and collectively with the K Building Owner, the “Owners”) located within the City of Fairview Park, Ohio (the “City”), has identified certain real property located at 21000 Brookpark Road, having Cuyahoga County Parcel ID Number 331-35-002, and being more particularly described in Exhibit “B” to the L Building Petition (as defined below, and attached as Exhibit “2” herein) (the “L Building Project Site,” and collectively with the K Building Project Site, the “Project Sites”), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, the Northeast Ohio Advanced Energy District (the “District”) was created under Ohio Revised Code Chapters 1702 and 1710 as an energy special improvement district and is governed by the Northeast Ohio Advanced Energy Special Improvement District Commercial-Industrial Program Project Plan and the Northeast Ohio Advanced Energy Special Improvement District Commercial-Industrial Program Services Plan (together, and as amended and supplemented from time to time, the “Program Plan”) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F), which plan allows for additional properties within the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, Village of Brooklyn

Heights, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Independence, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Middleburg Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, and the City of University Heights, Ohio and within any municipal corporation or township which is adjacent to any other municipal corporation or township in which a portion of the District's territory is located to be added to the territory of the District; and

WHEREAS, the K Building Owner has determined to submit to the Mayor and the City Council of the City (the "Council"), a *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the "K Building Petition"), the *Commercial-Industrial Program Project Plan* and the *Commercial-Industrial Services Plan* (collectively, the "Program Plan"), and the *Articles of Incorporation of the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, Village of Brooklyn Heights, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Independence, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Middleburg Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc.* (the "Articles of Incorporation"), all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Clerk of this Council; and

WHEREAS, the L Building Owner has determined to submit to the Mayor and the Council, a *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the "L Building Petition," and together with the K Building Petition, the "Petitions"), the Program Plan, and the Articles of Incorporation, all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Clerk of this Council; and

WHEREAS, the Petitions, which are on file with the Clerk of Council, have been signed by the Owners, as the owners of one hundred percent (100%) of the real property affected by the Petitions (as further described in Exhibit "B" to each of the Petitions); and

WHEREAS, the Petitions request that the Project Sites be added to the District and that the City levy special assessments on the Project Sites to pay the costs of special energy improvement projects to be provided on each of the Project Sites, all as described more particularly in the Petitions (collectively, the "Projects"); and

WHEREAS, the Petitions are for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, the Projects, and further, the Petitions identify the amount and length of the special assessments to be imposed with respect to the Projects; and

WHEREAS, by the Petitions, the Owners request that the Projects be paid for by special assessments assessed upon the Project Sites (the “Special Assessments”) in an amount sufficient to pay the costs of the Projects, including the costs identified in Section 5 of this Resolution, and requests that the Projects be undertaken cooperatively by the City, the District, and such other parties as the City may deem necessary or appropriate; and

WHEREAS, in furtherance of the future addition of any real property in any municipal corporation or township contiguous to the municipal corporations or townships in which a portion of the territory of the District is located, it is necessary, and this Council has determined, to approve the addition of such real property to the territory of the District, all in accordance with Ohio Revised Code Chapter 1710; and

WHEREAS, this Council, pursuant to Ohio Revised Code Section 1710.02(G)(4), has determined that the energy special improvement projects to be constructed and implemented on the Project Sites are not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City as those that will promote the welfare of the people of the City; to improve the quality of life and the general and economic well-being of the people of City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources; and,

WHEREAS, this Council, as mandated by Ohio Revised Code Chapter 1710, must approve or disapprove the Petitions within 60 days of the submission of the Petitions; and

WHEREAS, this Council has determined to approve the Petitions, the Program Plan, and the Articles of Incorporation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Petitions.

SECTION 2. That this Council approves the Petitions, the Program Plan, and the Articles of Incorporation now on file with the Clerk of Council. This Council hereby appoints the City’s Director of Public Service and Development or the Director’s designee to serve on the Board of Directors of the District as provided in Ohio Revised Code Section 1710.04(A).

SECTION 3. That this Council hereby approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or township in which a portion of the territory of the District is located or any municipal corporation or township which is contiguous to the municipal corporations or townships in which a portion of the territory of the District is located; (ii) the addition of the municipal corporation or township in which such real property is located as a “participating political subdivision,” as defined in Ohio

Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize or effect such addition.

SECTION 4. That pursuant to Ohio Revised Code Section 1710.02(G)(4), this Council determines that the Projects are not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the Board of Directors of the District (the "Board") to act as its agent to sell, transfer, lease, or convey the Projects. The consideration the Board must obtain from any sale, transfer, lease, or conveyance of the special energy improvement projects on each of the Project Sites is any consideration greater than or equal to One Dollar and Zero Cents (\$1.00) each.

SECTION 5. That this Council declares necessary, and a vital and essential public purpose of the City, to improve the K Building Project Site, which is located at 21000 Brookpark Road in the City and has Cuyahoga County Parcel ID Number 331-35-002 and is more particularly described in Exhibit "B" to the K Building Petition, by providing for the acquisition, installation, equipment, and improvement of the portion of the Projects described in the K Building Petition (the "K Building Project") by the K Building Owner, as set forth in the K Building Petition, and providing for the payment of the costs of the K Building Project, 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 K Building 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 K Building Owner or otherwise to pay costs of the K Building 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 K Building Project for which the Special Assessments are made at an interest rate which shall be determined by the District as its conduit financing entity 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 K Building Project; together with all other necessary expenditures, all as more fully described in the K Building Petition, and profiles, specifications, and estimates of cost of the K Building Project, all of which are on file with the Finance Director and open to the inspection of all persons interested.

That this Council declares necessary, and a vital and essential public purpose of the City, to improve the L Building Project Site, which is located at 21000 Brookpark Road in the City and has Cuyahoga County Parcel ID Number 331-35-002 and is more particularly described in Exhibit “B” to the K Building Petition, by providing for the acquisition, installation, equipment, and improvement of the portion of the Projects described in the L Building Petition (the “L Building Project”) by the L Building Owner, as set forth in the L Building Petition, and providing for the payment of the costs of the L Building Project, 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 L Building 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 L Building Owner or otherwise to pay costs of the L Building 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 L Building Project for which the Special Assessments are made at an interest rate which shall be determined by the District as its conduit financing entity 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 L Building Project; together with all other necessary expenditures, all as more fully described in the L Building Petition, and profiles, specifications, and estimates of cost of the L Building Project, all of which are on file with the Finance Director and open to the inspection of all persons interested.

SECTION 6. That this Council determines that each of the K Building Project and the L Building Project’s elements are so situated in relation to each other that in order to complete each of the K Building Project the L Building Project’s elements in the most practical and economical manner, they should be acquired, installed, equipped, and improved at the same time, with the same kind of materials, and in the same manner; and that each of the K Building Project the L Building Project’s elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and each of the K Building Project and the L Building Project’s elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

SECTION 7. That the plans and specifications and total cost of the Projects now on file in the office of the Clerk of Council are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Projects shall be made in accordance with the plans, specifications, profiles, and estimate of costs for the Projects.

SECTION 8. That this Council determines and declares that the Projects are an essential and vital public, governmental purpose of the City as special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District,

for the acquisition, installation, equipment, and improvement of the Projects in the manner contemplated by the Petitions. This Council determines and declares that the Projects are conducive to the public peace, health, safety and welfare of the City and the inhabitants of the City.

SECTION 9. That pursuant to and subject to the provisions of valid Petitions signed by the owners of one hundred percent (100%) of the Project Sites, the entire cost of the Projects shall be paid by the Special Assessments levied against the Project Sites, which are the benefited properties. The provisions of the Petitions and the Program Plan are ratified, adopted, approved and incorporated into this Resolution as if set forth in full in this Resolution. The portion of the costs of the Projects allocable to the City will be zero percent (0%). The City does not intend to issue securities in anticipation of the levy or the collection of the Special Assessments.

SECTION 10. That the method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting each of the Project Sites as set forth in the Petitions and the Program Plan.

SECTION 11. That the lots or parcels of land to be assessed for the Projects shall be the Project Sites, described in Exhibit "B" to each of the Petitions, all of which lots and lands are determined to be specially benefited by the Projects as set forth in the Petitions. Each of the K Building Project Site and the L Building Project Site, as of the date of this Resolution, constitute a portion of a single tax parcel in the records of the Cuyahoga County Fiscal Officer. As provided in the Petitions, if, after the date of this Resolution, the tax parcel is subdivided such that either or both of the Project Sites are situated on one or more new or additional tax parcels, all of the Special Assessments levied on either such Project Site shall be allocated to the resulting tax parcels containing a portion of the applicable Project Site, and the special assessments allocated to those tax parcels shall be allocated among those tax parcels in proportion to the building square footage on any such resulting tax parcel.

SECTION 12. That the Special Assessments shall be levied and paid in 50 semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petitions (which list is incorporated herein by reference), and each of the Owners have waived its option to pay the Special Assessment in cash within 30 days after the first publication of the notice of the assessing resolution or ordinance.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the K Building Project is \$10,750,076.50. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued or incurred to pay the costs of the K Building Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, shall be treated as part of the cost of the K Building 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 had notes or bonds been issued by the City or another issuer of notes or bonds to pay the costs of the K Building Project. 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 will be added to the Special Assessments by the County Fiscal Officer of Cuyahoga County, Ohio.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the L Building Project is \$5,809,359.50. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued or incurred to pay the costs of the L Building Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, shall be treated as part of the cost of the L Building 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 had notes or bonds been issued by the City or another issuer of notes or bonds to pay the costs of the L Building Project. 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 will be added to the Special Assessments by the County Fiscal Officer of Cuyahoga County, Ohio.

SECTION 13. That the Director of Finance or the Director's designee is authorized and directed to prepare and file in the office of the Clerk of Council the estimated Special Assessments for the cost of the Projects in accordance with the method of assessment set forth in the Petitions and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

SECTION 14. That the Owners have waived the requirement that notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the Owners of the Property to be assessed as provided in Ohio Revised Code Section 727.13 be delivered promptly following adoption of this Resolution.

SECTION 15. That the Director of Finance or the Director's designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the Projects.

SECTION 16. That the Special Assessments will be used by the City to pay the costs of the Projects 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 17. That this Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Fairview Park, Ohio, and consents to the immediate imposition of the Special Assessments upon the Project Sites. This waiver encompasses, but is not limited to, waivers by each of the Owners in the Petitions of the following rights:

- (i) The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06;

- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- (vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
- (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
- (viii) The right to notice of the passage of the assessing resolution or ordinance under Ohio Revised Code Section 727.26; and
- (ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

SECTION 18. That the City is authorized to enter into agreements by and among the City, the District, and such other parties as the City may deem necessary or appropriate in order to carry out the Project, and that the Mayor, the Director of Public Service and Development, either of them individually, or either of their designee is authorized to execute, on the City's behalf, such agreements.

SECTION 19. That this legislative authority hereby finds and determines that all formal actions taken relative to the passage of this Resolution 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, including Section 121.22 of the Ohio Revised Code, as modified by Am. Sub. H.B. 97 of the 133rd Ohio General Assembly, effective March 27, 2020.

SECTION 20. That pursuant to Section 12(a) of Article IV of the Charter of the City of Fairview Park, Ohio, this Resolution provides for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor and is effective at the earliest possible time allowed therein.

PASSED:
APPROVED:

1st reading: 08.17.20
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrooks, Clerk of Council

**PETITION TO ADD TERRITORY TO
THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT
AND FOR SPECIAL ENERGY IMPROVEMENT PROJECT**

To: The Mayor and City Council of the City of Fairview Park, Ohio

The undersigned does hereby respectfully petition the City of Fairview Park, Ohio (the “City”) for the addition of territory to **The Northeast Ohio Advanced Energy District** (the “Advanced Energy District”) pursuant to Chapter 1710 of the Ohio Revised Code, as amended from time to time (the “Act”) and the rules and regulations governing the Advanced Energy District (such rules and regulations are collectively referred to in this Petition as the “Advanced Energy District Documents”). Attached to this Petition as Exhibit A is the approving resolution (“Approving Resolution”) of the Board of Directors (“Board”) of the Advanced Energy District approving the addition of real property to the Advanced Energy District as being in accordance with the Advanced Energy District Documents. The undersigned acknowledges receipt of the Advanced Energy District Documents from the Advanced Energy District and by the execution and submission of this petition hereby agrees to the terms and provisions of the Advanced Energy District Documents. Capitalized words and terms used and not otherwise defined in this Petition shall have the meanings assigned to them in the Energy Project Cooperative Agreement (as defined below).

The undersigned represents that he or she is the owner within 60 days of the date of submission of this Petition for purposes of Ohio Revised Code Section 1710.02(E) (“Owner”) or the duly authorized signatory or officer of the Owner of one hundred per cent of the property or properties set forth in Exhibit B (the “Assessed Property”), and that 21000 Brookpark Landlord LLC will develop and implement a “special energy improvement project,” as described in Exhibit C, (the “Project”) on each parcel of real property described in Exhibit B.

In support of this petition, the undersigned petitioner(s) agree to and approve the following:

1. Plan. The Project will be developed and implemented in accordance with the Advanced Energy District Documents, the Approving Resolution, an Energy Project Cooperative Agreement (the “Energy Project Cooperative Agreement”) between 21000 Brookpark Landlord LLC, the City, the Advanced Energy District, and PACE Equity LLC (the “Investor”) and a Special Assessment Agreement (the “Special Assessment Agreement”) by and among 21000 Brookpark Landlord LLC, the Advanced Energy District, the City, the County Treasurer of Cuyahoga County, Ohio (the “County Treasurer”), and the Investor.

2. Assessment for Special Energy Improvement Project. The undersigned as Owner of the Assessed Property, hereby consents to, requests, and agrees in writing that the Assessed Property be included within the Advanced Energy District. The Owner further petitions for the Assessed Property to be assessed to pay costs of the Project, in accordance with the Advanced Energy District Documents. As of the date of this Petition, the Assessed Property constitutes the portion of a tax parcel described on Exhibit B. If after the date of this Petition the parcel is subdivided such that the Assessed Property is no longer a part of the tax parcel of which it is part as of the date of this Petition, the undersigned Owner hereby requests that 100% of the special assessments levied on the Assessed Parcel pursuant to this Petition be allocated to any resulting

parcel or parcels containing a portion of the Assessed Parcel, and that the special assessments be allocated among any such parcels in proportion to the building square footage on each such parcel. The undersigned Owner hereby consents to the above allocation of the special assessments and represents and warrants that the above allocation of special assessments is in proportion to and does not exceed the special benefits conferred on the Assessed Property by the Project.

3. Project Costs to be Assessed and Collected. The Owner requests that (A) the whole costs of the Project, other than any payments or other amounts required to be contributed by the Owner or others for Project costs under the Energy Project Cooperative Agreement, be specially assessed, together with interest at the Applicable Rate and such other additional amounts as are necessary to repay the Project Advance and Administrative Expenses, in proportion to the benefits that may result from the Project upon the Assessed Property pursuant to Section 701.05 and Chapter 727 of the Revised Code, (B) those special assessments (the “Special Assessments”) be levied in accordance with the schedule attached to this Petition as Exhibit D, (C) any amounts so assessed be certified to the Cuyahoga County Fiscal Officer to be placed on the tax list and duplicate and (D) the Special Assessments be collected by the County Treasurer.

In connection with this Petition and in furtherance of the purposes hereof, the Owner acknowledges that it has reviewed or has caused to be reviewed (A) the plans and specifications and the profiles for the Project, and (B) the estimate of costs of the Project and the estimate of amounts available from grants, loans and other moneys for Project costs as prepared by the Owner with the assistance of its Consultants, which are now on file with the Clerk of Council. In connection with this Petition and in furtherance of the purposes of this Petition, the Owner also acknowledges that it has reviewed or has caused to be reviewed the estimated special assessments to be levied for the Project, which are now on file with the Clerk of Council and are set forth on Exhibit D to this Petition.

In consideration for the Project, the Owner agrees (A) that the Special Assessments do not exceed the benefit to be received by the Assessed Property as a result of the Project, (B) that the Assessed Property is benefited by the Project in the proportionate amounts set forth below, (C) that the Assessed Property is the only property specially benefited by the Project and the only property that should be assessed for the Project, (D) that the Owner will pay promptly all installments of the Special Assessments levied against the Assessed Property as they become due, (E) that the determination by the Council of the Special Assessments against the Assessed Property pursuant to and in accordance with this Petition will be final, conclusive and binding upon the Owner, its successors and assigns and grantees of the Assessed Property and (F) to include in each deed conveying all or any portion of the Assessed Property (i) a reference to the Special Assessments allocable to the property or portion being conveyed, as determined and approved by the City and the Advanced Energy District, and (ii) a covenant running with such property to be bound by the provisions of this Petition and to timely pay the installments of the Special Assessments as they come due. The Owner further acknowledges and agrees that the Applicable Rate is substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City.

In the event that at any time following the date of this Petition the Property is combined or subdivided into permanent parcels in the records of the Fiscal Officer of Cuyahoga County, Ohio, then the Petitioner hereby requests that the Special Assessments be allocated among the

resulting parcels in proportion to the improved building square footage of the existing parcels that is contained in each resulting parcel that contains a portion of an existing parcel. The Petitioner hereby certifies, represents, and warrants to the District and the City that the portion of the Special Assessments allocated to each resulting parcel as described above will be in proportion to, and will not exceed, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements identified in this Petition.

4. Adjustment of the Special Assessments and of the Installments of Special Assessments to be Collected. The levy and collection of the Special Assessments may be subject to adjustment pursuant to the provisions of the Energy Project Cooperative Agreement. Pursuant to the Energy Project Cooperative Agreement, the City will take such actions as may be permitted by law and are necessary to certify to the Cuyahoga County Fiscal Officer for collection any adjustment to any installment of the Special Assessments.

5. Prepayment of Special Assessments. The Special Assessments as to any parcel shall only be prepayable as provided in the Energy Project Cooperative Agreement.

6. Waivers. The Owner consents and requests that the Special Assessments be levied and collected without limitation as to the value of the Assessed Property, and waive all the following relating to the Project and the Special Assessments:

(1) Any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code or by any other provision restricting these special assessments, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future, and also including, but not limited to, any provision restricting these special assessments to 33-1/3% of the actual improved value of the Assessed Property as enhanced by the Project;

(2) Any and all rights, benefits and privileges specified by Section 727.04 of the Revised Code or by any other provision limiting special assessments for reimprovement when a special assessment has been levied and paid previously;

(3) Any and all damages or claims for damages of whatsoever kind, character or description resulting from the Project or the construction of the Project, including but not limited to all rights, benefits and privileges specified by Sections 727.18 through 727.22 and Section 727.43 of the Revised Code;

(4) Any and all resolutions, ordinances and notices required for the construction of the Project, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, any increase in the cost of labor and materials over the estimated cost, and the passage of the assessing ordinance, including but not limited to notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code;

(5) Any and all irregularities and defects in the proceedings;

(6) The right to strict construction of proceedings specified by Section 727.40 of the Revised Code (the Owner hereby requesting and agreeing that the proceedings for the Project and the levying of the Special Assessments be

liberally construed in all respects);

(7) Any waiver of the lien of the Special Assessments after two years as specified by Section 727.34 of the Revised Code, (the Owner hereby requesting and agreeing that such lien against the properties it owns continue in force so long as any of the Special Assessments against them remain uncollected); and

(8) Any and all rights, benefits and privileges specified by Sections 727.12, 727.15, 727.23, 727.24, 727.25 and 727.251 of the Revised Code, including but not limited to the filing of plans, specifications, profiles and estimate of cost relating to the Project, the preparation and filing of estimated assessments and the right to file objections to the proposed assessment or to the cost of the labor and materials for the Project, and the right to request a deferment of payment of those Special Assessments.

The Owner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code Chapter 1710. The Owner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Owner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Owner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Owner further consents and requests that (A) all legislation required to be enacted to permit the Project to commence immediately be enacted at one Council meeting, including, without limiting the generality of the foregoing, the resolution of necessity specified in Section 727.12 of the Revised Code, the ordinance to proceed specified in Section 727.23 of the Revised Code and the assessing ordinance specified in Section 727.25 of the Revised Code, (B) the Special Assessments be levied (and may be collected) before the Project is commenced and the actual cost of the Project is ascertained, and (C) notwithstanding Section 727.24 of the Revised Code, the Project be undertaken pursuant to the Cooperative Agreement.

The Owner agrees that it will not contest, in a judicial or administrative proceeding, the Special Assessments levied against its properties for the Project.

7. Transfer of Special Energy Improvement Project. In accordance with the Act and Section 20 of Article VIII of the Ohio Constitution, the undersigned hereby requests that the City or the Board, acting as agent and on behalf of the City, sell, transfer, lease or convey the special energy improvement project to the undersigned in accordance with the Advanced Energy District Documents for public purposes as set forth in the Act, one purpose being to permit taxpayers (such as the Owner) that subsequently own special energy improvement projects to be able to claim federal investment tax credits, grants in lieu of tax credits, state grants, accelerated depreciation, renewable energy credits and other tax or monetary benefits (collectively, "Benefits") available to taxpayers that own special energy improvement projects. The undersigned agrees that it will apply for or cause others to apply for Benefits available to the

undersigned in connection with the undersigned's ownership of the Project as the consideration for such sale, transfer, lease or conveyance as determined by the Board in the Advanced Energy Documents.

8. Boundaries. A legal description of the territory to be added to the Advanced Energy District and a definitive listing, as identified by parcel number, of such property or properties to be included in the Advanced Energy District are provided in Exhibit B.

This petition may be executed in several counterparts, each of which will be an original and all of which will constitute one and the same instrument.

9. Improvements Plan. If approved by the City, this Petition shall constitute an amendment and supplement to the Advanced Energy District's Commercial-Industrial Program Project Plan, as amended (the "Improvements Plan") to add the real property described on Exhibit B to the territory of the Advanced Energy District and to include the Project described on Exhibit C as "Authorized Improvements" (as defined in the Improvements Plan).

The Fairview Park City Council is hereby respectfully requested to approve, by resolution, this Petition to Add Territory to The Northeast Ohio Advanced Energy District And For Special Energy Improvement Project within 60 days of this Petition being filed with the City.

PETITION TO ADD TERRITORY TO
THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT
AND FOR SPECIAL ENERGY IMPROVEMENT PROJECT

Signatures of Property Owner

Date: 8/31/2020

21000 BROOKPARK LANDLORD LLC, an Ohio limited liability company

By: 

Name: DAVID A. CRISAFI

Title: mm

Address for notices to 21000 Brookpark Landlord LLC:

835 Sharon Drive, Suite 400

Westlake, Ohio 44145

Attention: David A. Crisafi

**EXHIBIT A
(To Petition)**

**ADVANCED ENERGY DISTRICT BOARD
APPROVAL TO ADD TERRITORY TO
ADVANCED ENERGY DISTRICT AND FOR
SPECIAL ENERGY IMPROVEMENT PROJECT**

EXHIBIT B
(To Petition)

ASSESSED PROPERTY LEGAL DESCRIPTION

The Assessed Property subject to this Petition and owned by 21000 Brookpark Landlord LLC is located at 21000 Brookpark Road in Fairview Park, Ohio with Cuyahoga County Permanent Parcel ID Number 331-35-002, and is described as follows:

**LEGAL DESCRIPTION
OF
PARCEL “B”
BROOKPARK ROAD
PART OF P.P.N. 331-35-002**

Situated in the City of Fairview Park, County of Cuyahoga and State of Ohio and known as being part of Original Rockport Township Section Nos. 4 and 5 and further bounded and described as follows:

Beginning at a 1” iron pin in monument found at the intersection of the centerline of Old Grayton Road S.W. (60 feet wide) at a point of curvature on the relocated centerline of Brookpark Road (State Route 17) (100 feet wide) as shown by the Dedication Plats recorded in Volume 130, Pages 68-69 and Volume 130, Page 153 of Cuyahoga County Map Records;

Thence South 89°43’19” West along the centerline of Brookpark Road, S.E., 704.78 feet to a 1” iron pin in monument found on the easterly corporation line of the City of Fairview Park and the westerly line of City of Cleveland;

Thence North 00°38’24” West, 50.00 feet to the northerly right of way of Brookpark Road, S.E. and being the southwesterly corner of land described to NASA Park, LLC (P.P.N. 029-38-011) by the deed dated December 31, 2019 and recorded in AFN. 201912310297 of Cuyahoga County Records also being the southwesterly corner of Parcel “D” in the Lot Split and Consolidation as shown on the plat recorded in AFN. 201912310295 of Cuyahoga County Map Records and being the Principal Place of Beginning of the premises herein described;

Thence South 89°43’19” West along the northerly right of way of Brookpark Road, S.E., 476.91 feet to a 5/8” iron pin set;

Thence North 00°16’41” West, 534.47 feet to a 5/8” iron pin set on the easterly line of land described to the Board of Park Commissioners of the Cleveland Metropolitan Park District (P.P.N. 331-35-001) by deed dated November 07, 1938 and recorded in Volume 4913, Pages 327-333 (Parcel No. 4) of Cuyahoga County Deed Records;

Thence North 34°53'31" East along on the easterly line of land described to the Board of Park Commissioners of the Cleveland Metropolitan Park District, 50.15 feet to a 5/8" iron pin found (0.70 feet south and 1.16 feet west);

Thence South 70°22'54" East continuing along the Board of Park Commissioners of the Cleveland Metropolitan Park District, 149.70 feet to a 5/8" iron pin set;

Thence North 26°16'55" East along an easterly line of land so described, 75.00 feet to a 5/8" iron pin set at the southwesterly corner of land described to the City of Cleveland (P.P.N. 331-35-003) by deed dated January 2, 1926 and recorded in Volume 3433, Page 340 of Cuyahoga County Deed Records;

Thence North 88°46'18" East along the southerly line of land so described to the City of Cleveland, 270.00 feet to a 5/8" iron pin found (capped KS) (0.07 feet south and 0.31 feet west) on the easterly corporation line of Fairview Park being the northwesterly corner of land described to The City of Cleveland (P.P.N. 029-38-012) by the deed dated January 2, 1926 and recorded in Volume 3433, Page 340 of Cuyahoga County Deed Records and being Parcel "E" in the Lot Split and Consolidation as shown on the plat recorded in AFN. 201912310295 of Cuyahoga County Map Records;

Thence South 00°38'24" East along the easterly corporation line of Fairview Park and the westerly corporation line of the City of Cleveland and the westerly line of land so described to the City of Cleveland and passing through a 5/8" iron pin found at the northwesterly corner of land NASA Park, LLC (P.P.N. 029-38-011) by the deed dated December 31, 2019 and recorded in AFN. 201912310297 of Cuyahoga County Records also being the northwesterly corner of Parcel "D" in the Lot Split and Consolidation as shown on the plat recorded in AFN. 201912310295 of Cuyahoga County Map Records at 165.34 feet, 596.09 feet to the northerly right of way of Brookpark Road, S.E. and being the Principal Place of Beginning, containing 6.2810 acres (273,601 square feet) as surveyed and described by Edward B. Dudley, P.S. No. 6747 of the Riverstone Company in May 2020, and subject to all legal highways, restrictions, reservations and easements.

Note: All 5/8"x30" iron pins set and capped "Riverstone Company-Dudley PS6747-PS8646"

Basis of Bearings: The centerline of Brookpark Road S.E. as North 89°43'19" East as shown in the Lot Split Plat and Consolidation as recorded in AFN. 201912310295 of Cuyahoga County Map Records.

Deed of Reference: Land described to 21000 Brookpark Landlord LLC by deed dated September 28, 2016 and recorded in Auditor's File Number 201609280731 of Cuyahoga County Deed Records.

May 13, 2020

P.S. No. 6747

Edward B. Dudley

Date

EXHIBIT C
(To Petition)

SPECIAL ENERGY IMPROVEMENT PROJECT

The real property owned by 21000 Brookpark Landlord LLC, located at 21000 Brookpark Road, Fairview Park, Ohio, is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the “Project”). The legal description of the property is set forth on the attached Exhibit A. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

Project Description

The project consists of the acquisition, construction, installation, equipping, and improvement of the below listed eligible measures, which each constitute an “energy efficiency improvement” and all are “special energy improvement projects” pursuant to Ohio Revised Code Section 1710.01(I), to an existing industrial building.

Eligible Measures

The following is a list of eligible measures from the schedule of values.

ECM	Description	Annual Energy Savings	Useful Life	Cost
Building Envelope	Energy efficient building envelope including roof, windows, walls, and skylight	Windows (39-53% better), Skylight (38% better), SHGC (18% better than code), Roof (54% better)		
Lighting	High efficiency lighting	Common Area (75% better than code), Residential Lighting (82% better than code), Exterior Lighting (87% better than code)		
HVAC	High efficiency boiler/dedicated outdoor air system and water source heat pumps	Boiler (7% better), WSHPS (16.3% better)		
Plumbing	Reduces flow, residential showers, residential aerators	30.7% less water; Showers (20% better than code), Aerators (32% better than code)		
Elevators	New Elevators	37% savings from existing		

Total project component costs: \$5,000,000

Total costs to be assessed: \$5,540,592.00

Estimated average semi-annual special assessments for 25 years: \$215,001.53

First semi-annual installment due: approximately January 31, 2022

**EXHIBIT D
(To Petition)**

SCHEDULE OF ANNUAL ASSESSMENTS

**SCHEDULE OF SPECIAL ASSESSMENTS
FOR CUYAHOGA COUNTY PARCEL NO.:**

331-35-002*

The following schedule of Special Assessment charges shall be certified for collection in 50 semi-annual installments to be collected with first-half real property taxes in calendar years 2022 through 2046:

[See Immediately Following Page]

* As identified in the records of the Fiscal Officer of Cuyahoga County, Ohio as of August 7, 2020.

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²
January 31, 2022	\$215,001.53
July 20, 2022	215,001.53
January 31, 2023	215,001.53
July 20, 2023	215,001.53
January 31, 2024	215,001.53
July 20, 2024	215,001.53
January 31, 2025	215,001.53
July 20, 2025	215,001.53
January 31, 2026	215,001.53
July 20, 2026	215,001.53
January 31, 2027	215,001.53
July 20, 2027	215,001.53
January 31, 2028	215,001.53
July 20, 2028	215,001.53
January 31, 2029	215,001.53
July 20, 2029	215,001.53
January 31, 2030	215,001.53
July 20, 2030	215,001.53
January 31, 2031	215,001.53
July 20, 2031	215,001.53
January 31, 2032	215,001.53
July 20, 2032	215,001.53
January 31, 2033	215,001.53
July 20, 2033	215,001.53
January 31, 2034	215,001.53
July 20, 2034	215,001.53
January 31, 2035	215,001.53
July 20, 2035	215,001.53
January 31, 2036	215,001.53
July 20, 2036	215,001.53
January 31, 2037	215,001.53
July 20, 2037	215,001.53
January 31, 2038	215,001.53
July 20, 2038	215,001.53
January 31, 2039	215,001.53
July 20, 2039	215,001.53
January 31, 2040	215,001.53

¹ 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.

July 20, 2040	215,001.53
January 31, 2041	215,001.53
July 20, 2041	215,001.53
January 31, 2042	215,001.53
July 20, 2042	215,001.53
January 31, 2043	215,001.53
July 20, 2043	215,001.53
January 31, 2044	215,001.53
July 20, 2044	215,001.53
January 31, 2045	215,001.53
July 20, 2045	215,001.53
January 31, 2046	215,001.53
July 20, 2046	215,001.53

EXHIBIT E

NORTHEAST OHIO ADVANCED ENERGY DISTRICT ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT (ADVANCED ENERGY DISTRICT)

COMMERCIAL-INDUSTRIAL PROGRAM PROJECT PLAN

The amended pilot commercial – industrial property assessed clean energy (PACE) program project plan of the Northeast Ohio Advanced Energy District Advanced Energy Special Improvement District (“Advanced Energy District”) provides guidelines to property owners desiring to develop special energy improvement projects as follows:

Thank you for your interest in learning more about the amended pilot commercial – industrial property assessed clean energy (PACE) program of the Northeast Ohio Advanced Energy District Advanced Energy Special Improvement District (“Advanced Energy District”). The Advanced Energy District can provide for financing (“financing” or “funding”) for your special energy improvement project or a mechanism to secure financing obtained elsewhere secured by special assessment proceeds. If you (“the property owner(s)”) wish to apply for financing (“financing” or “funding”) from the Advanced Energy District or utilize the assessment process as part of its amended pilot commercial-industrial PACE program (“Commercial-Industrial Program”), you should read and become familiar with the following terms and conditions for participation:

Participation in the Advanced Energy District’s Commercial Industrial Program is limited to property owners who have agreed to add their real property to the Advanced Energy District and who otherwise meet the terms and conditions of the Advanced Energy District Commercial-Industrial Program. These terms and conditions are addressed in this Project Plan, a Services Plan, a real property and company information verification form, an application or petition (Petition), and the governing documents forming the Advanced Energy District (i.e. articles of incorporation, code of regulations, and resolutions duly adopted by the board of directors of the Advanced Energy District and the applicable resolutions and ordinances of the city where your real property is located, such documents are hereinafter collectively referred to as “Governing Documents”), each of which property owner(s) must have reviewed and as necessary have agreed to or executed prior to participation. The Project Plan, the Services Plan, the Petition, the Governing Documents and an Assessment Schedule to be executed by you to participate in the Commercial-Industrial Program are hereinafter collectively referred to as the “Advanced Energy District Documents.” The Advanced Energy District Documents establish the terms of the Commercial-Industrial Program, including the addition of additional territory to the Advanced Energy District. You should become familiar with and understand the provisions of the Advanced Energy District Documents. By agreeing to or executing the Advanced Energy District Documents, you agree to the terms of the Advanced Energy District’s Commercial-Industrial Program. Each participating political subdivision in the Advanced Energy District and the Board of Directors of the Advanced Energy District reserve the right to amend the

Commercial-Industrial Program terms and conditions from time to time as described in “Changes in the Commercial-Industrial Program Terms; Severability” below.

I. Purpose of the Commercial-Industrial Program

The Commercial-Industrial Program is intended to assist property owners who own real property within participating political subdivisions with the financing of the acquisition, installation and improvement of special energy improvement projects, including, without limitation, solar photovoltaic, solar thermal energy, geothermal energy, customer-generated energy, or energy efficiency improvements, whether such real or personal property is publicly or privately owned, and any other “special energy improvement projects” authorized under Ohio Revised Code Chapter 1710, as the same may be amended from time to time (the “Authorized Improvements”), which Authorized Improvement shall be undertaken in accordance with the Act and the Plan, and by carrying out such other improvements and/or services in and for the benefit of the District as the Board (defined below) may determine and funds may allow, all as set forth in the Plan. Each participating political subdivision has approved the creation of the Advanced Energy District to provide the source of financing for the Commercial-Industrial Program. Special Assessment Revenue Bonds will be issued on behalf of Advanced Energy District and proceeds from the sale of the special assessment revenue bonds will be used to finance Authorized Improvements that benefit properties within the District. Debt service on the special assessment revenue bonds and the costs of administering the Commercial-Industrial Program will be paid through special assessments levied by participating political subdivisions on real property in the Advanced Energy District. Special Assessment payments will be due and payable by property owner(s) at the same time real property taxes are due.

There may be other types of financing available. Each participating political subdivision and the Advanced Energy District do not guarantee that the Commercial-Industrial Program is the best financing option for your situation. Please do your research and select the option that is most appropriate for you.

II. Advanced Energy District’s Commercial-Industrial Program Process; Terms and Conditions; Services Plan; Statutory Requirements

As discussed in more detail below, in order for you to receive financing and funding from the Advanced Energy District’s Commercial-Industrial Program, the following steps must occur¹:

First: You must review the eligibility requirements for Advanced Energy District Commercial-Industrial Property Assessed Clean Energy (PACE) program as set forth below. In order to participate in the Commercial-Industrial Program, you must meet the eligibility requirements. See “Eligibility” below.

Second: You must apply for a funding reservation from the Advanced Energy District’s Commercial-Industrial Program as set forth in this Article II. Property owners may apply for the Advanced Energy District’s Commercial-Industrial Program by contacting any

¹ These steps are not necessary for Owners to secure other financing.

one of the seventeen participating political subdivisions in the Advanced Energy District for an application. The list of participating political subdivisions is listed under “Eligibility” below. You will be required to fill out and complete a real property and company information verification form provided to you by the participating political subdivision. You will also receive a copy of the Advanced Energy District Documents, including this Project Plan, when you receive the real property and company information verification form. Upon submission of the real property and company information verification form, the participating political subdivision will forward your form to the Advanced Energy District for processing.

Third: Upon submission of the real property and company information verification form, the Advanced Energy District will verify your eligibility to participate in the Commercial-Industrial Program and if your property is eligible, the Advanced Energy District will begin working with you and one or more consultants, engineers or qualified installers that you may choose to assist you in planning the development of your Authorized Improvement and an estimated project cost. During this period of time, representatives of the Advanced Energy District will work with you and your consultants, engineers and qualified installers to assess the technical and economic feasibility of the Authorized Improvement project you are considering, including working with Advanced Energy District financial advisors, consultants and developers who will be available to offer guidance regarding special assessment revenue bond financing costs, including expected and maximum interests rates and expected and maximum estimated special assessments which the Advanced Energy District expects to be payable by you as property owner(s) in connection with your participation in the Commercial-Industrial Program. The costs of these services provided by the Advanced Energy District, its advisors and agents in assisting you as well as the costs of your consultants, engineers and qualified installers in determining the technical and economic feasibility of Authorized Improvements on your property may be included as part of the cost of your Authorized Improvements. The costs of Authorized Improvements will be eligible to be financed by special assessments paid by you for up to twenty-five years.

Fourth: Upon your determining to proceed with a particular Authorized Improvement project design and plan, you must request and receive the approval of the Board of Directors of the Advanced Energy District that your project satisfies requirements of the Advanced Energy District Documents and that the territory of the Advanced Energy District should be increased to permit the addition of the territory which will be assessed to pay costs of your Authorized Improvements. Upon receipt of approval of the Board of Directors of the Advanced Energy District, you will then execute and file an application or Petition with Mayor and City Council of the participating political subdivision where the additional territory to the Advanced Energy District is proposed to be added. Advanced Energy District financial advisors, consultants or developers will have provided to you by that time the then currently anticipated interest rates on special assessment revenue bonds or other obligations to be issued to pay costs of your Authorized Improvements as well as the estimated special assessments to be paid by you for the financing of your Authorized Improvements and participation in the Commercial-Industrial Program.

Fifth: With your executing and filing a Petition with the Mayor and City Council of the participating political subdivision where your Project will be located, you as the property owner have agreed to the levy and collection of special assessments against your real property to be added to the Advanced Energy District in accordance with the Petition and the Advanced Energy District Documents. Special Assessments will be levied and collected in any year however only in accordance with the Petition and only upon the sale of special assessment revenue bonds or other financing, the proceeds of which will be used to pay the costs of the Authorized Improvements. The timing for the sale of special assessment revenue bonds to pay costs of Authorized Improvements under the Commercial-Industrial Program will depend on the number of and size of Authorized Improvements and market conditions.

Sixth: After your filing of the Petition and your compliance with the Advanced Energy District Documents, the Advanced Energy District and its financial advisors, consultants and developers will advise you as an owner of Property in the District of the commencement of marketing of the special assessment revenue bonds, if applicable, or other financing that will determine the actual interest rate(s) to be paid on special assessment revenue bonds to pay costs of your Authorized Improvements. The Special Assessments that will be payable by you annually as a property owner in the Advanced Energy District as part of the Commercial-Industrial Program is calculated based upon (a) the cost of the Authorized Improvement, (b) federal and state subsidies received by you as owner of the Authorized Improvement, (c) the interest rates payable on the special assessment revenue bonds and (d) administrative charges levied by the participating political subdivision to pay administrative costs. See: The “Services Plan.”

No property owner participating in the Commercial-Industrial Program will be obligated to pay any Special Assessments under the Commercial-Industrial Program unless the property owner first executes an Assessment Schedule which will be prepared by the Advanced Energy District or its agents and staff only after the pricing of special assessment revenue bonds for the Commercial-Industrial Program. The Assessment Schedule will include a schedule of your annual or semiannual payments for participating in the Commercial-Industrial Program. Unless you agree with and execute the Assessment Schedule, you will not be responsible to pay Special Assessments under the Commercial-Industrial Program. If you however execute the Assessment Schedule, you are agreeing to the levy and collection of Special Assessments in accordance with the Advanced Energy District Documents. If you do not execute the Assessment Schedule, you may be responsible to pay certain administrative costs of the Advanced Energy District to remove the lien of the Special Assessments from your property.

Seventh: The proceeds of the sale of special assessment revenue bonds will be deposited with a qualified trustee. Disbursement of proceeds from such sale from the trustee held construction fund to pay Authorized Improvement costs will require the signature of an officer of the Advanced Energy District and the signature of an authorized officer of the applicable property owner. A qualified installer must complete the installation of

Authorized Improvements on your property. See “Authorized Improvements; Qualified Installers” below.

Eighth: This Plan provides that the participating political subdivision that has approved (i) the addition to the territory of the Advanced Energy District and (ii) the Authorized Improvements to be constructed on the applicable property in the District has done so on behalf of the other participating political subdivisions in the Advanced Energy District. The participating political subdivision where your property within the District is located will be the initial owner of the Authorized Improvements. However, the Advanced Energy District, acting as agent for and on behalf of this participating political subdivision may transfer title to the Authorized Improvements to any taxpayer, including you as the property owner, who may then apply for and receive federal and state grants and other tax benefits associated with the ownership of the Authorized Improvements, including accelerated depreciation. The property owner should consult its own tax advisor as to the merits of owning the Authorized Improvements.

Ninth: As a property owner within the Advanced Energy District, you will be expected to make special assessment payments in amounts and at the times as specified in the Advanced Energy District Documents.

Submission and approval of a real property and company information verification form or a Petition does not guarantee that you will receive financing or funding under the Commercial-Industrial Program. The ability to proceed with financing or funding will be dependent on the sale of special assessment revenue bonds or other obligations secured by Special Assessments to pay costs of the Authorized Improvements under the Commercial-Industrial Program. The sale of special assessment revenue bonds or other obligations will depend on a number of factors including the number of and size of the Authorized Improvements and market conditions.

If you proceed to incur costs with Authorized Improvements prior to executing an Assessment Schedule, you risk incurring costs which may not be able to be financed as part of the Advanced Energy District’s Commercial-Industrial Program. In addition, disbursement of proceeds of special assessment revenue bonds or other obligations must be accomplished in accordance with the trust indenture and other documents securing the special assessment revenue bonds as well as the terms and conditions of the Advanced Energy District Documents.

Special Assessments. You, as a property owner must pay any special assessments levied against your property and certified for collection once an Assessment Schedule has been executed regardless of personal financial circumstances, the condition of the property, or the performance of the Authorized Improvements. Do not apply for financing if you are not certain you can pay the special assessments. Just as with any property-based debt such as a mortgage, the failure to pay your special assessments — in full or in part — will result in financial repercussions, including penalties, interest and, eventually, foreclosure of your property by Cuyahoga County.

If you use an escrow account to pay your semi-annual property taxes, you must notify your escrow company of your special assessment payments. You will need to increase your monthly payments to the escrow account by an amount equivalent to your annual special assessments divided by 12 months.

Services Plan. The Board of the Advanced Energy District has also adopted a Services Plan that is part of the Advanced Energy District Documents that property owner(s) must agree to prior to participating in Advanced Energy District's Commercial-Industrial Program. The Services Plan details costs of administration of the Commercial-Industrial Program. The Board of the Advanced Energy District is comprised of the duly appointed and designated persons who hold the office of economic development director in each of the initial participating political subdivisions within the Advanced Energy District. These Board members will approve an annual budget to administer the Commercial-Industrial Program and the annual costs of services will be included in the special assessments levied annually against each parcel of real property included within the Advanced Energy District. The amount levied for Advanced Energy District services rendered in any year as to any parcel of real property in the Advanced Energy District will be in proportion to the cost of the Authorized Improvements financed by special assessments on that parcel of real property to the total cost of all Authorized Improvements financed by special assessments in the Commercial-Industrial Program. The Advanced Energy District may share information with any agents or other third parties as necessary to administer the Commercial-Industrial Program. See "Disclosure of Property Owner Information" below.

Renewable Energy Credits

The Board of the Advanced Energy District may adopt rules governing renewable energy credits associated with Authorized Improvements financed with the proceeds of special assessment revenue bonds.

Statutory Requirements

As provided in the Advanced Energy District Documents:

- (A) Additional territory may be added to the Advanced Energy District. The Advanced Energy District is formed for the purpose of developing the Authorized Improvements. There will be designated at least one Authorized Improvement for each parcel of real property included within such additional territory to be added to the Advanced Energy District. If Additional Territory is to be added to the Advanced Energy District, such addition will be in accordance with the Advanced Energy District Documents and the owner(s) of 100% of the real property to be added to the Advanced Energy District will petition the Mayor and Council of the participating political subdivision where the real property is located for inclusion of such real property in the Advanced Energy District. Prior to submission of the Petition, the Petition shall be approved by the Board of Directors of the Advanced Energy District in accordance with rules established by the Board for such purposes. The Petition necessary to add territory to the Advanced Energy District need not be approved by the Mayor and City Council of other participating political subdivisions in the

- Advanced Energy District where such real property is not located. Additional territory will be added to the Advanced Energy District with the approval of the Board of Directors of the Advanced Energy District and the participating political subdivision where the real property is located all in accordance with the Advanced Energy District Documents and the Act.
- (B) The Advanced Energy District Documents may be amended with the majority vote of the board of directors of the Advanced Energy District held at a meeting in accordance with the Advanced Energy District Documents.
 - (C) The board of directors of the Advanced Energy District possesses authority to implement plans and amend plans for public improvements, including the Authorized Improvements and public services in accordance with and as provided for in Sections 1710.02(F), 1710.02(G) and 1710.06(A) of the Ohio Revised Code.
 - (D) The public improvements to be provided by the Advanced Energy District are the Authorized Improvements included in each Petition; the area where the Authorized Improvements will be developed will be the area identified in each Petition requesting formation of the Advanced Energy District or requesting additional territory be added to the Advanced Energy District and the method of assessment shall be in proportion to the benefits that result from the Authorized Improvements, i.e. in proportion to the cost of each Authorized Improvement financed by special assessments to the cost of all Authorized Improvements financed by special assessments under the Commercial Industrial Program.
 - (E) For purpose of levying an assessment, the board of directors of the District may combine levies for public services and Authorized Improvements into one special assessment to be levied against each specially benefited property in the Advanced Energy District.

III. Eligibility

In order to receive financing from the Advanced Energy District's Commercial-Industrial Program or request the levy of special assessments through the Advanced Energy District's Commercial-Industrial Program, a property owner must meet the following requirements, as the same may be modified or amended by the Board of the District in its sole discretion:

- a. **The property to be improved with the Authorized Improvements (the “subject property”) must be located within one or more of the following municipal corporations (each as “participating political subdivision”): City of Bedford, City Bedford Heights, City of Berea, City of Brooklyn, City of Brook Park, City of Cleveland, City of Cleveland Heights, City of Euclid, City of Fairview Park, City of Garfield Heights, City of Lakewood, City of Maple Heights, City of Parma, City of Parma Heights, City of Shaker Heights, City of South Euclid, City of University Heights, City of Warrensville Heights.**
- b. **The subject property must be used for commercial or industrial purposes, which generally includes all non-residential purposes. A multi-family apartment building will qualify as a commercial building. The aggregate size of each of the Authorized Improvements to be assessed against parcels of real property to be added to the Advanced Energy District must result in energy improvement or efficiency gains satisfactory to the Advanced Energy District**
- c. **All owners of the fee simple title to the subject property must review, sign and approve the Advanced Energy District Documents. Therefore, before submitting an initial application, please ensure that all owners of the fee simple title to the subject property wish to participate in the Advanced Energy District Commercial-Industrial Program on the terms set forth in Advanced Energy District Documents.**
- d. **The Advanced Energy District recommends that the subject property receive an “energy audit” prior to participation in the Commercial-Industrial Program, but participation in the program will not require fulfillment of any such energy audit.**
- e. **The property owner(s) and/or the owners of the Authorized Improvements must apply for the federal grant in lieu of tax credits under the American Recovery and Reinvestment Act of 2009. The federal grant in lieu of tax credit is equal to 30% of the qualified basis of the Authorized Improvements. Property owners must also apply for any available Ohio Energy Office grants. To the extent required by the Advanced Energy District, the property owner must assign each of the grants to the Advanced Energy District or its assigns in order to secure the payment of debt service on special assessment revenue bonds or other obligations issued to finance the property owner’s Authorized Improvements.**
- f. **The property owners(s) must agree to participate in surveys and program evaluations directed by the Advanced Energy District.**

- g. The property owner(s) must not have declared bankruptcy in the past 7 years.**
- h. The property owners must be current in the payment of all obligations secured by the subject property, including property taxes, assessments and mortgages, and there must have been no notices of default filed on the subject property within the past 3 years (or since you took title to the subject property if it has been less than 3 years). The Advanced Energy District may review public records, including the County real property records, to verify compliance with this requirement.**
- i. The property owners must not have involuntary liens, defaults or judgments applicable to the subject property in excess of \$1,000. The Advanced Energy District may review public records, including the County real property records and court documents, to verify compliance with this requirement.**
- j. Because the Commercial-Industrial Program may involve issuance of special assessment revenue bonds or other obligations on behalf of the Advanced Energy District, the Advanced Energy District is concerned that property owners who participate in the program will pay their special assessments in full on a timely basis. Therefore, the Advanced Energy District reserves the right to request additional information, including a credit check, in its sole discretion and to deny applications based on any information that reflects on the likelihood that a property owner may not pay special assessments.**

IV. Authorized Improvements; Qualified Installers; Maximum Funding

Authorized Improvements. At this time, the Commercial-Industrial Program may only be used to finance or secure the financing of Authorized Improvement installations. You are responsible for the Authorized Improvements installed on your property. You will need to address performance and other system-related issues directly with the installer according to the terms of your contract with the installer. **The Advanced Energy District and its Commercial-Industrial Program is a financing program only. Neither the Advanced Energy District nor any of the Advanced Energy District's participating political subdivisions are responsible for the system or its performance.**

Qualified Installers. The Authorized Improvements must be installed by installers that are registered with the State of Ohio. A list of State of Ohio registered installers is located at: <http://www.development.ohio.gov/cms/uploadedfiles/CDD/OEE/NOFA%20Appendix%20F.pdf>. If you choose to work with an installer that is not registered with the State of Ohio, you are not eligible for participation in the Commercial-Industrial Program.

By requiring that your installer be registered with the State of Ohio, the Advanced Energy District is not recommending a particular installer or warranting the reliability of

any such installer. **The Advanced Energy District's Commercial-Industrial Program is a financing program only. Neither the Advanced Energy District nor the participating political subdivisions will participate in the resolution of any dispute between you and your installer.**

Maximum Funding. The Advanced Energy District will only approve applications for funding in accordance with the Advanced Energy District Documents. As a general matter, the Commercial Industrial Program will only finance Authorized Improvements that do not exceed 10% of the appraised value of the property to be assessed. **The Advanced Energy District and the Commercial-Industrial Program will not provide financing for any costs in excess of this amount. The Advanced Energy District encourages you to do your research and receive bids from multiple installers before signing a contract. The Advanced Energy District is not responsible for determining the appropriate equipment, price or installer for your property.**

V. Compliance with Existing Mortgages

The filing of the Petition and the adoption by the participating political subdivision of an ordinance to proceed under Ohio Revised Code Section 727.25 will establish a lien on your property as security for your obligation to pay special assessments in accordance with the Petition and the Advanced Energy District Documents. The lien securing the obligation to pay special assessments may be senior to all private liens, including your purchase mortgage(s). Many loan documents limit the ability of a property owner to place liens upon property without the consent of the lender, or authorize the lender to obligate you to prepay obligations. **Please confirm with your lender(s) that participation in the Commercial-Industrial Program will not adversely impact your rights with respect to any existing loan documents, or obligate you to prepay your special assessments.**

VI. Transfer or Resale of the Subject Property

If you sell your property prior to the end of the special assessment period for your Authorized Improvement, the new owner will assume the obligation to pay special assessments. Ownership of any Authorized Improvements on the subject property will transfer to the new owner at the close of the real estate sale.

VII. Grants and Tax Benefits

Please consult with your tax advisors with respect to the state and federal tax consequences of participating in the Commercial-Industrial Program, including whether you will be eligible for federal energy tax credits as a result of your participation in the Commercial-Industrial Program and whether you can deduct the interest component of the special assessments from your state and federal income taxes.

Neither the Advanced Energy District nor any participating political subdivision is responsible for the state or federal tax consequences of participating in the Commercial-Industrial Program.

VIII. Changes in State and Federal Law

The ability to issue bonds to finance Commercial-Industrial Program Authorized Improvements is subject to a variety of state and federal laws. If those laws were to change after you have made application to the Advanced Energy District, the issuer of the special assessment revenue bonds or other obligations may be unable to issue the bonds or other obligations and the Advanced Energy District may be unable to fulfill your financing application. **The Advanced Energy District shall have no liability as a result of any such change in law.**

IX. Releases and Indemnification

You acknowledge that the Advanced Energy District has been created with the approval of the participating political subdivisions solely for the purpose of assisting the owners of property within participating political subdivisions with the financing of Authorized Improvements, and that the Advanced Energy District and any participating political subdivision shall have no responsibility of any kind for, and shall have no liability arising out of, the installation, operation, financing, refinancing or maintenance of the Authorized Improvements. You agree that you and your successors in interest to fee simple title in the subject property shall be solely responsible for the installation, operation, financing, refinancing and maintenance of the Authorized Improvements. Participation in the program does not in any way obligate the Advanced Energy District or any participating political subdivision to protecting access with respect to any proposed developments that may shade the system. You hereby acknowledge that the subject property will be responsible for payment of special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

You agree to release, defend, indemnify, and hold harmless the Advanced Energy District and the participating political subdivisions, including their officers, directors, employees and agents, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with your participation in the Advanced Energy District's Commercial-Industrial Program.

X. Changes in the Advanced Energy District's Commercial-Industrial Program Terms; Severability

The Advanced Energy District reserves the right to change this Advanced Energy District Commercial-Industrial Program Project Plan and the terms and conditions of the Advanced Energy District Documents at any time without notice; however, no such change will affect your obligation to pay special assessments as set forth in your petition and the Advanced Energy District Documents. Your participation in the Commercial-Industrial Program will be subject to the Advanced Energy District Document terms and conditions in effect from time to time during your participation.

If any provision of the Advanced Energy District Documents is determined to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these

Advanced Energy District Documents and the Commercial-Industrial Program and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

You agree that the Advanced Energy District and any participating political subdivision may disclose your personal information to any agent of the Advanced Energy District or that participating political subdivision and that the Advanced Energy District, participating political subdivisions and its agents may disclose your information to third parties when such disclosure is essential to the conduct of the Advanced Energy District's business or to provide services to you, including but not limited to where such disclosure is necessary to (i) comply with the law, legal process or our regulators, (ii) enable the Advanced Energy District and participating political subdivisions and their employees or consultants to provide services to you and to otherwise perform their duties and (iii) obtain and provide credit reporting information. We do not provide your personal information to third parties for telemarketing, e-mail or direct mail solicitation.

In order to receive funding for this program and to enable communication regarding the State of Ohio's energy programs, you consent to the release of your name and contact information to your current electric utility. You further agree to the release of your name and contact information and your property's utility usage data to the Advanced Energy District, its grantors and designated contractors for the purpose of conducting surveys and program evaluation of the Commercial-Industrial Program.

EXHIBIT F

NORTHEAST OHIO ADVANCED ENERGY DISTRICT ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT (ADVANCED ENERGY DISTRICT)

COMMERCIAL-INDUSTRIAL SERVICES PLAN

The Northeast Ohio Advanced Energy District Advanced Energy Special Improvement District (“Advanced Energy District”) intends to deliver services pursuant to this Commercial-Industrial Services Plan (the "Services Plan"), in such manner as will be determined from time to time by the District's board of directors (the "Board"). This Services Plan is designed to provide ongoing services to the properties in the Advanced Energy District during the years 2010 to 2035. This Services Plan may be amended by the Board. The Services Plan includes all terms and provisions of the Advanced Energy District Documents, which are incorporated herein by reference as if fully written herein. The services to be provided are as follows:

MARKETING AND PROMOTION SERVICES

Services to market Commercial-Industrial Program and promote the image of the region through the following examples:

- Development of Literature and Brochures
- Sponsored Media campaigns
- Public Relations
- Data collection and information management
- Cooperative programs with members
- Electronic and printed marketing materials
- Special Events

PROGRAM DESIGN SERVICES

Comprehensive design services to establish and maintain the strongest possible legal and programmatic framework for the Commercial-Industrial PACE program.

PROGRAM ADMINISTRATION SERVICES

Provide community education, application acceptance, and real-time program tracking. Administrative services include:

- Education & Marketing
- Application Processing
- Property Underwriting
- Project Verification
- Quality Assurance
- Customer Service
- Origination and Closing Process

SPECIAL ASSESSMENT ADMINISTRATION SERVICES

Administrative services related to the Special Assessments are associated with the annual determination of the Special Assessments to be collected from the subject properties of the Advanced Energy District, management of bond funds and accounts relating to Special Assessments, and providing public information. These services will be provided pursuant to a Cooperative Agreement ("Cooperative Agreement") to be executed between each of the participating political subdivisions, the issuer of the special assessment revenue bonds and the District. These bond administration services may also be included as part of a separate Administration Agreement and paid from assessment payments as provided in the Indenture securing Bonds. If so, no separate special assessment for administration services for Bonds will be included as part of the Services Plan, but rather will be included as part of the separate Administration Agreement. Services include:

A. Calculate the Reduction of the Special Assessments for the Following Year

This task involves calculating the amount of the reduction of the Special Assessments to be collected in the following year by each participating political subdivision and includes the following sub-tasks:

- (1) **Determine Annual Bond Payments:** Identify expenses of the special assessment revenue bonds or other obligations secured by the Special Assessments (collectively, "Obligations"), including annual debt service charges, administrative expenses, and other expenses as provided for in the trust agreement securing the Obligations. This determination shall be made using the definitions of "Annual Bond Payments" and other relevant defined terms and including any contingencies permitted by the trust agreement as the same may appear in the trust agreement securing the Obligations, a copy of which will be provided to the District at the closing of the Obligations.
- (2) **Determine Annual Available Amounts:** Prepare reconciliation, on dates as may be required, to determine value of amounts held in funds established under the trust agreement, interest earnings, and other credits which may be applied to pay debt service and other expenses under the trust agreement. This determination shall be made using the definitions of "Annual Available Amounts" and related definitions under the trust agreement.
- (3) **Calculate the Annual Required Assessments:** Based on the estimates of annual expenses and assets of Obligations incurred to pay costs of special energy improvement projects, including annual debt service charges, administrative expenses and other expenses as provided for in the Plan, the Petition and documents securing the Obligations, including any contingency required by any trust agreement securing the Obligations, the District shall calculate the Annual Required Assessments to be collected in the following year through the imposition of the Special Assessments that will be collected by the applicable participating political subdivision levying the Special Assessments. This determination shall be made using the definitions of "Annual Bond Payments," "Annual Available Amounts," "Annual Required Assessments" and related definitions under the trust agreement securing the Obligations.

(4) Determine Special Assessments for the Assessed Properties: Based on the Annual Required Assessment and the provisions of applicable Petitions and the Plan, the District shall determine the Special Assessment to be imposed on each parcel within the District.

B. Prepare Certification of Special Assessments to the County Auditor

This task involves certifying the Special Assessments to be collected from each parcel within the District to the County Auditor no later than the second Monday in September each year. The District shall coordinate with each of the participating political subdivisions and the County Auditor to provide the information required to certify the Special Assessments for inclusion on the general tax list and duplicate and to be collected in semiannual installments.

C. Support Services Related to Billing of the Special Assessments

(1) Present Findings to the Board: The annual report about the Special Assessments prepared by the District will be provided to the Board for its approval, and a copy of such report will be provided to each of the participating political subdivisions.

(2) Approval of Special Assessments by the City Councils of each of the participating political subdivisions: The certification of Special Assessments to be provided to the County Auditor will be submitted to the City Council of each participating political subdivision for its approval prior to its submission to the County Auditor.

(3) Certification to the County Auditor: Once approved by the City Council of each participating political subdivision, the District will be responsible for submitting to the County Auditor the District's annual certification of the total amount of the Special Assessment to be collected each year, and of the Special Assessments to be collected from each parcel in semiannual installments. Such annual certification of Special Assessments shall be provided to the County Auditor no later than the second Monday in September. Assistance will be provided to each participating political subdivision, the County Auditor, County Treasurer, or other officials of the County as is necessary for the levy of Special Assessments.

(4) Supplemental Billing: The District shall assist the County with any supplemental billing that should be necessary. Any Special Assessments rejected by the County Auditor (e.g., the tax parcel number is no longer valid) will be corrected and resubmitted.

D. Dispute Resolution; Administrative Review of the Special Assessments and Other Calculations

An owner of a parcel claiming that a calculation error has been made in the amount of the Special Assessments to be collected from a parcel or in any other calculation required to be made hereunder shall send a written notice describing the error to the Board of the Advanced Energy District (or such other entity as may be designated by the Board of the Advanced Energy District to hear such claims) not later than thirty (30) days after having paid the Special Assessment Installment Payment in accordance with the Assessment Schedule which is alleged to have been calculated incorrectly or within thirty (30) days of receiving notice of any other calculation, prior

to seeking any other remedy. The Board of the Advanced Energy District (or such other entity as may be designated by the Board of the Advanced Energy District to hear such claims) shall promptly review the notice, and if necessary, meet with the property owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred. If the Board of the Advanced Energy District (or other entity designated by the Board) determines that a calculation error did in fact occur that requires the Special Assessments to be modified or changed in favor of the property owner, a cash refund shall not be made (except for the final year during which Special Assessments shall be collected), but an adjustment may be made in the amount of the Special Assessments to be paid in the following year. The decision of the Board of the Advanced Energy District (or other entity designated by the Board) regarding an error in the levy of the Special Assessments or any other calculation shall be conclusive as long as there is a reasonable basis for the determination of the Board (or other entity designated by the Board). Notwithstanding any other provision of the Advanced Energy District Documents to the contrary, the undersigned agrees that it and its successors shall have only the remedies provided for in this paragraph, and shall have no recourse to any participating political subdivision, the Advanced Energy District, issuer of the special assessment revenue bonds for the Project or the Trustee in respect of amounts levied or collected other than in accordance with the Advanced Energy Documents.

DELINQUENCY MANAGEMENT

These services are provided only if the Special Assessments are levied and there are delinquencies in the payment of the Special Assessments.

A. Delinquent Special Assessments Report

After the end of each collection period, the District will prepare for the Board a report which lists each parcel delinquent in the payment of the Special Assessments and the corresponding amount of delinquency, plus penalties. The District will also provide each participating political subdivision with a copy of this report.

B. Delinquency Follow-Up

This task entails the preparation and mailing of demand letters to property owners with a delinquent Special Assessments and is performed if requested by the issuer of the Obligations or a participating political subdivision.

(1) Preparation and Mailing of Delinquency Letters

The District will assist each participating political subdivision with the collection of Special Assessments. Unless otherwise directed by a participating political subdivision, the issuer of the Obligations, or the trustee for the Obligations, the District will send reminder letters to property owners with delinquent Special Assessments. After thirty days, if the Special Assessments are still delinquent, a payment demand letter will be mailed informing the property owner that the property will be subject to a tax sale if the delinquency is not cured. The District

shall cooperate with and assist the applicable participating political subdivision(s), the issuer of the Obligations, and the County Auditor in their efforts to collect any delinquent Special Assessments.

(2) Coordination with Delinquent Property Owners

The District will coordinate with and answer questions from delinquent property owners to whom demand letters were mailed.

(3) Inform the issuer of Obligations Regarding Special Circumstances

The District will keep the issuer of Obligations informed of special circumstances that come to the attention of the District, such as bankruptcies and foreclosures.

(4) Preparation of Delinquency Report

The District will prepare a delinquency report which identifies all parcels for which demand letters were sent, any payments received, the payment date, and any amounts still delinquent as of January 31. The District will coordinate with the County regarding the procedures related to a tax sale for delinquent Special Assessments.

SUPPLEMENTAL SERVICES

To the extent that the Board may determine and funds may allow, the District may provide supplemental services designed to increase appreciation for the District, strengthen the cohesiveness of the District, and improve communication among members of the District and public agencies, such as providing access to data and information collected by the District, displaying informational banners in participating political subdivisions, and attending City Council meetings of participating political subdivisions when issues are discussed relevant to the District.

BUDGET

The portion of the cost of the Services Plan that will be assessed to property owners which will be determined by the board of the Special Improvement District subject to increase as the number of Authorized Improvements financed with District financing increases. The Board will determine how to allocate funds among the services to be provided.

By March 1st of each year, the Treasurer of the Board, as directed by the Board, will produce or cause to be produced and make available to the members of the District and the Board an annual report describing the services delivered, revenues received, expenditures made, and other information about the activities of the District.

By November 1st of each year or as soon thereafter as possible, the Treasurer of the Board, as directed by the Board, will produce or cause to be produced an annual budget for the following calendar year.

EXHIBIT G

NORTHEAST OHIO ADVANCED ENERGY DISTRICT ADVANCED ENERGY SPECIAL
IMPROVEMENT DISTRICT
(ADVANCED ENERGY DISTRICT)

ARTICLES OF INCORPORATION



DATE	DOCUMENT ID	DESCRIPTION	FILING	OVER PAYMENT	EXPED	CERT	COPY
06/09/2017	201715904106	AMENDMENT TO ARTICLES (AMD)	50.00	0.00	0.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

BRICKER & ECKLER LLP
CHRISTINA MILLER
100 SOUTH THIRD STREET
COLUMBUS, OH 43215

STATE OF OHIO
CERTIFICATE

Ohio Secretary of State, Jon Husted
1985578

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
... CITY OF CLEVELAND, OHIO ... ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT,
INC. (SEE EXHIBIT A FOR EXACT NAME)
and, that said business records show the filing and recording of:

Document(s)	Document No(s):
AMENDMENT TO ARTICLES	201715904106
Effective Date: 06/07/2017	



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
9th day of June, A.D. 2017.

Jon Husted
Ohio Secretary of State



Form 541 Prescribed by:
JON HUSTED
 OHIO SECRETARY OF STATE
 Toll Free: (877) SOS-FILE (877-767-3453)
 Central Ohio: (614) 466-3910
 www.OhioSecretaryofState.gov
 busssery@OhioSecretaryofState.gov
 File online or for more information: www.OHBusinessCentral.com

Mail this form to one of the following:

Regular Filing (non expedite)
 P.O. Box 1329
 Columbus, OH 43216

Expedite Filing (Two business day processing time.
 Requires an additional \$100.00)

P.O. Box 1390
 Columbus, OH 43216

**Certificate of Amendment
 (Nonprofit, Domestic Corporation)
 Filing Fee: \$50**

Check the appropriate box:

- Amendment to existing Articles of Incorporation by Members pursuant to Ohio Revised Code section 1702.38(C) (128-AMD)
- Amended and Restated Articles by Members pursuant to Ohio Revised Code section 1702.38(D) or by Directors pursuant to Ohio Revised Code section 1702.38(E) (126-AMAN) - The following articles supersede the existing articles and all amendments thereto.

Complete the following information:

Name of Corporation:

Charter Number:

RECEIVED
 JUN -7 PM 3:53
 STATE SERVICE CENTER

A copy of the resolution of amendment must be attached to this document.

Note: If amended and restated articles were adopted, amended articles must set forth all provisions required in original articles other than with respect to the initial directors pursuant to Ohio Revised Code section 1702.38(A). In the case of adoption of the resolution by the directors, a statement of the basis for such adoption shall be provided.



Form 541 Prescribed by:
JON HUSTED
OHIO SECRETARY OF STATE
Toll Free: (877) SOS-FILE (877-767-3453)
Central Ohio: (614) 466-3910
www.OhioSecretaryofState.gov
hustedj@OhioSecretaryofState.gov
File online or for more information: www.OHBusinessCentral.com

Mail this form to one of the following:

Regular Filing (non expedite)
P.O. Box 1329
Columbus, OH 43216
Expedite Filing (Two business day processing time.
Requires an additional \$100.00)
P.O. Box 1390
Columbus, OH 43216

Certificate of Amendment
(Nonprofit, Domestic Corporation)
Filing Fee: \$50

Check the appropriate box:

- Amendment to existing Articles of Incorporation by Members pursuant to Ohio Revised Code section 1702.38(C) (128-AMD)
- Amended and Restated Articles by Members pursuant to Ohio Revised Code section 1702.38(D) or by Directors pursuant to Ohio Revised Code section 1702.38(E) (126-AMAN) - The following articles supersede the existing articles and all amendments thereto.

Complete the following information:

Name of Corporation

Charter Number

RECEIVED
JUN -7 PM 3:53
SERVICES CENTER

A copy of the resolution of amendment must be attached to this document.

Note: If amended and restated articles were adopted, amended articles must set forth all provisions required in original articles other than with respect to the initial directors pursuant to Ohio Revised Code section 1702.38(A). In the case of adoption of the resolution by the directors, a statement of the basis for such adoption shall be provided.

ACTION BY RESOLUTION

OF THE BOARD OF DIRECTORS OF

**CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREА,
OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF
CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EUCLID,
OHIO, CITY OF FAIRVIEW PARK, OHIO, CITY OF GARFIELD HEIGHTS, OHIO,
CITY OF LAKEWOOD, OHIO, CITY OF PARMA, OHIO, CITY OF SOUTH EUCLID,
OHIO, CITY OF WARRENSVILLE HEIGHTS, OHIO, CITY OF UNIVERSITY
HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.**

Pursuant to Section 1710.02(D)(3), Ohio Revised Code and Article 6 of the Articles of Incorporation of the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Bereа, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of Euclid, Ohio, City of Fairview Park, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Parma, Ohio, City of South Euclid, Ohio, City of Warrensville Heights, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc. (the "Corporation"), the Board of Directors of the Corporation, at a meeting of the Board of Directors at which a quorum was present, took the following actions:

Approval of Amendment to Articles of Incorporation:

RESOLVED, that Article First of the Articles of Incorporation of the Corporation, attached to these resolutions as Appendix I (the "Articles of Incorporation") is hereby amended to read as follows:

FIRST

Name of Corporation: The name of the Corporation shall, at any time and from time to time be the unique proper name only of each participating political subdivision, as defined in Ohio Revised Code ("ORC") Section 1710.02(E), of the special improvement district governed by the Board of Directors of the Corporation, in alphabetical order, separated by commas, and followed by the words "Advanced Energy Special Improvement District, Inc." For demonstration purposes, as of the adoption of this Article First, the name of the Corporation shall be "City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Bereа, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of Euclid, Ohio, City of Fairview Park, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Shaker Heights, Ohio, City of South Euclid, Ohio, City of Warrensville Heights, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District"

FURTHER RESOLVED, that Article Eighth of the Articles of Incorporation is hereby amended to read as follows:

EIGHTH The District and the Corporation are hereby authorized to use the trade name "Northeast Ohio Advanced Energy District."

APPENDIX I

ARTICLES OF INCORPORATION

OF

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW PARK, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF PARMA, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF WARRENSVILLE HEIGHTS, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

[See Attached]

Doc ID --> 201036300145

DATE	DOCUMENT ID	DESCRIPTION	FILED	EXPED	PENALTY	CERT	COPY
12/29/2018	201036300145	DOMESTIC ARTICLES/NON-PROFIT (A/N)	12/29	100.00		50	60

Receipt

This is not a bill. Please do not remit payment.

BRICKER & ECKLER ATTORNEYS AT LAW
ATTN: SALLY W. BLOOMFIELD
100 SOUTH THIRD STREET
COLUMBUS, OH 43215

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jennifer Brunner

1985578

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
... CITY OF CLEVELAND, OHIO ... ADVANCED ENERGY SPECIAL IMPROVEMENT
DISTRICT, INC. (SEE EXHIBIT A FOR EXACT NAME)

Document(s)
DOMESTIC ARTICLES/NON-PROFIT

Document No(s)
201036300145



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 29th day of December,
A.D. 2018.

Jennifer Brunner
Ohio Secretary of State

Doc ID --> 201036300145



Prescribed by:
Ohio Secretary of State
Cordell R. Rice (614) 866-3910
Toll Free: 1-877-505-8122 (1-877-747-8455)

www.ohio.gov
e-mail: business@vns.state.oh.us

Expeditious Filing Form: **Standard Filing**

Yes PG Rec. 1330
Columbus, OH 43216

No PG Rec. 670
Columbus, OH 43218

INITIAL ARTICLES OF INCORPORATION
(For Domestic Profit or Nonprofit)
Filing Fee \$125.00

THE UNDERSIGNED HEREBY STATES THE FOLLOWING:

CHOOSE ONE Y OR N (If N, see 2)

<input checked="" type="checkbox"/> Y Articles of Incorporation (Profit)	<input checked="" type="checkbox"/> Y Articles of Incorporation (Nonprofit)	<input type="checkbox"/> N Articles of Incorporation (Professional)
OH-ART (04/01/01)	OH-ART (04/01/01)	OH-ART (04/01/01)

Complete the general information in this section for the form checked above.

FIRST: Name of Corporation: See attached Exhibit A

SECOND: Location: Cleveland Hts. Cuyahoga
City County

Effective Date (Optional): _____ Date specified may be no more than 90 days after date of filing. If a date is specified, the date must be a date on or after the date of filing.
(month/year)

Check here if additional provisions are attached

Complete the information in this section if box (Y) or (N) is checked. Complete that section if optional either (Y) is checked.

THIRD: Purpose for which corporation is formed:
See attached Exhibit A

Complete the information in this section if box (Y) or (N) is checked.

FOURTH: The number of shares which the corporation is authorized to have outstanding (Please state if shares are common or preferred and their par value if any) _____
(State no instructions if none)

_____ (No. of Shares) _____ (Type) _____ (Par Value)

Doc ID --> 201036300145

Completing the information in this section is optional.

FFD: The following are the names and addresses of the individuals who are to serve as Initial Directors.

Name: _____
 (Last) **NOTE: P.O. Box Addresses are NOT acceptable.**

City: _____ State: _____ Zip Code: _____

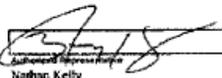
Name: _____
 (Last) **NOTE: P.O. Box Addresses are NOT acceptable.**

City: _____ State: _____ Zip Code: _____

Name: _____
 (Last) **NOTE: P.O. Box Addresses are NOT acceptable.**

City: _____ State: _____ Zip Code: _____

REQUIRED
 Must be authorized
 (signed) by an authorized
 representative
 (See instructions)


 Authorized Representative

11/17/10
 Date

(print name)
 Nathan Kelly
 Dev. Dir. City of Lakewood, Ohio &
 Chair - First Suburbs Development Council

 Authorized Representative

 Date

(print name)

 Authorized Representative

 Date

(print name)

Doc ID --> 201036300145

Complete the information in this section if box (1), (2) or (3) is checked.

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of See attached Exhibit A
hereby appoint the following to be statutory agent upon whom any process, notice or demand required or permitted by
statute to be served upon the corporation may be served. The complete address of the agent is

Jennifer Kuzma
(Name)
40 Severance Circle
(Street) NOTE: P.O. Box Addresses are NOT accepted
Cleveland TN Ohio 44118
(City) (Zip Code)

Must be authenticated by an
authorized representative: [Signature] 11/17/10
Authorized Representative Date

Authorized Representative Date

Authorized Representative Date

ACCEPTANCE OF APPOINTMENT

The undersigned, Jennifer Kuzma, named herein as the
Statutory agent for, See attached Exhibit A
hereby acknowledges and accepts the appointment of statutory agent for said entity.

Signature: Jennifer Kuzma
(Statutory Agent)

132

Page 3 of 3

Last Revised: May 2009

Doc ID --> 201036300145

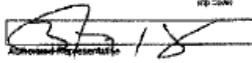
Complete the information in this section if box (1), (2) or (3) is checked.

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of See attached Exhibit A, hereby appoint the following to be statutory agent upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. The complete address of the agent is:

Jennifer Kuzma
City: AK Governance Circle
(State) OH ZIP: (U.S. Zip Address) and FST ZIP: 44118
City: Cleveland Hts. Ohio ZIP: 44118
City: _____ ZIP: _____

Must be authenticated by an authorized representative:

	<u>11/17/10</u>
Authorized Representative	Date
_____	_____
Authorized Representative	Date
_____	_____
Authorized Representative	Date

ACCEPTANCE OF APPOINTMENT

The Undersigned, Jennifer Kuzma, named herein as the Statutory agent for, See attached Exhibit A, hereby acknowledges and accepts the appointment of statutory agent for said entity.

Signature: Jennifer Kuzma
Statutory Agent

Doc ID --> 201036300145

EXHIBIT A

ARTICLES OF INCORPORATION
OF

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA,
OHIO, CITY OF BROOKLYN, OHIO, CITY OF BROOK PARK, OHIO, CITY OF
CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EUCLID, OHIO,
CITY OF FAIRVIEW PARK, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF
LAKEWOOD, OHIO, CITY OF PARMA, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY
OF UNIVERSITY HEIGHTS, OHIO, CITY OF WARRENSVILLE HEIGHTS, OHIO
ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

- 1. The name of the District shall be the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brooklyn, Ohio, City of Brook Park, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of Euclid, Ohio, City of Fairview Park, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Parma, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio, City of Warrensville Heights, Ohio Advanced Energy Special Improvement District (the "District").

- 2. The principal office of the corporation shall be located in Cleveland Heights, Ohio.

- 3. The purposes for which the Corporation is formed are:

To govern the District pursuant to Ohio Revised Code ("ORC") Chapter 1710 and in so doing to have and exercise all powers, rights and privileges conferred by the laws of Ohio on nonprofit corporations formed for the purpose of governing a special improvement district, including, but not limited to, buying, leasing or otherwise acquiring and holding, using or otherwise enjoying and selling, leasing or otherwise disposing of any interest in any property, real or personal, of whatever nature and wherever situated, and buying and selling renewable energy credits, stocks, bonds, or any other security of any issuer as the Corporation by action of its Board of Directors may, at any time and from time to time, deems advisable.

- 4. The initial territory within the District shall be the following properties, each of which is within a participating political subdivision and each of which has at least one special energy improvement project designated for the property.

Permanent Parcel No. 812-10-011	(City of Bedford)
Permanent Parcel No. 792-17-004	(City of Bedford Heights)
Permanent Parcel No. 362-13-053	(City of Berea)
Permanent Parcel No. 343-16-001A	(City of Brook Park)
Permanent Parcel No. 431-16-002	(City of Brooklyn)
Permanent Parcel No. 113-18-014	(City of Cleveland)
Permanent Parcel No. 682-19-001	(City of Cleveland Heights)
Permanent Parcel No. 643-05-043	(City of Euclid)

07/03/2014 2:41:53 AM

Doc ID --> 201036300145

Permanent Parcel No. 323-05-001 (City of Fairview Park)
Permanent Parcel No. 545-14-015 (City of Garfield Heights)
Permanent Parcel No. 312-14-119 (City of Lakewood)
Permanent Parcel No. 450-01-001 (City of Parma)
Permanent Parcel No. 703-03-063 (City of South Euclid)
Permanent Parcel No. 722-17-051 (City of University Heights)
Permanent Parcel No. 763-01-007 (City of Warrensville Heights)

5. The reasons for creating the District are:

To enhance the value of properties within the District and improve the environment by developing and assisting in developing within the District special energy improvement projects which will reduce the region's carbon footprint and promote the region as a location for green technology job creation, and to carry out such other limited improvements and/or services in and for the benefit of the District and consistent with the District's purpose and authority as the Board of Directors may determine necessary and funds may allow.

The aforesaid reasons for creating the District will be conducive to the public health, safety, peace, convenience, and welfare of the District by enhancing the value of properties, improving the environment and prompting the creation of jobs.

6. Any provision of these Articles of Incorporation may be amended only upon: (a) the affirmative vote of a majority of the Board of Directors of the Corporation at any meeting at which a quorum is present, and (b) approval of such amendment by resolution of the legislative authority of each participating political subdivision, and (c) filing the approved amendment and resolution with the Ohio Secretary of State.

7. Upon the dissolution of the District, any assets or rights of the District shall be distributed as provided by applicable law.

4053186/2

**PETITION TO ADD TERRITORY TO
THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT
AND FOR SPECIAL ENERGY IMPROVEMENT PROJECT**

To: The Mayor and City Council of the City of Fairview Park, Ohio

The undersigned does hereby respectfully petition the City of Fairview Park, Ohio (the “City”) for the addition of territory to **The Northeast Ohio Advanced Energy District** (the “Advanced Energy District”) pursuant to Chapter 1710 of the Ohio Revised Code, as amended from time to time (the “Act”) and the rules and regulations governing the Advanced Energy District (such rules and regulations are collectively referred to in this Petition as the “Advanced Energy District Documents”). Attached to this Petition as Exhibit A is the approving resolution (“Approving Resolution”) of the Board of Directors (“Board”) of the Advanced Energy District approving the addition of real property to the Advanced Energy District as being in accordance with the Advanced Energy District Documents. The undersigned acknowledges receipt of the Advanced Energy District Documents from the Advanced Energy District and by the execution and submission of this petition hereby agrees to the terms and provisions of the Advanced Energy District Documents. Capitalized words and terms used and not otherwise defined in this Petition shall have the meanings assigned to them in the Energy Project Cooperative Agreement (as defined below).

The undersigned represents that he or she is the owner within 60 days of the date of submission of this Petition for purposes of Ohio Revised Code Section 1710.02(E) (“Owner”) or the duly authorized signatory or officer of the Owner of one hundred per cent of the property or properties set forth in Exhibit B (the “Assessed Property”), and that 21000 Brookpark Landlord LLC will develop and implement a “special energy improvement project,” as described in Exhibit C, (the “Project”) on each parcel of real property described in Exhibit B.

In support of this petition, the undersigned petitioner(s) agree to and approve the following:

1. Plan. The Project will be developed and implemented in accordance with the Advanced Energy District Documents, the Approving Resolution, an Energy Project Cooperative Agreement (the “Energy Project Cooperative Agreement”) between 21000 Brookpark Landlord LLC, the City, the Advanced Energy District, and PACE Equity LLC (the “Investor”) and a Special Assessment Agreement (the “Special Assessment Agreement”) by and among 21000 Brookpark Landlord LLC, the Advanced Energy District, the City, the County Treasurer of Cuyahoga County, Ohio (the “County Treasurer”), and the Investor.

2. Assessment for Special Energy Improvement Project. The undersigned as Owner of the Assessed Property, hereby consents to, requests, and agrees in writing that the Assessed Property be included within the Advanced Energy District. The Owner further petitions for the Assessed Property to be assessed to pay costs of the Project, in accordance with the Advanced Energy District Documents. As of the date of this Petition, the Assessed Property constitutes the portion of a tax parcel described on Exhibit B. If after the date of this Petition the parcel is subdivided such that the Assessed Property is no longer a part of the tax parcel of which it is part as of the date of this Petition, the undersigned Owner hereby requests that 100% of the special assessments levied on the Assessed Parcel pursuant to this Petition be allocated to any resulting

parcel or parcels containing a portion of the Assessed Parcel, and that the special assessments be allocated among any such parcels in proportion to the building square footage on each such parcel. The undersigned Owner hereby consents to the above allocation of the special assessments and represents and warrants that the above allocation of special assessments is in proportion to and does not exceed the special benefits conferred on the Assessed Property by the Project.

3. Project Costs to be Assessed and Collected. The Owner requests that (A) the whole costs of the Project, other than any payments or other amounts required to be contributed by the Owner or others for Project costs under the Energy Project Cooperative Agreement, be specially assessed, together with interest at the Applicable Rate and such other additional amounts as are necessary to repay the Project Advance and Administrative Expenses, in proportion to the benefits that may result from the Project upon the Assessed Property pursuant to Section 701.05 and Chapter 727 of the Revised Code, (B) those special assessments (the “Special Assessments”) be levied in accordance with the schedule attached to this Petition as Exhibit D, (C) any amounts so assessed be certified to the Cuyahoga County Fiscal Officer to be placed on the tax list and duplicate and (D) the Special Assessments be collected by the County Treasurer.

In connection with this Petition and in furtherance of the purposes hereof, the Owner acknowledges that it has reviewed or has caused to be reviewed (A) the plans and specifications and the profiles for the Project, and (B) the estimate of costs of the Project and the estimate of amounts available from grants, loans and other moneys for Project costs as prepared by the Owner with the assistance of its Consultants, which are now on file with the Clerk of Council. In connection with this Petition and in furtherance of the purposes of this Petition, the Owner also acknowledges that it has reviewed or has caused to be reviewed the estimated special assessments to be levied for the Project, which are now on file with the Clerk of Council and are set forth on Exhibit D to this Petition.

In consideration for the Project, the Owner agrees (A) that the Special Assessments do not exceed the benefit to be received by the Assessed Property as a result of the Project, (B) that the Assessed Property is benefited by the Project in the proportionate amounts set forth below, (C) that the Assessed Property is the only property specially benefited by the Project and the only property that should be assessed for the Project, (D) that the Owner will pay promptly all installments of the Special Assessments levied against the Assessed Property as they become due, (E) that the determination by the Council of the Special Assessments against the Assessed Property pursuant to and in accordance with this Petition will be final, conclusive and binding upon the Owner, its successors and assigns and grantees of the Assessed Property and (F) to include in each deed conveying all or any portion of the Assessed Property (i) a reference to the Special Assessments allocable to the property or portion being conveyed, as determined and approved by the City and the Advanced Energy District, and (ii) a covenant running with such property to be bound by the provisions of this Petition and to timely pay the installments of the Special Assessments as they come due. The Owner further acknowledges and agrees that the Applicable Rate is substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City.

In the event that at any time following the date of this Petition the Property is combined or subdivided into permanent parcels in the records of the Fiscal Officer of Cuyahoga County, Ohio, then the Petitioner hereby requests that the Special Assessments be allocated among the

resulting parcels in proportion to the improved building square footage of the existing parcels that is contained in each resulting parcel that contains a portion of an existing parcel. The Petitioner hereby certifies, represents, and warrants to the District and the City that the portion of the Special Assessments allocated to each resulting parcel as described above will be in proportion to, and will not exceed, the special benefits to be conferred on the resulting parcel or resulting parcels by the Authorized Improvements identified in this Petition.

4. Adjustment of the Special Assessments and of the Installments of Special Assessments to be Collected. The levy and collection of the Special Assessments may be subject to adjustment pursuant to the provisions of the Energy Project Cooperative Agreement. Pursuant to the Energy Project Cooperative Agreement, the City will take such actions as may be permitted by law and are necessary to certify to the Cuyahoga County Fiscal Officer for collection any adjustment to any installment of the Special Assessments.

5. Prepayment of Special Assessments. The Special Assessments as to any parcel shall only be prepayable as provided in the Energy Project Cooperative Agreement.

6. Waivers. The Owner consents and requests that the Special Assessments be levied and collected without limitation as to the value of the Assessed Property, and waive all the following relating to the Project and the Special Assessments:

(1) Any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code or by any other provision restricting these special assessments, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future, and also including, but not limited to, any provision restricting these special assessments to 33-1/3% of the actual improved value of the Assessed Property as enhanced by the Project;

(2) Any and all rights, benefits and privileges specified by Section 727.04 of the Revised Code or by any other provision limiting special assessments for reimprovement when a special assessment has been levied and paid previously;

(3) Any and all damages or claims for damages of whatsoever kind, character or description resulting from the Project or the construction of the Project, including but not limited to all rights, benefits and privileges specified by Sections 727.18 through 727.22 and Section 727.43 of the Revised Code;

(4) Any and all resolutions, ordinances and notices required for the construction of the Project, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, any increase in the cost of labor and materials over the estimated cost, and the passage of the assessing ordinance, including but not limited to notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code;

(5) Any and all irregularities and defects in the proceedings;

(6) The right to strict construction of proceedings specified by Section 727.40 of the Revised Code (the Owner hereby requesting and agreeing that the proceedings for the Project and the levying of the Special Assessments be

liberally construed in all respects);

(7) Any waiver of the lien of the Special Assessments after two years as specified by Section 727.34 of the Revised Code, (the Owner hereby requesting and agreeing that such lien against the properties it owns continue in force so long as any of the Special Assessments against them remain uncollected); and

(8) Any and all rights, benefits and privileges specified by Sections 727.12, 727.15, 727.23, 727.24, 727.25 and 727.251 of the Revised Code, including but not limited to the filing of plans, specifications, profiles and estimate of cost relating to the Project, the preparation and filing of estimated assessments and the right to file objections to the proposed assessment or to the cost of the labor and materials for the Project, and the right to request a deferment of payment of those Special Assessments.

The Owner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code Chapter 1710. The Owner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Owner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

The Owner further agrees and consents to the Council promptly proceeding with all actions necessary to facilitate the acquisition, installation, equipment, and improvement of the Authorized Improvements and to impose the Special Assessments.

The Owner further consents and requests that (A) all legislation required to be enacted to permit the Project to commence immediately be enacted at one Council meeting, including, without limiting the generality of the foregoing, the resolution of necessity specified in Section 727.12 of the Revised Code, the ordinance to proceed specified in Section 727.23 of the Revised Code and the assessing ordinance specified in Section 727.25 of the Revised Code, (B) the Special Assessments be levied (and may be collected) before the Project is commenced and the actual cost of the Project is ascertained, and (C) notwithstanding Section 727.24 of the Revised Code, the Project be undertaken pursuant to the Cooperative Agreement.

The Owner agrees that it will not contest, in a judicial or administrative proceeding, the Special Assessments levied against its properties for the Project.

7. Transfer of Special Energy Improvement Project. In accordance with the Act and Section 20 of Article VIII of the Ohio Constitution, the undersigned hereby requests that the City or the Board, acting as agent and on behalf of the City, sell, transfer, lease or convey the special energy improvement project to the undersigned in accordance with the Advanced Energy District Documents for public purposes as set forth in the Act, one purpose being to permit taxpayers (such as the Owner) that subsequently own special energy improvement projects to be able to claim federal investment tax credits, grants in lieu of tax credits, state grants, accelerated depreciation, renewable energy credits and other tax or monetary benefits (collectively, "Benefits") available to taxpayers that own special energy improvement projects. The undersigned agrees that it will apply for or cause others to apply for Benefits available to the

undersigned in connection with the undersigned's ownership of the Project as the consideration for such sale, transfer, lease or conveyance as determined by the Board in the Advanced Energy Documents.

8. Boundaries. A legal description of the territory to be added to the Advanced Energy District and a definitive listing, as identified by parcel number, of such property or properties to be included in the Advanced Energy District are provided in Exhibit B.

This petition may be executed in several counterparts, each of which will be an original and all of which will constitute one and the same instrument.

9. Improvements Plan. If approved by the City, this Petition shall constitute an amendment and supplement to the Advanced Energy District's Commercial-Industrial Program Project Plan, as amended (the "Improvements Plan") to add the real property described on Exhibit B to the territory of the Advanced Energy District and to include the Project described on Exhibit C as "Authorized Improvements" (as defined in the Improvements Plan).

The Fairview Park City Council is hereby respectfully requested to approve, by resolution, this Petition to Add Territory to The Northeast Ohio Advanced Energy District And For Special Energy Improvement Project within 60 days of this Petition being filed with the City.

PETITION TO ADD TERRITORY TO
THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT
AND FOR SPECIAL ENERGY IMPROVEMENT PROJECT

Signatures of Property Owner

Date: 8/29/2020

21000 BROOKPARK LANDLORD LLC, an Ohio limited liability company

By: 

Name: David A. CRISAFI

Title: mn

Address for notices to 21000 Brookpark Landlord LLC:

835 Sharon Drive, Suite 400

Westlake, Ohio 44145

Attention: David A. Crisafi

**EXHIBIT A
(To Petition)**

**ADVANCED ENERGY DISTRICT BOARD
APPROVAL TO ADD TERRITORY TO
ADVANCED ENERGY DISTRICT AND FOR
SPECIAL ENERGY IMPROVEMENT PROJECT**

EXHIBIT B
(To Petition)

ASSESSED PROPERTY LEGAL DESCRIPTION

The Assessed Property subject to this Petition and owned by 21000 Brookpark Landlord LLC is located at 21000 Brookpark Road in Fairview Park, Ohio with Cuyahoga County Permanent Parcel ID Number 331-35-002, and is described as follows:

**LEGAL DESCRIPTION
OF
PARCEL "A"
20922-21046 BROOKPARK ROAD
PART OF P.P.N. 331-35-002**

Situated in the City of Fairview Park, County of Cuyahoga and State of Ohio and known as being part of Original Rockport Township Section Nos. 4 and 5 and further bounded and described as follows:

Beginning at a 1" iron pin in monument found at the intersection of the centerline of Old Grayton Road S.W. (60 feet wide) at a point of curvature on the relocated centerline of Brookpark Road (State Route 17) (100 feet wide) as shown by the Dedication Plats recorded in Volume 130, Pages 68-69 and Volume 130, Page 153 of Cuyahoga County Map Records;

Thence South 89°43'19" West along the centerline of Brookpark Road, S.E., 704.78 feet to a 1" iron pin in monument found on the easterly corporation line of the City of Fairview Park and the westerly corporation line of the land so conveyed to the City of Cleveland;

Thence North 00°38'24" West, 50.00 feet to the northerly right of way of Brookpark Road, S.E. and being the southwesterly corner of land described to NASA Park, LLC (P.P.N. 029-38-011) by the deed dated December 31, 2019 and recorded in AFN. 201912310297 of Cuyahoga County Records also being the southwesterly corner of Parcel "D" in the Lot Split and Consolidation as shown on the plat recorded in AFN. 201912310295 of Cuyahoga County Map Records;

Thence South 89°43'19" West along the northerly right of way of Brookpark Road, S.E., 476.91 feet to the Principal Place of Beginning of the premises herein described;

Thence South 89°43'19" West continuing along the northerly right of way of Brookpark Road, S.E., 133.77 feet to a 5/8" iron pin set at a point of curvature;

Thence along the curved the northerly right of way of Brookpark Road, S.E., deflecting to the right, an arc of 300.39 feet with a delta of 19°00'36", said curve having a radius of 905.37 feet and a chord that bears North 80°46'23" West, 299.01 feet to a 5/8" iron pin set at a point of tangency;

Thence North 71°16'05" West along the northerly right of way of Brookpark Road, S.E., 0.75 feet to a 5/8" iron pin set on the easterly line of land conveyed to the Board of Park Commissioners of the Cleveland Metropolitan Park District (P.P.N. 331-35-001) by deed dated November 07, 1938 and recorded in Volume 4913, Pages 327-333 (Parcel No. 4) of Cuyahoga County Deed Records;

Thence along the easterly lines and a southerly line of land so described to the Board of Park Commissioners of the Cleveland Metropolitan Park District the following 4 courses:

- 1). Thence North 70°45'35" East, 184.45 feet to a point on the side of a ravine;
- 2). Thence North 48°37'35" West, 116.28 feet to a point on the side of a ravine;
- 3). Thence North 61°07'52" East, 179.11 feet to a 1" iron pin found (0.76 feet north and 0.34 feet west);
- 4). Thence North 34°53'31" East, 320.41 feet to a 5/8" iron pin set;

Thence South 00°16'41" East, 534.47 feet to the northerly right of way of Brookpark Road, S.E. and the Principal Place of Beginning, containing 2.4510 acres (106,767 square feet) as surveyed and described by Edward B. Dudley, P.S. No. 6747 of the Riverstone Company in April 2020, and subject to all legal highways, restrictions, reservations and easements.

Note: All 5/8"x30" iron pins set and capped "Riverstone Company-Dudley PS6747-PS8646"

Basis of Bearings: The centerline of Brookpark Road S.E. as North 89°43'19" East as shown in the Lot Split Plat and Consolidation as recorded in AFN. 201912310295 of Cuyahoga County Map Records.

Deed of Reference: Land conveyed to 21000 Brookpark Landlord LLC by deed dated September 28, 2016 and recorded in Auditor's File Number 201609280731 of Cuyahoga County Deed Records.

May 13, 2020

Edward B. Dudley
P.S. No. 6747

Date

EXHIBIT C
(To Petition)

SPECIAL ENERGY IMPROVEMENT PROJECT

The real property owned by 21000 Brookpark Landlord LLC, located at 21000 Brookpark Road, Fairview Park, Ohio, is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the “Project”). The legal description of the property is set forth on the attached Exhibit A. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

Project Description

The project consists of the acquisition, construction, installation, equipping, and improvement of the below listed eligible measures, which each constitute an “energy efficiency improvement” and all are “special energy improvement projects” pursuant to Ohio Revised Code Section 1710.01(I), to an existing industrial building.

Eligible Measures

The following is a list of eligible measures from the schedule of values.

ECM	Description	Annual Energy Savings	Useful Life	Cost
Building Envelope	Energy efficient building envelope including roof, windows, walls, and skylight	Windows (39-53% better), Skylight (38% better), SHGC (18% better than code), Roof (54% better)		
Lighting	High efficiency lighting	Common Area (73% better than code), Residential Lighting (82% better than code), Exterior Lighting (75% better than code)		
HVAC	High efficiency boiler/dedicated outdoor air system and water source heat pumps	DOAS (43.9% better), WSHPS (16.3% better)		
Plumbing	Reduces flow, residential showers, residential aerators	30.7% less water; Showers (20% better than code), Aerators (32% better than code)		
Elevators	New elevators	37% savings from existing		

Total project component costs: \$2,638,000

Total costs to be assessed: \$2,944,682

Estimated average semi-annual special assessments for 25 years: \$116,187.19

First semi-annual installment due: approximately January 31, 2022

**EXHIBIT D
(To Petition)**

SCHEDULE OF ANNUAL ASSESSMENTS

**SCHEDULE OF SPECIAL ASSESSMENTS
FOR CUYAHOGA COUNTY PARCEL NO.:**

331-35-002*

The following schedule of Special Assessment charges shall be certified for collection in 50 semi-annual installments to be collected with first-half real property taxes in calendar years 2022 through 2046:

[See Immediately Following Page]

* As identified in the records of the Fiscal Officer of Cuyahoga County, Ohio as of August 7, 2020.

Special Assessment Payment Date ¹	Total Special Assessment Installment Amount ²
January 31, 2022	\$116,187.19
July 20, 2022	116,187.19
January 31, 2023	116,187.19
July 20, 2023	116,187.19
January 31, 2024	116,187.19
July 20, 2024	116,187.19
January 31, 2025	116,187.19
July 20, 2025	116,187.19
January 31, 2026	116,187.19
July 20, 2026	116,187.19
January 31, 2027	116,187.19
July 20, 2027	116,187.19
January 31, 2028	116,187.19
July 20, 2028	116,187.19
January 31, 2029	116,187.19
July 20, 2029	116,187.19
January 31, 2030	116,187.19
July 20, 2030	116,187.19
January 31, 2031	116,187.19
July 20, 2031	116,187.19
January 31, 2032	116,187.19
July 20, 2032	116,187.19
January 31, 2033	116,187.19
July 20, 2033	116,187.19
January 31, 2034	116,187.19
July 20, 2034	116,187.19
January 31, 2035	116,187.19
July 20, 2035	116,187.19
January 31, 2036	116,187.19
July 20, 2036	116,187.19
January 31, 2037	116,187.19
July 20, 2037	116,187.19
January 31, 2038	116,187.19
July 20, 2038	116,187.19
January 31, 2039	116,187.19
July 20, 2039	116,187.19
January 31, 2040	116,187.19

¹ 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.

July 20, 2040	116,187.19
January 31, 2041	116,187.19
July 20, 2041	116,187.19
January 31, 2042	116,187.19
July 20, 2042	116,187.19
January 31, 2043	116,187.19
July 20, 2043	116,187.19
January 31, 2044	116,187.19
July 20, 2044	116,187.19
January 31, 2045	116,187.19
July 20, 2045	116,187.19
January 31, 2046	116,187.19
July 20, 2046	116,187.19

EXHIBIT E

NORTHEAST OHIO ADVANCED ENERGY DISTRICT ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT (ADVANCED ENERGY DISTRICT)

COMMERCIAL-INDUSTRIAL PROGRAM PROJECT PLAN

The amended pilot commercial – industrial property assessed clean energy (PACE) program project plan of the Northeast Ohio Advanced Energy District Advanced Energy Special Improvement District (“Advanced Energy District”) provides guidelines to property owners desiring to develop special energy improvement projects as follows:

Thank you for your interest in learning more about the amended pilot commercial – industrial property assessed clean energy (PACE) program of the Northeast Ohio Advanced Energy District Advanced Energy Special Improvement District (“Advanced Energy District”). The Advanced Energy District can provide for financing (“financing” or “funding”) for your special energy improvement project or a mechanism to secure financing obtained elsewhere secured by special assessment proceeds. If you (“the property owner(s)”) wish to apply for financing (“financing” or “funding”) from the Advanced Energy District or utilize the assessment process as part of its amended pilot commercial-industrial PACE program (“Commercial-Industrial Program”), you should read and become familiar with the following terms and conditions for participation:

Participation in the Advanced Energy District’s Commercial Industrial Program is limited to property owners who have agreed to add their real property to the Advanced Energy District and who otherwise meet the terms and conditions of the Advanced Energy District Commercial-Industrial Program. These terms and conditions are addressed in this Project Plan, a Services Plan, a real property and company information verification form, an application or petition (Petition), and the governing documents forming the Advanced Energy District (i.e. articles of incorporation, code of regulations, and resolutions duly adopted by the board of directors of the Advanced Energy District and the applicable resolutions and ordinances of the city where your real property is located, such documents are hereinafter collectively referred to as “Governing Documents”), each of which property owner(s) must have reviewed and as necessary have agreed to or executed prior to participation. The Project Plan, the Services Plan, the Petition, the Governing Documents and an Assessment Schedule to be executed by you to participate in the Commercial-Industrial Program are hereinafter collectively referred to as the “Advanced Energy District Documents.” The Advanced Energy District Documents establish the terms of the Commercial-Industrial Program, including the addition of additional territory to the Advanced Energy District. You should become familiar with and understand the provisions of the Advanced Energy District Documents. By agreeing to or executing the Advanced Energy District Documents, you agree to the terms of the Advanced Energy District’s Commercial-Industrial Program. Each participating political subdivision in the Advanced Energy District and the Board of Directors of the Advanced Energy District reserve the right to amend the

Commercial-Industrial Program terms and conditions from time to time as described in “Changes in the Commercial-Industrial Program Terms; Severability” below.

I. Purpose of the Commercial-Industrial Program

The Commercial-Industrial Program is intended to assist property owners who own real property within participating political subdivisions with the financing of the acquisition, installation and improvement of special energy improvement projects, including, without limitation, solar photovoltaic, solar thermal energy, geothermal energy, customer-generated energy, or energy efficiency improvements, whether such real or personal property is publicly or privately owned, and any other “special energy improvement projects” authorized under Ohio Revised Code Chapter 1710, as the same may be amended from time to time (the “Authorized Improvements”), which Authorized Improvement shall be undertaken in accordance with the Act and the Plan, and by carrying out such other improvements and/or services in and for the benefit of the District as the Board (defined below) may determine and funds may allow, all as set forth in the Plan. Each participating political subdivision has approved the creation of the Advanced Energy District to provide the source of financing for the Commercial-Industrial Program. Special Assessment Revenue Bonds will be issued on behalf of Advanced Energy District and proceeds from the sale of the special assessment revenue bonds will be used to finance Authorized Improvements that benefit properties within the District. Debt service on the special assessment revenue bonds and the costs of administering the Commercial-Industrial Program will be paid through special assessments levied by participating political subdivisions on real property in the Advanced Energy District. Special Assessment payments will be due and payable by property owner(s) at the same time real property taxes are due.

There may be other types of financing available. Each participating political subdivision and the Advanced Energy District do not guarantee that the Commercial-Industrial Program is the best financing option for your situation. Please do your research and select the option that is most appropriate for you.

II. Advanced Energy District’s Commercial-Industrial Program Process; Terms and Conditions; Services Plan; Statutory Requirements

As discussed in more detail below, in order for you to receive financing and funding from the Advanced Energy District’s Commercial-Industrial Program, the following steps must occur¹:

First: You must review the eligibility requirements for Advanced Energy District Commercial-Industrial Property Assessed Clean Energy (PACE) program as set forth below. In order to participate in the Commercial-Industrial Program, you must meet the eligibility requirements. See “Eligibility” below.

Second: You must apply for a funding reservation from the Advanced Energy District’s Commercial-Industrial Program as set forth in this Article II. Property owners may apply for the Advanced Energy District’s Commercial-Industrial Program by contacting any

¹ These steps are not necessary for Owners to secure other financing.

one of the seventeen participating political subdivisions in the Advanced Energy District for an application. The list of participating political subdivisions is listed under “Eligibility” below. You will be required to fill out and complete a real property and company information verification form provided to you by the participating political subdivision. You will also receive a copy of the Advanced Energy District Documents, including this Project Plan, when you receive the real property and company information verification form. Upon submission of the real property and company information verification form, the participating political subdivision will forward your form to the Advanced Energy District for processing.

Third: Upon submission of the real property and company information verification form, the Advanced Energy District will verify your eligibility to participate in the Commercial-Industrial Program and if your property is eligible, the Advanced Energy District will begin working with you and one or more consultants, engineers or qualified installers that you may choose to assist you in planning the development of your Authorized Improvement and an estimated project cost. During this period of time, representatives of the Advanced Energy District will work with you and your consultants, engineers and qualified installers to assess the technical and economic feasibility of the Authorized Improvement project you are considering, including working with Advanced Energy District financial advisors, consultants and developers who will be available to offer guidance regarding special assessment revenue bond financing costs, including expected and maximum interests rates and expected and maximum estimated special assessments which the Advanced Energy District expects to be payable by you as property owner(s) in connection with your participation in the Commercial-Industrial Program. The costs of these services provided by the Advanced Energy District, its advisors and agents in assisting you as well as the costs of your consultants, engineers and qualified installers in determining the technical and economic feasibility of Authorized Improvements on your property may be included as part of the cost of your Authorized Improvements. The costs of Authorized Improvements will be eligible to be financed by special assessments paid by you for up to twenty-five years.

Fourth: Upon your determining to proceed with a particular Authorized Improvement project design and plan, you must request and receive the approval of the Board of Directors of the Advanced Energy District that your project satisfies requirements of the Advanced Energy District Documents and that the territory of the Advanced Energy District should be increased to permit the addition of the territory which will be assessed to pay costs of your Authorized Improvements. Upon receipt of approval of the Board of Directors of the Advanced Energy District, you will then execute and file an application or Petition with Mayor and City Council of the participating political subdivision where the additional territory to the Advanced Energy District is proposed to be added. Advanced Energy District financial advisors, consultants or developers will have provided to you by that time the then currently anticipated interest rates on special assessment revenue bonds or other obligations to be issued to pay costs of your Authorized Improvements as well as the estimated special assessments to be paid by you for the financing of your Authorized Improvements and participation in the Commercial-Industrial Program.

Fifth: With your executing and filing a Petition with the Mayor and City Council of the participating political subdivision where your Project will be located, you as the property owner have agreed to the levy and collection of special assessments against your real property to be added to the Advanced Energy District in accordance with the Petition and the Advanced Energy District Documents. Special Assessments will be levied and collected in any year however only in accordance with the Petition and only upon the sale of special assessment revenue bonds or other financing, the proceeds of which will be used to pay the costs of the Authorized Improvements. The timing for the sale of special assessment revenue bonds to pay costs of Authorized Improvements under the Commercial-Industrial Program will depend on the number of and size of Authorized Improvements and market conditions.

Sixth: After your filing of the Petition and your compliance with the Advanced Energy District Documents, the Advanced Energy District and its financial advisors, consultants and developers will advise you as an owner of Property in the District of the commencement of marketing of the special assessment revenue bonds, if applicable, or other financing that will determine the actual interest rate(s) to be paid on special assessment revenue bonds to pay costs of your Authorized Improvements. The Special Assessments that will be payable by you annually as a property owner in the Advanced Energy District as part of the Commercial-Industrial Program is calculated based upon (a) the cost of the Authorized Improvement, (b) federal and state subsidies received by you as owner of the Authorized Improvement, (c) the interest rates payable on the special assessment revenue bonds and (d) administrative charges levied by the participating political subdivision to pay administrative costs. See: The “Services Plan.”

No property owner participating in the Commercial-Industrial Program will be obligated to pay any Special Assessments under the Commercial-Industrial Program unless the property owner first executes an Assessment Schedule which will be prepared by the Advanced Energy District or its agents and staff only after the pricing of special assessment revenue bonds for the Commercial-Industrial Program. The Assessment Schedule will include a schedule of your annual or semiannual payments for participating in the Commercial-Industrial Program. Unless you agree with and execute the Assessment Schedule, you will not be responsible to pay Special Assessments under the Commercial-Industrial Program. If you however execute the Assessment Schedule, you are agreeing to the levy and collection of Special Assessments in accordance with the Advanced Energy District Documents. If you do not execute the Assessment Schedule, you may be responsible to pay certain administrative costs of the Advanced Energy District to remove the lien of the Special Assessments from your property.

Seventh: The proceeds of the sale of special assessment revenue bonds will be deposited with a qualified trustee. Disbursement of proceeds from such sale from the trustee held construction fund to pay Authorized Improvement costs will require the signature of an officer of the Advanced Energy District and the signature of an authorized officer of the applicable property owner. A qualified installer must complete the installation of

Authorized Improvements on your property. See “Authorized Improvements; Qualified Installers” below.

Eighth: This Plan provides that the participating political subdivision that has approved (i) the addition to the territory of the Advanced Energy District and (ii) the Authorized Improvements to be constructed on the applicable property in the District has done so on behalf of the other participating political subdivisions in the Advanced Energy District. The participating political subdivision where your property within the District is located will be the initial owner of the Authorized Improvements. However, the Advanced Energy District, acting as agent for and on behalf of this participating political subdivision may transfer title to the Authorized Improvements to any taxpayer, including you as the property owner, who may then apply for and receive federal and state grants and other tax benefits associated with the ownership of the Authorized Improvements, including accelerated depreciation. The property owner should consult its own tax advisor as to the merits of owning the Authorized Improvements.

Ninth: As a property owner within the Advanced Energy District, you will be expected to make special assessment payments in amounts and at the times as specified in the Advanced Energy District Documents.

Submission and approval of a real property and company information verification form or a Petition does not guarantee that you will receive financing or funding under the Commercial-Industrial Program. The ability to proceed with financing or funding will be dependent on the sale of special assessment revenue bonds or other obligations secured by Special Assessments to pay costs of the Authorized Improvements under the Commercial-Industrial Program. The sale of special assessment revenue bonds or other obligations will depend on a number of factors including the number of and size of the Authorized Improvements and market conditions.

If you proceed to incur costs with Authorized Improvements prior to executing an Assessment Schedule, you risk incurring costs which may not be able to be financed as part of the Advanced Energy District’s Commercial-Industrial Program. In addition, disbursement of proceeds of special assessment revenue bonds or other obligations must be accomplished in accordance with the trust indenture and other documents securing the special assessment revenue bonds as well as the terms and conditions of the Advanced Energy District Documents.

Special Assessments. You, as a property owner must pay any special assessments levied against your property and certified for collection once an Assessment Schedule has been executed regardless of personal financial circumstances, the condition of the property, or the performance of the Authorized Improvements. Do not apply for financing if you are not certain you can pay the special assessments. Just as with any property-based debt such as a mortgage, the failure to pay your special assessments — in full or in part — will result in financial repercussions, including penalties, interest and, eventually, foreclosure of your property by Cuyahoga County.

If you use an escrow account to pay your semi-annual property taxes, you must notify your escrow company of your special assessment payments. You will need to increase your monthly payments to the escrow account by an amount equivalent to your annual special assessments divided by 12 months.

Services Plan. The Board of the Advanced Energy District has also adopted a Services Plan that is part of the Advanced Energy District Documents that property owner(s) must agree to prior to participating in Advanced Energy District's Commercial-Industrial Program. The Services Plan details costs of administration of the Commercial-Industrial Program. The Board of the Advanced Energy District is comprised of the duly appointed and designated persons who hold the office of economic development director in each of the initial participating political subdivisions within the Advanced Energy District. These Board members will approve an annual budget to administer the Commercial-Industrial Program and the annual costs of services will be included in the special assessments levied annually against each parcel of real property included within the Advanced Energy District. The amount levied for Advanced Energy District services rendered in any year as to any parcel of real property in the Advanced Energy District will be in proportion to the cost of the Authorized Improvements financed by special assessments on that parcel of real property to the total cost of all Authorized Improvements financed by special assessments in the Commercial-Industrial Program. The Advanced Energy District may share information with any agents or other third parties as necessary to administer the Commercial-Industrial Program. See "Disclosure of Property Owner Information" below.

Renewable Energy Credits

The Board of the Advanced Energy District may adopt rules governing renewable energy credits associated with Authorized Improvements financed with the proceeds of special assessment revenue bonds.

Statutory Requirements

As provided in the Advanced Energy District Documents:

- (A) Additional territory may be added to the Advanced Energy District. The Advanced Energy District is formed for the purpose of developing the Authorized Improvements. There will be designated at least one Authorized Improvement for each parcel of real property included within such additional territory to be added to the Advanced Energy District. If Additional Territory is to be added to the Advanced Energy District, such addition will be in accordance with the Advanced Energy District Documents and the owner(s) of 100% of the real property to be added to the Advanced Energy District will petition the Mayor and Council of the participating political subdivision where the real property is located for inclusion of such real property in the Advanced Energy District. Prior to submission of the Petition, the Petition shall be approved by the Board of Directors of the Advanced Energy District in accordance with rules established by the Board for such purposes. The Petition necessary to add territory to the Advanced Energy District need not be approved by the Mayor and City Council of other participating political subdivisions in the

Advanced Energy District where such real property is not located. Additional territory will be added to the Advanced Energy District with the approval of the Board of Directors of the Advanced Energy District and the participating political subdivision where the real property is located all in accordance with the Advanced Energy District Documents and the Act.

- (B) The Advanced Energy District Documents may be amended with the majority vote of the board of directors of the Advanced Energy District held at a meeting in accordance with the Advanced Energy District Documents.
- (C) The board of directors of the Advanced Energy District possesses authority to implement plans and amend plans for public improvements, including the Authorized Improvements and public services in accordance with and as provided for in Sections 1710.02(F), 1710.02(G) and 1710.06(A) of the Ohio Revised Code.
- (D) The public improvements to be provided by the Advanced Energy District are the Authorized Improvements included in each Petition; the area where the Authorized Improvements will be developed will be the area identified in each Petition requesting formation of the Advanced Energy District or requesting additional territory be added to the Advanced Energy District and the method of assessment shall be in proportion to the benefits that result from the Authorized Improvements, i.e. in proportion to the cost of each Authorized Improvement financed by special assessments to the cost of all Authorized Improvements financed by special assessments under the Commercial Industrial Program.
- (E) For purpose of levying an assessment, the board of directors of the District may combine levies for public services and Authorized Improvements into one special assessment to be levied against each specially benefited property in the Advanced Energy District.

III. Eligibility

In order to receive financing from the Advanced Energy District's Commercial-Industrial Program or request the levy of special assessments through the Advanced Energy District's Commercial-Industrial Program, a property owner must meet the following requirements, as the same may be modified or amended by the Board of the District in its sole discretion:

- a. **The property to be improved with the Authorized Improvements (the “subject property”) must be located within one or more of the following municipal corporations (each as “participating political subdivision”): City of Bedford, City Bedford Heights, City of Berea, City of Brooklyn, City of Brook Park, City of Cleveland, City of Cleveland Heights, City of Euclid, City of Fairview Park, City of Garfield Heights, City of Lakewood, City of Maple Heights, City of Parma, City of Parma Heights, City of Shaker Heights, City of South Euclid, City of University Heights, City of Warrensville Heights.**
- b. **The subject property must be used for commercial or industrial purposes, which generally includes all non-residential purposes. A multi-family apartment building will qualify as a commercial building. The aggregate size of each of the Authorized Improvements to be assessed against parcels of real property to be added to the Advanced Energy District must result in energy improvement or efficiency gains satisfactory to the Advanced Energy District**
- c. **All owners of the fee simple title to the subject property must review, sign and approve the Advanced Energy District Documents. Therefore, before submitting an initial application, please ensure that all owners of the fee simple title to the subject property wish to participate in the Advanced Energy District Commercial-Industrial Program on the terms set forth in Advanced Energy District Documents.**
- d. **The Advanced Energy District recommends that the subject property receive an “energy audit” prior to participation in the Commercial-Industrial Program, but participation in the program will not require fulfillment of any such energy audit.**
- e. **The property owner(s) and/or the owners of the Authorized Improvements must apply for the federal grant in lieu of tax credits under the American Recovery and Reinvestment Act of 2009. The federal grant in lieu of tax credit is equal to 30% of the qualified basis of the Authorized Improvements. Property owners must also apply for any available Ohio Energy Office grants. To the extent required by the Advanced Energy District, the property owner must assign each of the grants to the Advanced Energy District or its assigns in order to secure the payment of debt service on special assessment revenue bonds or other obligations issued to finance the property owner’s Authorized Improvements.**
- f. **The property owners(s) must agree to participate in surveys and program evaluations directed by the Advanced Energy District.**

- g. The property owner(s) must not have declared bankruptcy in the past 7 years.**
- h. The property owners must be current in the payment of all obligations secured by the subject property, including property taxes, assessments and mortgages, and there must have been no notices of default filed on the subject property within the past 3 years (or since you took title to the subject property if it has been less than 3 years). The Advanced Energy District may review public records, including the County real property records, to verify compliance with this requirement.**
- i. The property owners must not have involuntary liens, defaults or judgments applicable to the subject property in excess of \$1,000. The Advanced Energy District may review public records, including the County real property records and court documents, to verify compliance with this requirement.**
- j. Because the Commercial-Industrial Program may involve issuance of special assessment revenue bonds or other obligations on behalf of the Advanced Energy District, the Advanced Energy District is concerned that property owners who participate in the program will pay their special assessments in full on a timely basis. Therefore, the Advanced Energy District reserves the right to request additional information, including a credit check, in its sole discretion and to deny applications based on any information that reflects on the likelihood that a property owner may not pay special assessments.**

IV. Authorized Improvements; Qualified Installers; Maximum Funding

Authorized Improvements. At this time, the Commercial-Industrial Program may only be used to finance or secure the financing of Authorized Improvement installations. You are responsible for the Authorized Improvements installed on your property. You will need to address performance and other system-related issues directly with the installer according to the terms of your contract with the installer. **The Advanced Energy District and its Commercial-Industrial Program is a financing program only. Neither the Advanced Energy District nor any of the Advanced Energy District's participating political subdivisions are responsible for the system or its performance.**

Qualified Installers. The Authorized Improvements must be installed by installers that are registered with the State of Ohio. A list of State of Ohio registered installers is located at: <http://www.development.ohio.gov/cms/uploadedfiles/CDD/OEE/NOFA%20Appendix%20F.pdf>. If you choose to work with an installer that is not registered with the State of Ohio, you are not eligible for participation in the Commercial-Industrial Program.

By requiring that your installer be registered with the State of Ohio, the Advanced Energy District is not recommending a particular installer or warranting the reliability of

any such installer. **The Advanced Energy District's Commercial-Industrial Program is a financing program only. Neither the Advanced Energy District nor the participating political subdivisions will participate in the resolution of any dispute between you and your installer.**

Maximum Funding. The Advanced Energy District will only approve applications for funding in accordance with the Advanced Energy District Documents. As a general matter, the Commercial Industrial Program will only finance Authorized Improvements that do not exceed 10% of the appraised value of the property to be assessed. **The Advanced Energy District and the Commercial-Industrial Program will not provide financing for any costs in excess of this amount. The Advanced Energy District encourages you to do your research and receive bids from multiple installers before signing a contract. The Advanced Energy District is not responsible for determining the appropriate equipment, price or installer for your property.**

V. Compliance with Existing Mortgages

The filing of the Petition and the adoption by the participating political subdivision of an ordinance to proceed under Ohio Revised Code Section 727.25 will establish a lien on your property as security for your obligation to pay special assessments in accordance with the Petition and the Advanced Energy District Documents. The lien securing the obligation to pay special assessments may be senior to all private liens, including your purchase mortgage(s). Many loan documents limit the ability of a property owner to place liens upon property without the consent of the lender, or authorize the lender to obligate you to prepay obligations. **Please confirm with your lender(s) that participation in the Commercial-Industrial Program will not adversely impact your rights with respect to any existing loan documents, or obligate you to prepay your special assessments.**

VI. Transfer or Resale of the Subject Property

If you sell your property prior to the end of the special assessment period for your Authorized Improvement, the new owner will assume the obligation to pay special assessments. Ownership of any Authorized Improvements on the subject property will transfer to the new owner at the close of the real estate sale.

VII. Grants and Tax Benefits

Please consult with your tax advisors with respect to the state and federal tax consequences of participating in the Commercial-Industrial Program, including whether you will be eligible for federal energy tax credits as a result of your participation in the Commercial-Industrial Program and whether you can deduct the interest component of the special assessments from your state and federal income taxes.

Neither the Advanced Energy District nor any participating political subdivision is responsible for the state or federal tax consequences of participating in the Commercial-Industrial Program.

VIII. Changes in State and Federal Law

The ability to issue bonds to finance Commercial-Industrial Program Authorized Improvements is subject to a variety of state and federal laws. If those laws were to change after you have made application to the Advanced Energy District, the issuer of the special assessment revenue bonds or other obligations may be unable to issue the bonds or other obligations and the Advanced Energy District may be unable to fulfill your financing application. **The Advanced Energy District shall have no liability as a result of any such change in law.**

IX. Releases and Indemnification

You acknowledge that the Advanced Energy District has been created with the approval of the participating political subdivisions solely for the purpose of assisting the owners of property within participating political subdivisions with the financing of Authorized Improvements, and that the Advanced Energy District and any participating political subdivision shall have no responsibility of any kind for, and shall have no liability arising out of, the installation, operation, financing, refinancing or maintenance of the Authorized Improvements. You agree that you and your successors in interest to fee simple title in the subject property shall be solely responsible for the installation, operation, financing, refinancing and maintenance of the Authorized Improvements. Participation in the program does not in any way obligate the Advanced Energy District or any participating political subdivision to protecting access with respect to any proposed developments that may shade the system. You hereby acknowledge that the subject property will be responsible for payment of special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

You agree to release, defend, indemnify, and hold harmless the Advanced Energy District and the participating political subdivisions, including their officers, directors, employees and agents, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with your participation in the Advanced Energy District's Commercial-Industrial Program.

X. Changes in the Advanced Energy District's Commercial-Industrial Program Terms; Severability

The Advanced Energy District reserves the right to change this Advanced Energy District Commercial-Industrial Program Project Plan and the terms and conditions of the Advanced Energy District Documents at any time without notice; however, no such change will affect your obligation to pay special assessments as set forth in your petition and the Advanced Energy District Documents. Your participation in the Commercial-Industrial Program will be subject to the Advanced Energy District Document terms and conditions in effect from time to time during your participation.

If any provision of the Advanced Energy District Documents is determined to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these

Advanced Energy District Documents and the Commercial-Industrial Program and shall not affect the validity and enforceability of any remaining provisions.

XI. Disclosure of Property Owner Information

You agree that the Advanced Energy District and any participating political subdivision may disclose your personal information to any agent of the Advanced Energy District or that participating political subdivision and that the Advanced Energy District, participating political subdivisions and its agents may disclose your information to third parties when such disclosure is essential to the conduct of the Advanced Energy District's business or to provide services to you, including but not limited to where such disclosure is necessary to (i) comply with the law, legal process or our regulators, (ii) enable the Advanced Energy District and participating political subdivisions and their employees or consultants to provide services to you and to otherwise perform their duties and (iii) obtain and provide credit reporting information. We do not provide your personal information to third parties for telemarketing, e-mail or direct mail solicitation.

In order to receive funding for this program and to enable communication regarding the State of Ohio's energy programs, you consent to the release of your name and contact information to your current electric utility. You further agree to the release of your name and contact information and your property's utility usage data to the Advanced Energy District, its grantors and designated contractors for the purpose of conducting surveys and program evaluation of the Commercial-Industrial Program.

EXHIBIT F

NORTHEAST OHIO ADVANCED ENERGY DISTRICT ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT (ADVANCED ENERGY DISTRICT)

COMMERCIAL-INDUSTRIAL SERVICES PLAN

The Northeast Ohio Advanced Energy District Advanced Energy Special Improvement District (“Advanced Energy District”) intends to deliver services pursuant to this Commercial-Industrial Services Plan (the "Services Plan"), in such manner as will be determined from time to time by the District's board of directors (the "Board"). This Services Plan is designed to provide ongoing services to the properties in the Advanced Energy District during the years 2010 to 2035. This Services Plan may be amended by the Board. The Services Plan includes all terms and provisions of the Advanced Energy District Documents, which are incorporated herein by reference as if fully written herein. The services to be provided are as follows:

MARKETING AND PROMOTION SERVICES

Services to market Commercial-Industrial Program and promote the image of the region through the following examples:

- Development of Literature and Brochures
- Sponsored Media campaigns
- Public Relations
- Data collection and information management
- Cooperative programs with members
- Electronic and printed marketing materials
- Special Events

PROGRAM DESIGN SERVICES

Comprehensive design services to establish and maintain the strongest possible legal and programmatic framework for the Commercial-Industrial PACE program.

PROGRAM ADMINISTRATION SERVICES

Provide community education, application acceptance, and real-time program tracking. Administrative services include:

- Education & Marketing
- Application Processing
- Property Underwriting
- Project Verification
- Quality Assurance
- Customer Service
- Origination and Closing Process

SPECIAL ASSESSMENT ADMINISTRATION SERVICES

Administrative services related to the Special Assessments are associated with the annual determination of the Special Assessments to be collected from the subject properties of the Advanced Energy District, management of bond funds and accounts relating to Special Assessments, and providing public information. These services will be provided pursuant to a Cooperative Agreement ("Cooperative Agreement") to be executed between each of the participating political subdivisions, the issuer of the special assessment revenue bonds and the District. These bond administration services may also be included as part of a separate Administration Agreement and paid from assessment payments as provided in the Indenture securing Bonds. If so, no separate special assessment for administration services for Bonds will be included as part of the Services Plan, but rather will be included as part of the separate Administration Agreement. Services include:

A. Calculate the Reduction of the Special Assessments for the Following Year

This task involves calculating the amount of the reduction of the Special Assessments to be collected in the following year by each participating political subdivision and includes the following sub-tasks:

- (1) **Determine Annual Bond Payments:** Identify expenses of the special assessment revenue bonds or other obligations secured by the Special Assessments (collectively, "Obligations"), including annual debt service charges, administrative expenses, and other expenses as provided for in the trust agreement securing the Obligations. This determination shall be made using the definitions of "Annual Bond Payments" and other relevant defined terms and including any contingencies permitted by the trust agreement as the same may appear in the trust agreement securing the Obligations, a copy of which will be provided to the District at the closing of the Obligations.
- (2) **Determine Annual Available Amounts:** Prepare reconciliation, on dates as may be required, to determine value of amounts held in funds established under the trust agreement, interest earnings, and other credits which may be applied to pay debt service and other expenses under the trust agreement. This determination shall be made using the definitions of "Annual Available Amounts" and related definitions under the trust agreement.
- (3) **Calculate the Annual Required Assessments:** Based on the estimates of annual expenses and assets of Obligations incurred to pay costs of special energy improvement projects, including annual debt service charges, administrative expenses and other expenses as provided for in the Plan, the Petition and documents securing the Obligations, including any contingency required by any trust agreement securing the Obligations, the District shall calculate the Annual Required Assessments to be collected in the following year through the imposition of the Special Assessments that will be collected by the applicable participating political subdivision levying the Special Assessments. This determination shall be made using the definitions of "Annual Bond Payments," "Annual Available Amounts," "Annual Required Assessments" and related definitions under the trust agreement securing the Obligations.

(4) Determine Special Assessments for the Assessed Properties: Based on the Annual Required Assessment and the provisions of applicable Petitions and the Plan, the District shall determine the Special Assessment to be imposed on each parcel within the District.

B. Prepare Certification of Special Assessments to the County Auditor

This task involves certifying the Special Assessments to be collected from each parcel within the District to the County Auditor no later than the second Monday in September each year. The District shall coordinate with each of the participating political subdivisions and the County Auditor to provide the information required to certify the Special Assessments for inclusion on the general tax list and duplicate and to be collected in semiannual installments.

C. Support Services Related to Billing of the Special Assessments

(1) Present Findings to the Board: The annual report about the Special Assessments prepared by the District will be provided to the Board for its approval, and a copy of such report will be provided to each of the participating political subdivisions.

(2) Approval of Special Assessments by the City Councils of each of the participating political subdivisions: The certification of Special Assessments to be provided to the County Auditor will be submitted to the City Council of each participating political subdivision for its approval prior to its submission to the County Auditor.

(3) Certification to the County Auditor: Once approved by the City Council of each participating political subdivision, the District will be responsible for submitting to the County Auditor the District's annual certification of the total amount of the Special Assessment to be collected each year, and of the Special Assessments to be collected from each parcel in semiannual installments. Such annual certification of Special Assessments shall be provided to the County Auditor no later than the second Monday in September. Assistance will be provided to each participating political subdivision, the County Auditor, County Treasurer, or other officials of the County as is necessary for the levy of Special Assessments.

(4) Supplemental Billing: The District shall assist the County with any supplemental billing that should be necessary. Any Special Assessments rejected by the County Auditor (e.g., the tax parcel number is no longer valid) will be corrected and resubmitted.

D. Dispute Resolution; Administrative Review of the Special Assessments and Other Calculations

An owner of a parcel claiming that a calculation error has been made in the amount of the Special Assessments to be collected from a parcel or in any other calculation required to be made hereunder shall send a written notice describing the error to the Board of the Advanced Energy District (or such other entity as may be designated by the Board of the Advanced Energy District to hear such claims) not later than thirty (30) days after having paid the Special Assessment Installment Payment in accordance with the Assessment Schedule which is alleged to have been calculated incorrectly or within thirty (30) days of receiving notice of any other calculation, prior

to seeking any other remedy. The Board of the Advanced Energy District (or such other entity as may be designated by the Board of the Advanced Energy District to hear such claims) shall promptly review the notice, and if necessary, meet with the property owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred. If the Board of the Advanced Energy District (or other entity designated by the Board) determines that a calculation error did in fact occur that requires the Special Assessments to be modified or changed in favor of the property owner, a cash refund shall not be made (except for the final year during which Special Assessments shall be collected), but an adjustment may be made in the amount of the Special Assessments to be paid in the following year. The decision of the Board of the Advanced Energy District (or other entity designated by the Board) regarding an error in the levy of the Special Assessments or any other calculation shall be conclusive as long as there is a reasonable basis for the determination of the Board (or other entity designated by the Board). Notwithstanding any other provision of the Advanced Energy District Documents to the contrary, the undersigned agrees that it and its successors shall have only the remedies provided for in this paragraph, and shall have no recourse to any participating political subdivision, the Advanced Energy District, issuer of the special assessment revenue bonds for the Project or the Trustee in respect of amounts levied or collected other than in accordance with the Advanced Energy Documents.

DELINQUENCY MANAGEMENT

These services are provided only if the Special Assessments are levied and there are delinquencies in the payment of the Special Assessments.

A. Delinquent Special Assessments Report

After the end of each collection period, the District will prepare for the Board a report which lists each parcel delinquent in the payment of the Special Assessments and the corresponding amount of delinquency, plus penalties. The District will also provide each participating political subdivision with a copy of this report.

B. Delinquency Follow-Up

This task entails the preparation and mailing of demand letters to property owners with a delinquent Special Assessments and is performed if requested by the issuer of the Obligations or a participating political subdivision.

(1) Preparation and Mailing of Delinquency Letters

The District will assist each participating political subdivision with the collection of Special Assessments. Unless otherwise directed by a participating political subdivision, the issuer of the Obligations, or the trustee for the Obligations, the District will send reminder letters to property owners with delinquent Special Assessments. After thirty days, if the Special Assessments are still delinquent, a payment demand letter will be mailed informing the property owner that the property will be subject to a tax sale if the delinquency is not cured. The District

shall cooperate with and assist the applicable participating political subdivision(s), the issuer of the Obligations, and the County Auditor in their efforts to collect any delinquent Special Assessments.

(2) Coordination with Delinquent Property Owners

The District will coordinate with and answer questions from delinquent property owners to whom demand letters were mailed.

(3) Inform the issuer of Obligations Regarding Special Circumstances

The District will keep the issuer of Obligations informed of special circumstances that come to the attention of the District, such as bankruptcies and foreclosures.

(4) Preparation of Delinquency Report

The District will prepare a delinquency report which identifies all parcels for which demand letters were sent, any payments received, the payment date, and any amounts still delinquent as of January 31. The District will coordinate with the County regarding the procedures related to a tax sale for delinquent Special Assessments.

SUPPLEMENTAL SERVICES

To the extent that the Board may determine and funds may allow, the District may provide supplemental services designed to increase appreciation for the District, strengthen the cohesiveness of the District, and improve communication among members of the District and public agencies, such as providing access to data and information collected by the District, displaying informational banners in participating political subdivisions, and attending City Council meetings of participating political subdivisions when issues are discussed relevant to the District.

BUDGET

The portion of the cost of the Services Plan that will be assessed to property owners which will be determined by the board of the Special Improvement District subject to increase as the number of Authorized Improvements financed with District financing increases. The Board will determine how to allocate funds among the services to be provided.

By March 1st of each year, the Treasurer of the Board, as directed by the Board, will produce or cause to be produced and make available to the members of the District and the Board an annual report describing the services delivered, revenues received, expenditures made, and other information about the activities of the District.

By November 1st of each year or as soon thereafter as possible, the Treasurer of the Board, as directed by the Board, will produce or cause to be produced an annual budget for the following calendar year.

EXHIBIT G

NORTHEAST OHIO ADVANCED ENERGY DISTRICT ADVANCED ENERGY SPECIAL
IMPROVEMENT DISTRICT
(ADVANCED ENERGY DISTRICT)

ARTICLES OF INCORPORATION



DATE	DOCUMENT ID	DESCRIPTION	FILING	OVER PAYMENT	EXPED	CERT	COPY
06/09/2017	201715904106	AMENDMENT TO ARTICLES (AMD)	50.00	0.00	0.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

BRICKER & ECKLER LLP
CHRISTINA MILLER
100 SOUTH THIRD STREET
COLUMBUS, OH 43215

STATE OF OHIO
CERTIFICATE

Ohio Secretary of State, Jon Husted
1985578

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
... CITY OF CLEVELAND, OHIO ... ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT,
INC. (SEE EXHIBIT A FOR EXACT NAME)
and, that said business records show the filing and recording of:

Document(s) AMENDMENT TO ARTICLES Document No(s): 201715904106
Effective Date: 06/07/2017



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
9th day of June, A.D. 2017.

Jon Husted
Ohio Secretary of State



Form 541 Prescribed by:
JON HUSTED
OHIO SECRETARY OF STATE
Toll Free: (877) SOS-FILE (877-767-3453)
Central Ohio: (614) 466-3910
www.OhioSecretaryofState.gov
busssery@OhioSecretaryofState.gov
File online or for more information: www.OHBusinessCentral.com

Mail this form to one of the following:

Regular Filing (non expedite)
P.O. Box 1329
Columbus, OH 43216

Expedite Filing (Two business day processing time.
Requires an additional \$100.00)

P.O. Box 1390
Columbus, OH 43216

Certificate of Amendment (Nonprofit, Domestic Corporation) Filing Fee: \$50

Check the appropriate box:

- Amendment to existing Articles of Incorporation by Members pursuant to Ohio Revised Code section 1702.38(C) (128-AMD)
- Amended and Restated Articles by Members pursuant to Ohio Revised Code section 1702.38(D) or by Directors pursuant to Ohio Revised Code section 1702.38(E) (126-AMAN) - The following articles supersede the existing articles and all amendments thereto.

Complete the following information:

Name of Corporation: ... City of Cleveland, Ohio ... Advanced Energy Special Improvement District, Inc. (See Exhibit A for exact name)

Charter Number: 1985578

RECEIVED
JUN -7 PM 3:53
CENTRAL SERVICE CENTER

A copy of the resolution of amendment must be attached to this document.

Note: If amended and restated articles were adopted, amended articles must set forth all provisions required in original articles other than with respect to the initial directors pursuant to Ohio Revised Code section 1702.38(A). In the case of adoption of the resolution by the directors, a statement of the basis for such adoption shall be provided.



Form 541 Prescribed by:
JON HUSTED
 OHIO SECRETARY OF STATE
 Toll Free: (877) SOS-FILE (877-767-3453)
 Central Ohio: (614) 466-3910
 www.OhioSecretaryofState.gov
 bussonv@OhioSecretaryofState.gov
 File online or for more information: www.OHBusinessCentral.com

Mail this form to one of the following:

Regular Filing (non expedite)
 P.O. Box 1329
 Columbus, OH 43216
 Expedite Filing (Two business day processing time.
 Requires an additional \$100.00)
 P.O. Box 1300
 Columbus, OH 43216

Certificate of Amendment
(Nonprofit, Domestic Corporation)
Filing Fee: \$50

Check the appropriate box:

- Amendment to existing Articles of Incorporation by Members pursuant to Ohio Revised Code section 1702.38(C) (128-AMD)
- Amended and Restated Articles by Members pursuant to Ohio Revised Code section 1702.38(D) or by Directors pursuant to Ohio Revised Code section 1702.38(E) (126-AMAN) - The following articles supersede the existing articles and all amendments thereto.

Complete the following information:

Name of Corporation

Charter Number

RECEIVED
 JUN -7 PM 3:53
 GOVERNMENT SERVICE CENTER

A copy of the resolution of amendment must be attached to this document.

Note: If amended and restated articles were adopted, amended articles must set forth all provisions required in original articles other than with respect to the initial directors pursuant to Ohio Revised Code section 1702.38(A). In the case of adoption of the resolution by the directors, a statement of the basis for such adoption shall be provided.

ACTION BY RESOLUTION

OF THE BOARD OF DIRECTORS OF

**CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREА,
OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF
CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EUCLID,
OHIO, CITY OF FAIRVIEW PARK, OHIO, CITY OF GARFIELD HEIGHTS, OHIO,
CITY OF LAKEWOOD, OHIO, CITY OF PARMA, OHIO, CITY OF SOUTH EUCLID,
OHIO, CITY OF WARRENSVILLE HEIGHTS, OHIO, CITY OF UNIVERSITY
HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.**

Pursuant to Section 1710.02(D)(3), Ohio Revised Code and Article 6 of the Articles of Incorporation of the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Bereа, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of Euclid, Ohio, City of Fairview Park, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Parma, Ohio, City of South Euclid, Ohio, City of Warrensville Heights, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc. (the "Corporation"), the Board of Directors of the Corporation, at a meeting of the Board of Directors at which a quorum was present, took the following actions:

Approval of Amendment to Articles of Incorporation:

RESOLVED, that Article First of the Articles of Incorporation of the Corporation, attached to these resolutions as Appendix I (the "Articles of Incorporation") is hereby amended to read as follows:

FIRST

Name of Corporation: The name of the Corporation shall, at any time and from time to time be the unique proper name only of each participating political subdivision, as defined in Ohio Revised Code ("ORC") Section 1710.02(E), of the special improvement district governed by the Board of Directors of the Corporation, in alphabetical order, separated by commas, and followed by the words "Advanced Energy Special Improvement District, Inc." For demonstration purposes, as of the adoption of this Article First, the name of the Corporation shall be "City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Bereа, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of Euclid, Ohio, City of Fairview Park, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Shaker Heights, Ohio, City of South Euclid, Ohio, City of Warrensville Heights, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District"

FURTHER RESOLVED, that Article Eighth of the Articles of Incorporation is hereby amended to read as follows:

EIGHTH The District and the Corporation are hereby authorized to use the trade name "Northeast Ohio Advanced Energy District."

APPENDIX I

ARTICLES OF INCORPORATION

OF

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW PARK, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF PARMA, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF WARRENSVILLE HEIGHTS, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

[See Attached]

Doc ID --> 201036300145

DATE:	DOCUMENT ID:	DESCRIPTION:	FILED:	EXPED:	PENALTY:	CERT:	COPY:
12/29/2018	201036300145	DOMESTIC ARTICLES/NON-PROFIT (A/N)	12/29	100.00		50	60

Receipt

This is not a bill. Please do not remit payment.

BRICKER & ECKLER ATTORNEYS AT LAW
ATTN: SALLY W. BLOOMFIELD
100 SOUTH THIRD STREET
COLUMBUS, OH 43215

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jennifer Brunner

1985578

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
... CITY OF CLEVELAND, OHIO ... ADVANCED ENERGY SPECIAL IMPROVEMENT
DISTRICT, INC. (SEE EXHIBIT A FOR EXACT NAME)

Document(s)
DOMESTIC ARTICLES/NON-PROFIT

Document No(s)
201036300145



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 29th day of December,
A.D. 2018.

Jennifer Brunner
Ohio Secretary of State

Doc ID --> 201036300145



Prescribed by:
Ohio Secretary of State
Cordell R. Rice (614) 866-3910
Toll Free: 1-877-505-8122 (1-877-747-8455)

www.ohio.gov/OSJA
e-mail: business@vns.state.oh.us

Expeditious Filing Form: **Standard**

Yes PG Rec. 1330
Columbus, OH 43216

No PG Rec. 670
Columbus, OH 43218

INITIAL ARTICLES OF INCORPORATION
(For Domestic Profit or Nonprofit)
Filing Fee \$125.00

THE UNDERSIGNED HEREBY STATES THE FOLLOWING:

CHECK ONE Y OR N (If N, see 2)

<input checked="" type="checkbox"/> Y Articles of Incorporation Profit	<input checked="" type="checkbox"/> Y Articles of Incorporation Nonprofit	<input type="checkbox"/> N Articles of Incorporation Professional (N/A)
(13.485) OAC 1301	(13.485) OAC 1302	Professional OAC 1301

Complete the general information in this section for the box checked above.

FIRST: Name of Corporation See attached Exhibit A

SECOND: Location Cleveland Hts. City Cuyahoga County

Effective Date (Optional) _____ Date specified may be no more than 90 days after date of filing. If a date is specified, the date must be a date on or after the date of filing.
(month/year)

Check here if additional provisions are attached

Complete the information in this section if box (Y) or (N) is checked. Complete that section if optional either (Y) or (N) is checked.

THIRD: Purpose for which corporation is formed
See attached Exhibit A

Complete the information in this section if box (Y) or (N) is checked.

FOURTH: The number of shares which the corporation is authorized to have outstanding (Please state if shares are common or preferred and their par value if any) _____ (Type of Shares) _____ (Type) _____ (Par Value)

(Refer to instructions if needed)

Doc ID --> 201036300145

Completing the information in this section is optional.

FFD: The following are the names and addresses of the individuals who are to serve as Initial Directors.

Name: _____
 (Last) **NOTE: P.O. Box Addresses are NOT acceptable.**

City: _____ State: _____ Zip Code: _____

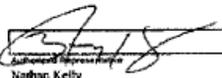
Name: _____
 (Last) **NOTE: P.O. Box Addresses are NOT acceptable.**

City: _____ State: _____ Zip Code: _____

Name: _____
 (Last) **NOTE: P.O. Box Addresses are NOT acceptable.**

City: _____ State: _____ Zip Code: _____

REQUIRED
 Must be authorized
 (signed) by an authorized
 representative
 (See instructions)


 Authorized Representative

11/17/10
 Date

(print name)
 Nathan Kelly
 Dev. Dir. City of Lakewood, Ohio &
 Chair - First Suburbs Development Council

 Authorized Representative

 Date

(print name)

 Authorized Representative

 Date

(print name)

Doc ID --> 201036300145

Complete the information in this section if box (1), (2) or (3) is checked.

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of See attached Exhibit A
hereby appoint the following to be statutory agent upon whom any process, notice or demand required or permitted by
statute to be served upon the corporation may be served. The complete address of the agent is

Jennifer Kuzma
(Name)
40 Severance Circle
(Street) NOTE: P.O. Box Addresses are NOT accepted
Cleveland TN Ohio 44118
(City) (Zip Code)

Must be authorized by an
authorized representative: [Signature] 11/17/10
Authorized Representative Date

Authorized Representative Date

Authorized Representative Date

ACCEPTANCE OF APPOINTMENT

The undersigned, Jennifer Kuzma, named herein as the
Statutory agent for, See attached Exhibit A
hereby acknowledges and accepts the appointment of statutory agent for said entity.

Signature: Jennifer Kuzma
(Statutory Agent)

Doc ID --> 201036300145

EXHIBIT A

ARTICLES OF INCORPORATION
OF

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA,
OHIO, CITY OF BROOKLYN, OHIO, CITY OF BROOK PARK, OHIO, CITY OF
CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EUCLID, OHIO,
CITY OF FAIRVIEW PARK, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF
LAKEWOOD, OHIO, CITY OF PARMA, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY
OF UNIVERSITY HEIGHTS, OHIO, CITY OF WARRENSVILLE HEIGHTS, OHIO
ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

- 1. The name of the District shall be the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brooklyn, Ohio, City of Brook Park, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of Euclid, Ohio, City of Fairview Park, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Parma, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio, City of Warrensville Heights, Ohio Advanced Energy Special Improvement District (the "District").
- 2. The principal office of the corporation shall be located in Cleveland Heights, Ohio.
- 3. The purposes for which the Corporation is formed are:

To govern the District pursuant to Ohio Revised Code ("ORC") Chapter 1710 and in so doing to have and exercise all powers, rights and privileges conferred by the laws of Ohio on nonprofit corporations formed for the purpose of governing a special improvement district, including, but not limited to, buying, leasing or otherwise acquiring and holding, using or otherwise enjoying and selling, leasing or otherwise disposing of any interest in any property, real or personal, of whatever nature and wherever situated, and buying and selling renewable energy credits, stocks, bonds, or any other security of any issuer as the Corporation by action of its Board of Directors may, at any time and from time to time, deems advisable.

- 4. The initial territory within the District shall be the following properties, each of which is within a participating political subdivision and each of which has at least one special energy improvement project designated for the property.

Permanent Parcel No. 812-10-011	(City of Bedford)
Permanent Parcel No. 792-17-004	(City of Bedford Heights)
Permanent Parcel No. 362-13-053	(City of Berea)
Permanent Parcel No. 343-16-001A	(City of Brook Park)
Permanent Parcel No. 431-16-002	(City of Brooklyn)
Permanent Parcel No. 113-18-014	(City of Cleveland)
Permanent Parcel No. 682-19-001	(City of Cleveland Heights)
Permanent Parcel No. 643-05-043	(City of Euclid)

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Doc ID --> 201036300145

Permanent Parcel No. 323-05-001 (City of Fairview Park)
Permanent Parcel No. 545-14-015 (City of Garfield Heights)
Permanent Parcel No. 312-14-119 (City of Lakewood)
Permanent Parcel No. 450-01-001 (City of Parma)
Permanent Parcel No. 703-03-063 (City of South Euclid)
Permanent Parcel No. 722-17-051 (City of University Heights)
Permanent Parcel No. 763-01-007 (City of Warrensville Heights)

5. The reasons for creating the District are:

To enhance the value of properties within the District and improve the environment by developing and assisting in developing within the District special energy improvement projects which will reduce the region's carbon footprint and promote the region as a location for green technology job creation, and to carry out such other limited improvements and/or services in and for the benefit of the District and consistent with the District's purpose and authority as the Board of Directors may determine necessary and funds may allow.

The aforesaid reasons for creating the District will be conducive to the public health, safety, peace, convenience, and welfare of the District by enhancing the value of properties, improving the environment and prompting the creation of jobs.

6. Any provision of these Articles of Incorporation may be amended only upon: (a) the affirmative vote of a majority of the Board of Directors of the Corporation at any meeting at which a quorum is present, and (b) approval of such amendment by resolution of the legislative authority of each participating political subdivision, and (c) filing the approved amendment and resolution with the Ohio Secretary of State.

7. Upon the dissolution of the District, any assets or rights of the District shall be distributed as provided by applicable law.

4053186/2

CITY OF FAIRVIEW PARK
ORDINANCE NO. 20-30 AMENDED (*amended by full substitution in Committee 9/8/20*)
REQUESTED BY: MARY KAY COSTELLO, DIRECTOR OF PUBLIC SERVICE AND
DEVELOPMENT
SPONSORED BY: COUNCILWOMAN KING

AN ORDINANCE TO DETERMINE TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FAIRVIEW PARK, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT (21000 BROOKPARK ROAD PROJECTS)

WHEREAS, the Council (“Council”) of the City of Fairview Park, Ohio (the “City”) duly adopted Resolution _____ on _____, 2020 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, energy efficient roof, energy efficient windows, energy efficient walls, energy efficient skylight, high efficiency lighting, high efficiency boiler, dedicated outdoor air system, water source heat pumps, reduced flow residential showers and aerators resulting in energy savings, energy efficient elevators, and related improvements (the “K Building Project,” as more fully described in the K Building Petition referenced in this Resolution) located on real property owned by 21000 Landlord LLC (together with its successors in interest, the “K Building Owner”) at 21000 Landlord LLC within the City, having Cuyahoga County Parcel ID Number 331-35,002 (the “K Building Project Site”, as more fully described in Exhibit B to the K Building Petition); (ii) providing for the acquisition, installation, equipment, and improvement of the Project by the Owner, as set forth in the K Building Owner’s *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “K Building Petition”), including by levying and collecting special assessments to be assessed upon the K Building Project Site (the “Special Assessments”) in an amount sufficient to pay the costs of the K Building Project, which was estimated to be \$10,750,076.50 in the K Building Petition, including other related costs of financing the K Building Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the K Building 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 K Building Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the District; and

WHEREAS, the Resolution of Necessity was also adopted for the purposes of, (i) declaring the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, energy efficient roof, energy efficient walls, energy efficient windows, energy efficient skylight, high efficiency lighting, high efficiency boiler, dedicated outdoor air system, water source heat pumps, reduced flow residential showers and aerators resulting in energy savings, energy efficient elevators and related improvements (the “L Building

Project,” as more fully described in the L Building Petition referenced in this Resolution, and together with the K Building Project, the “Projects”) located on real property owned by 21000 Brookpark Landlord LLC (together with its successors in interest, the “L Building Owner,” and together with the K Building Owner, the “Owners”) at 21000 Landlord LLC within the City, having Cuyahoga County Parcel ID Number 331-35,002 within the City (the “L Building Project Site”, as more fully described in Exhibit B to the L Building Petition, and together with the K Building Project Site, the “Project Sites”); (ii) providing for the acquisition, installation, equipment, and improvement of the Project by the Owner, as set forth in the L Building Owner’s *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “L Building Petition,” and together with the K Building Petition, the “Petitions”), including by levying and collecting special assessments to be assessed upon the L Building Project Site (the “Special Assessments”) in an amount sufficient to pay the costs of the L Building Project, which was estimated to be \$5,809,359.50 in the L Building Petition, including other related costs of financing the L Building Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the L Building Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses; and (iii) determining that the L Building 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 Projects have been waived by one hundred percent (100%) of the Owners, and no claims for damages alleged to result from, or objections to, the Projects 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 FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

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 Projects described in the Petitions and the Resolution of Necessity. The Projects 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 Director of Finance and the Clerk of this Council.

SECTION 3. That the Special Assessments to pay costs of the K Building Project, which are estimated to be \$10,750,076.50 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 K Building 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 K Building 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 K Building 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 K Building 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 K Building Project. The Special Assessments shall be assessed against the Property commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2045 for collection in 2046; 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 2022, 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.

That the Special Assessments to pay costs of the L Building Project, which are estimated to be \$5,809,359.50 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 L Building 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 L Building 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 L Building 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 L Building 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 L Building Project. The Special Assessments shall be assessed against the Property commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2045 for collection in 2046; 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 2022, 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.

Each of the K Building Project Site and the L Building Project Site, as of the date of this Ordinance, constitute a portion of a single tax parcel in the records of the Cuyahoga County Fiscal Officer. As provided in the Petitions, if, after the date of this Ordinance, the tax parcel is subdivided such that either or both of the Project Sites are situated on one or more new or additional tax parcels, all of the Special Assessments levied on either such Project Site shall be allocated to the resulting tax parcels containing a portion of the applicable Project Site, and the special assessments allocated to those tax parcels shall be allocated among those tax parcels in proportion to the building square footage on any such resulting tax parcel.

SECTION 4. That the estimated Special Assessments for costs of the each of Projects prepared and filed in the office of the Clerk of this Council and in the office of the Director of Finance, 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 Projects will be let in accordance with the Petitions and the Program Plan, and the costs of the Projects 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 passage of this Resolution 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, including Section 121.22 of the Ohio Revised Code, as modified by Am. Sub. H.B. 97 of the 133rd Ohio General Assembly, effective March 27, 2020.

SECTION 8. That pursuant to Section 12(a) of Article IV of the Charter of the City of Fairview Park, Ohio, this Ordinance provides for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor and is effective at the earliest possible time allowed therein.

PASSED:
APPROVED:

1st reading: 08.17.20
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrooks, Clerk of Council

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of Ordinance _____ duly adopted by the Council of the City of Fairview Park, Ohio on _____, 2020, 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.

Clerk of the 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 FAIRVIEW PARK, OHIO
IN COOPERATION WITH THE NORTHEAST OHIO
ADVANCED ENERGY DISTRICT

I, Michael W. Chambers, CPA, the duly elected, qualified, and acting Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of Ordinance No. _____ duly passed by the Council of the City of Fairview Park, Ohio on _____, 2020, determining to proceed with the acquisition, installation, equipment, and improvement of certain public improvements in the City of Fairview Park, Ohio in cooperation with the Northeast Ohio Advanced Energy District, was filed in this office on _____, 2020.

WITNESS my hand and official seal at Cleveland, Ohio on _____, 2020.

[SEAL]

Fiscal Officer
Cuyahoga County, Ohio

CITY OF FAIRVIEW PARK

ORDINANCE NO. 20-31A AMENDED (*amended by full substitution in Committee 9/8/20*)

REQUESTED BY: MARYKAY COSTELLO, DIRECTOR OF PUBLIC SERVICE AND DEVELOPMENT

SPONSORED BY: COUNCILWOMAN KING

CO-SPONSORED BY: COUNCILMAN MINEK

AN ORDINANCE TO LEVY SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FAIRVIEW PARK, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT; AND AUTHORIZING TWO ENERGY PROJECT COOPERATIVE AGREEMENTS AND TWO SPECIAL ASSESSMENT AGREEMENTS (21000 BROOKPARK ROAD PROJECTS)

WHEREAS, 21000 Brookpark Landlord LLC (together with its successors, the “K Building Owner”) has submitted its *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “K Building Petition”) in order to provide for the completion of a special energy improvement project on real property owned by the K Building Owner in the City of Fairview Park, Ohio (the “City”), and 21000 Brookpark Landlord LLC (together with its successors, the “L Building Owner,” and together with the K Building Owner, the “Owners”) has submitted its *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “L Building Petition,” and together with the K Building Petition, the “Petitions”) in order to provide for the completion of a special energy improvement project on real property owned by the L Building Owner in the City; and

WHEREAS, this Council duly passed Resolution No. _____ on _____, 2020 (the “Resolution of Necessity”), which approved the Petitions and added the Owners’ property, subject to the Petitions, to the Northeast Ohio Advanced Energy District (the “District”) and declared the necessity of acquiring, installing, equipping the Projects, constituting special energy improvement projects, as described in the Resolution of Necessity and as set forth in the Petitions requesting those improvements; and

WHEREAS, this Council duly adopted Ordinance No. _____ on _____, 2020 and determined to proceed with the Projects and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Clerk of this Council and the Director of Finance pursuant to the Resolution of Necessity; and

WHEREAS, the City intends to enter into an Energy Project Cooperative Agreement (the “K Building Energy Project Cooperative Agreement”) with the District, the K Building Owner, and PACE Equity LLC (together with its affiliates, the “Investor”) to provide for, among other things, (i) the making of the Project Advance (as defined in the K Building Energy Project Cooperative Agreement) to pay costs of the K Building Project, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the K Building 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, the City intends to enter into an Energy Project Cooperative Agreement (the “L Building Energy Project Cooperative Agreement,” and together with the K Building Energy Project Cooperative Agreement, the “Energy Project Cooperative Agreements”) with the District, the L Building Owner, and the Investor to provide for, among other things, (i) the making of the Project Advance (as defined in the L Building Energy Project Cooperative Agreement) to pay costs of the L Building Project, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the L Building 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

WHEREAS, to provide for the security for the Project Advances and for the administration of payments on the Project Advances and related matters, the City intends to enter into a Special Assessment Agreement with the County Treasurer of Cuyahoga County, Ohio (the “County Treasurer”), the District, the K Building Owner, and the Investor and a Special Assessment Agreement with the County Treasurer, the District, the K Building Owner, and the Investor (collectively, the “Special Assessment Agreements”); and

WHEREAS, the actual costs of the Projects have been ascertained and have been certified to the City in the Petitions for the Projects.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

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 K Building Project Site (as further described on Exhibit A) in an amount sufficient to pay the costs of the K Building Project, which is \$10,750,076.50, 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 K Building 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 K Building Petition and previously reported to this Council and are now on file in the offices of the Clerk of Council and the Director of Finance, is adopted and confirmed, and that the Special Assessments are levied and assessed on the K Building Project Site. The interest portion of the Special Assessments, which shall accrue at the annual rate of 5.90%, 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 K Building Project Site commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2045 for collection in 2046; 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 2022, 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 Ordinance.

That the list of Special Assessments to be levied and assessed on the L Building Project Site (as further described on Exhibit A) in an amount sufficient to pay the costs of the L Building Project, which is \$5,809,359.50, 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 L Building 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 L Building Petition and previously reported to this Council and are now on file in the offices of the Clerk of Council and the Director of Finance, is adopted and confirmed, and that the Special Assessments are levied and assessed on the L Building Project Site. The interest portion of the Special Assessments, which shall accrue at the annual rate of 6.05%, 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 L Building Project Site commencing in tax year 2021 for collection in 2022 and shall continue through tax year 2045 for collection in 2046; 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 2022, 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 Ordinance.

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 Project Sites as set forth in the Petitions and the List of Special Assessments attached hereto as Exhibit A and incorporated herein. Each of the K Building Project Site and the L Building Project Site, as of the date of this Ordinance, constitute a portion of a single tax parcel in the records of the Cuyahoga County Fiscal Officer. As provided in the Petitions, if, after the date of this Ordinance, the tax parcel is subdivided such that either or both of the Project Sites are situated on one or more new or additional tax parcels, all of the Special Assessments levied on either such Project Site shall be allocated to the resulting tax parcels containing a portion of the applicable Project Site, and the special assessments allocated to those tax parcels shall be allocated among those tax parcels in proportion to the building square footage on any such resulting tax parcel.

SECTION 3. That this Council finds and determines that the Special Assessments are in proportion to the special benefits received by each of the Project Sites as set forth in the Petitions and are not in excess of any applicable statutory limitation.

SECTION 4. That each of the Owners have waived their right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Director of Finance to the County Fiscal Officer of Cuyahoga County, Ohio as provided by the Petitions and Ohio Revised Code Section 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 Petitions.

SECTION 5. That the Special Assessments will be used by the City to pay the cost of the Projects 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 Director of Finance shall keep the Special Assessments on file in the Office of the Director of Finance.

SECTION 7. That this Council hereby approves the Energy Project Cooperative Agreements, copies of which are on file in the office of the Clerk of this Council. The Mayor, the Director of Public Service and Development, or either of them individually, is authorized to sign and deliver, in the name and on behalf of the City, the Energy Project Cooperative Agreements, in substantially the forms as are now on file with the Clerk of this Council. The Energy Project Cooperative Agreements are approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved the Mayor, the Director of Public Service and Development, or either of them individually, for and on behalf of the City, all of which shall be conclusively evidenced by the signing of the Energy Project Cooperative Agreements or amendments to the Energy Project Cooperative Agreements.

SECTION 8. That this Council hereby approves the Special Assessment Agreements copies of which are on file in the office of the Clerk of this Council. The Mayor, the Director of Public Service and Development, or either of them individually, is authorized to sign and deliver, in the name and on behalf of the City, the Special Assessment Agreements, in substantially the forms as are now on file with the Clerk of this Council. The Special Assessment Agreements are approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor, the Director of Public Service and Development, or either of them individually, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreements or amendments to the Special Assessment Agreements.

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, the Director of Public Service and Development, or either of them individually, for and 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 this Council is directed to deliver a certified copy of this Ordinance 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 passage of this Resolution 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, including Section 121.22 of the Ohio Revised Code, as modified by Am. Sub. H.B. 97 of the 133rd Ohio General Assembly, effective March 27, 2020.

SECTION 12. That pursuant to Section 12(a) of Article IV of the Charter of the City of Fairview Park, Ohio, this Ordinance provides for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor and is effective at the earliest possible time allowed therein.

PASSED:
APPROVED:

1st reading:
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrook, Clerk of Council

CERTIFICATE

The undersigned Clerk of this Council hereby certifies that the foregoing is a true copy of Ordinance _____ duly adopted by the Council of the City of Fairview Park, Ohio on _____, 2020, 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
K BUILDING PROJECT**

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
21000 Brookpark Landlord LLC	331-35-002 Parcel B	100%	\$10,750,076.50

**LIST OF SPECIAL ASSESSMENTS
L BUILDING PROJECT**

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
21000 Brookpark Landlord LLC	331-35-002 Parcel A	100%	\$5,809,359.50

**K BUILDING PROJECT
SCHEDULE OF SPECIAL ASSESSMENTS
FOR CUYAHOGA COUNTY PARCEL NOS.:**

331-35-002¹

The following schedule of Special Assessment charges shall be certified for collection in 50 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2022 through 2046:

Special Assessment Payment Date ²	Total Special Assessment Installment Amount ³
January 31, 2022	\$215,001.53
July 20, 2022	215,001.53
January 31, 2023	215,001.53
July 20, 2023	215,001.53
January 31, 2024	215,001.53
July 20, 2024	215,001.53
January 31, 2025	215,001.53
July 20, 2025	215,001.53
January 31, 2026	215,001.53
July 20, 2026	215,001.53
January 31, 2027	215,001.53
July 20, 2027	215,001.53
January 31, 2028	215,001.53
July 20, 2028	215,001.53
January 31, 2029	215,001.53
July 20, 2029	215,001.53
January 31, 2030	215,001.53
July 20, 2030	215,001.53
January 31, 2031	215,001.53
July 20, 2031	215,001.53
January 31, 2032	215,001.53
July 20, 2032	215,001.53
January 31, 2033	215,001.53
July 20, 2033	215,001.53

¹ As identified in the records of the County Fiscal Officer of Cuyahoga County, Ohio as of August 7, 2020.

² Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified above are subject to adjustment under certain conditions.

³ Under Ohio Revised Code Chapter 727 the County Fiscal Officer of Cuyahoga County, Ohio may add a special assessment collection fee to the amounts stated above, which fee will be collected and retained by the County Fiscal Officer.

January 31, 2034	\$215,001.53
July 20, 2034	215,001.53
January 31, 2035	215,001.53
July 20, 2035	215,001.53
January 31, 2036	215,001.53
July 20, 2036	215,001.53
January 31, 2037	215,001.53
July 20, 2037	215,001.53
January 31, 2038	215,001.53
July 20, 2038	215,001.53
January 31, 2039	215,001.53
July 20, 2039	215,001.53
January 31, 2040	215,001.53
July 20, 2040	215,001.53
January 31, 2041	215,001.53
July 20, 2041	215,001.53
January 31, 2042	215,001.53
July 20, 2042	215,001.53
January 31, 2043	215,001.53
July 20, 2043	215,001.53
January 31, 2044	215,001.53
July 20, 2044	215,001.53
January 31, 2045	215,001.53
July 20, 2045	215,001.53
January 31, 2046	215,001.53
July 20, 2046	215,001.53

**L BUILDING PROJECT
SCHEDULE OF SPECIAL ASSESSMENTS
FOR CUYAHOGA COUNTY PARCEL NOS.:**

331-35-002⁴

The following schedule of Special Assessment charges shall be certified for collection in 50 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2022 through 2046:

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January 31, 2022	\$116,187.19
July 20, 2022	116,187.19
January 31, 2023	116,187.19
July 20, 2023	116,187.19
January 31, 2024	116,187.19
July 20, 2024	116,187.19
January 31, 2025	116,187.19
July 20, 2025	116,187.19
January 31, 2026	116,187.19
July 20, 2026	116,187.19
January 31, 2027	116,187.19
July 20, 2027	116,187.19
January 31, 2028	116,187.19
July 20, 2028	116,187.19
January 31, 2029	116,187.19
July 20, 2029	116,187.19
January 31, 2030	116,187.19
July 20, 2030	116,187.19
January 31, 2031	116,187.19
July 20, 2031	116,187.19
January 31, 2032	116,187.19
July 20, 2032	116,187.19
January 31, 2033	116,187.19
July 20, 2033	116,187.19

⁴ As identified in the records of the County Fiscal Officer of Cuyahoga County, Ohio as of August 7, 2020.

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July 20, 2035	116,187.19
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July 20, 2036	116,187.19
January 31, 2037	116,187.19
July 20, 2037	116,187.19
January 31, 2038	116,187.19
July 20, 2038	116,187.19
January 31, 2039	116,187.19
July 20, 2039	116,187.19
January 31, 2040	116,187.19
July 20, 2040	116,187.19
January 31, 2041	116,187.19
July 20, 2041	116,187.19
January 31, 2042	116,187.19
July 20, 2042	116,187.19
January 31, 2043	116,187.19
July 20, 2043	116,187.19
January 31, 2044	116,187.19
July 20, 2044	116,187.19
January 31, 2045	116,187.19
July 20, 2045	116,187.19
January 31, 2046	116,187.19
July 20, 2046	116,187.19

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 FAIRVIEW PARK, OHIO IN COOPERATION WITH
THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT

I, Michael W. Chambers, CPA, the duly elected, qualified, and acting Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of Ordinance _____, duly adopted by the Council of the City of Fairview Park, Ohio on _____, 2020 levying special assessments for the purpose of acquiring, installing, equipping, and improving certain public improvements in the City of Fairview Park, 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 50 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2022 through 2046, was filed in this office on _____, 2020.

WITNESS my hand and official seal at Cleveland, Ohio on _____, 2020.

[SEAL]

Fiscal Officer
Cuyahoga County, Ohio

EXHIBIT A

**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS**

**LIST OF SPECIAL ASSESSMENTS
K BUILDING PROJECT**

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
21000 Brookpark Landlord LLC	331-35-002 Parcel B	100%	\$10,750,076.50

**LIST OF SPECIAL ASSESSMENTS
L BUILDING PROJECT**

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
21000 Brookpark Landlord LLC	331-35-002 Parcel A	100%	\$5,809,359.50

K BUILDING PROJECT
 SCHEDULE OF SPECIAL ASSESSMENTS
 FOR CUYAHOGA COUNTY PARCEL NOS.:

331-35-002¹

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July 20, 2045	215,001.53
January 31, 2046	215,001.53
July 20, 2046	215,001.53

L BUILDING PROJECT
 SCHEDULE OF SPECIAL ASSESSMENTS
 FOR CUYAHOGA COUNTY PARCEL NOS.:

331-35-002⁴

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January 31, 2025	116,187.19
July 20, 2025	116,187.19
January 31, 2026	116,187.19
July 20, 2026	116,187.19
January 31, 2027	116,187.19
July 20, 2027	116,187.19
January 31, 2028	116,187.19
July 20, 2028	116,187.19
January 31, 2029	116,187.19
July 20, 2029	116,187.19
January 31, 2030	116,187.19
July 20, 2030	116,187.19
January 31, 2031	116,187.19
July 20, 2031	116,187.19
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July 20, 2039	116,187.19
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July 20, 2040	116,187.19
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July 20, 2041	116,187.19
January 31, 2042	116,187.19
July 20, 2042	116,187.19
January 31, 2043	116,187.19
July 20, 2043	116,187.19
January 31, 2044	116,187.19
July 20, 2044	116,187.19
January 31, 2045	116,187.19
July 20, 2045	116,187.19
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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 FAIRVIEW PARK, OHIO IN COOPERATION WITH
THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT

I, Michael W. Chambers, CPA, the duly elected, qualified, and acting Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of Ordinance _____, duly adopted by the Council of the City of Fairview Park, Ohio on _____, 2020 levying special assessments for the purpose of acquiring, installing, equipping, and improving certain public improvements in the City of Fairview Park, 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 50 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2022 through 2046, was filed in this office on _____, 2020.

WITNESS my hand and official seal at Cleveland, Ohio on _____, 2020.

[SEAL]

Fiscal Officer
Cuyahoga County, Ohio

ENERGY PROJECT COOPERATIVE AGREEMENT

By and among

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BERA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:
NORTHEAST OHIO ADVANCED ENERGY DISTRICT;

21000 BROOKPARK LANDLORD LLC;

PACE EQUITY LLC; and

CITY OF FAIRVIEW PARK, OHIO

Dated as of [_____], 2020

BRICKER & ECKLER LLP

ENERGY PROJECT COOPERATIVE AGREEMENT

THIS ENERGY PROJECT COOPERATIVE AGREEMENT (the “Agreement”) is made and entered into as of [____], 2020, between the CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., doing business under the registered trade name NORTHEAST OHIO ADVANCED ENERGY DISTRICT, a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “ESID”), 21000 BROOKPARK LANDLORD LLC, a limited liability company duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “Owner”), PACE EQUITY LLC, a limited liability duly organized and validly existing under the laws of the State of Wisconsin (the “Investor”), and the CITY OF FAIRVIEW PARK, OHIO, a municipal corporation duly organized and validly existing under the constitution and laws of the State (the “City”) (the capitalized terms used in this Agreement and not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. On [___], 2020, the Council of the City (“City Council”) passed Ordinance No. [___]-20, which approved the Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project (the “Petition”) and the Articles of Incorporation of the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc.

B. The ESID is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State of Ohio to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 2o of the Ohio Constitution.

C. On [___], 2020, by its Ordinance No. [___]-20, the City Council further approved the Plan, as a plan for public improvements or public services for the ESID under Ohio Revised Code Chapter 1710.02(F).

D. Pursuant to the Plan, the ESID, among other services, shall assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy improvement projects.

E. In order to obtain financing for special energy improvement projects and to create special assessment revenues available to pay and repay the costs of special energy improvement projects, the Petition requested that the City Council levy Special Assessments against the Owner's property as more fully described in the Plan.

F. The ESID, the Owner, the Investor, and the City (collectively the "Parties," and each, a "Party") each have determined that the most efficient and effective way to implement the financing, acquisition, installation, equipment, and improvement of energy special improvement projects and to further the public purposes set forth above is through this Agreement, pursuant to the Special Assessment Act and on the terms set forth in this Agreement, with (i) the Investor providing the Project Advance to finance the costs of the special energy improvement projects described in the Plan, (ii) the ESID and the Owner cooperating to acquire, install, equip and improve special energy improvement projects, (iii) the Owner agreeing to make Special Assessment payments in an aggregate amount that will provide revenues sufficient to pay or repay the permitted costs of the special energy improvement projects, (iv) the City agreeing to assign and transfer all Special Assessment payments actually received by the City to the Investor to repay the Project Advance; and (v) the ESID agreeing to assign, transfer, and set over to the Investor any of its right, title, or interest in and to the Special Assessments which it may have by operation of law, this Agreement, or otherwise; provided that a portion of the Special Assessments may be retained by, or be payable to, the City or the ESID, all pursuant to and in accordance with this Agreement.

G. The Parties each have full right and lawful authority to enter into this Agreement and to perform and observe its provisions on their respective parts to be performed and observed, and have determined to enter into this Agreement to set forth their respective rights, duties, responsibilities, obligations, and contributions with respect to the implementation of special energy improvement projects within the ESID.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and agreements contained in this Agreement, the Parties agree as follows; provided, that any obligation of the ESID created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the ESID, or give rise to any pecuniary liability of the ESID, but any such obligation shall be payable solely from the Special Assessments actually received by the ESID, if any; and provided, further, that any obligation of the City created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the City, or give rise to any pecuniary liability of the City, but any such obligation shall be payable solely from the Special Assessments actually received by the City, if any:

ARTICLE I: DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, words and terms used in this Agreement shall have the meanings set forth in **Exhibit A** to this Agreement unless the context or use clearly indicates another meaning or intent. Definitions shall apply equally to both the singular and plural forms of any of the words and terms. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

Section 1.2. Interpretation. Any reference in this Agreement to the ESID, the ESID Board, the Owner, the City, the City Council, the Investor, or to any member or officer of any of the foregoing, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Special Assessment Act, or to a section, provision or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America, includes that section, provision, or chapter as amended, modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Section 1.3. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any of this Agreement's Articles, Sections, subsections, paragraphs, subparagraphs or clauses.

ARTICLE II: COOPERATIVE ARRANGEMENTS; ASSIGNMENT OF SPECIAL ASSESSMENTS

Section 2.1. Agreement Between the City, the ESID, and the Investor. The Owner and the ESID have requested the assistance of the Investor and the City in the financing of special energy improvement projects within the ESID. For the reasons set forth in this Agreement's Recitals—which Recitals are incorporated into this Agreement by this reference as a statement of the public purposes of this Agreement and the intended arrangements among the Parties—the City and the ESID have requested the assistance and cooperation of the Investor in the collection and payment of Special Assessments in accordance with this Agreement. The Parties intend this Agreement to be, and it shall be, an agreement among the Parties to cooperate in the financing, acquisition, installation, equipment, and improvement of “special energy improvement projects,” pursuant to Ohio Revised Code Chapter 1710, and as that term is defined in Ohio Revised Code Section 1710.01(I). The Parties intend this Agreement's provisions to be, and they shall be construed as, agreements to take effective cooperative action and to safeguard the Parties' interests.

Upon the considerations stated above and upon and subject to the terms and conditions of this Agreement, the Investor, on behalf of the Parties, shall make the Project Advance available to the Owner to pay the costs of the Project. The City and the ESID shall assign, transfer, set over, and pay the Special Assessments actually received by the City or the ESID, respectively, to the Investor, to pay the costs of the Project at the times and in the manner provided in this Agreement; provided, however, that the City, the ESID, and the Investor intend that the City shall receive all Special Assessments from the County Treasurer and shall transfer, set over, and pay all Special Assessments received from the County Treasurer directly to the Investor. The City, the ESID, and the Investor further intend and agree that the Investor shall pay to the ESID, out of the Special Assessments received by the Investor, a semi-annual fee of \$[_____] for the ESID's administrative expenses; provided, however, that if the amount of Special Assessments

received by the Investor in any year are insufficient to pay the principal of, and interest on the Project Advance due in that year and the semi-annual fee of \$[_____] due to the ESID, the Special Assessments received shall first be applied to the payment of interest on the Project Advance, then to the repayment of the principal of the Project Advance, and then to the payment of the semi-annual fee due to the ESID.

Notwithstanding anything in this Agreement to the contrary, any obligations of the City under this Agreement, including the obligation to transfer the Special Assessments received by the City to the Investor, shall be a special obligation of the City and shall be required to be made only from Special Assessments actually received by or on behalf of the City, if any. The City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the City's faith and credit or taxing power, and the ESID, the Owner, and the Investor do not have and shall not have any right to have taxes levied by the City for the transfer of the Special Assessments.

Section 2.2. Special Assessments; City Transfer of Special Assessments.

- (a) The Special Assessment Proceedings. The City has taken all necessary actions required by the Special Assessment Act to levy and collect the Special Assessments on the Property.

Pursuant to Ohio Revised Code Section 727.33, the City has certified the Special Assessments to the County Fiscal Officer for collection, and the County Fiscal Officer shall collect the unpaid Special Assessments with and in the same manner as other real property taxes and pay the amount collected to the City. The Parties intend that the County Fiscal Officer and the County Treasurer shall have the duty to collect the Special Assessments through enforcement proceedings in accordance with applicable law.

- (b) Collection of Delinquent Special Assessments. The ESID and the Investor are hereby authorized to take any and all actions as assignees of and, to the extent required by law, in the name of, for, and on behalf of, the City to collect delinquent Special Assessments levied by the City pursuant to the Special Assessment Act and to cause the lien securing the delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Fiscal Officer, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used in accordance with this Agreement.
- (c) Prepayment of Special Assessments. The Parties agree that the Special Assessments assessed against the Property and payable to the City pursuant to the Special Assessment Act may be prepaid to the Investor by the Owner in accordance with Section 4.7 of this Agreement. Except as set forth in this Section 2.2(c) and Section 4.7 of this Agreement, the Owner shall not prepay any Special

Assessments. Notwithstanding the foregoing, if the Owner attempts to cause a prepayment of the Special Assessments by paying to the County Treasurer any amount as a full or partial prepayment of Special Assessments, and if the City shall have knowledge of the same, the City immediately shall notify the Investor, and, unless provided the express written consent of the Investor, the City shall not cause any reduction in the amount of Special Assessments. Except as specifically provided in this Agreement to the contrary, no other action pursuant to any provision of this Agreement shall abate in any way the payment of the Special Assessments by the owners of property or the transfer of the Special Assessments by the City to the Investor.

- (d) Reduction of Special Assessments. The Parties agree that the Special Assessments may be subject to reduction, but only upon the express written consent or instruction of the Investor. If the Owner causes the Special Assessments to be prepaid in accordance with Sections 2.2(c) and 4.7 of this Agreement, upon the City's receipt of the Investor's express written consent or instruction, the City shall certify to the County Fiscal Officer, prior to the last date in the then-current tax year on which municipal corporations may certify special assessments to the County Fiscal Officer, a reduction in the amount of Special Assessments collected such that, following such reduction, the amount of Special Assessments remaining to be paid shall be equal to the amounts necessary to pay, as and when due, the remaining outstanding principal of the Project Advance, together with interest at the annual rate of 5.90%, a \$600.00 semi-annual servicing fee to the Investor, and a \$[_____] semi-annual administrative fee to the ESID. The parties acknowledge and agree that County Fiscal Officer may calculate, charge, and collect a collection fee on each annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Fiscal Officer pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Notwithstanding anything in this Agreement to the contrary, the City shall not cause any reduction in the amount of Special Assessments without the prior written consent or instruction of the Investor.
- (e) Assignment of Special Assessments. The City agrees that it shall establish its funds for the collection of the Special Assessments as separate funds maintained on the City's books and records and to be held in the custody of a bank with which the City maintains a depository relationship. The City hereby assigns to the Investor all of its right, title and interest in and to: (i) the Special Assessments received by the City under this Agreement, (ii) the City's special assessment funds established for the Project, and (iii) any other property received or to be received from the City under this Agreement. The City further shall transfer, set over, and pay the Special Assessments and Delinquency Amounts to the Investor in accordance with this Agreement. The ESID acknowledges and consents to the City's assignment of the Special Assessments to the Investor. The Parties agree that each of the City, the ESID, and the Investor, as assignee of the Special Assessments, is authorized to take any and all actions, whether at law, or in equity, to collect delinquent Special Assessments levied by the City pursuant to

law and to cause the lien securing any delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Fiscal Officer, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings.

- (f) Transfer of Special Assessments. The parties anticipate that semi-annual installments of the Special Assessments and Delinquency Amounts will be paid to the City by the County Fiscal Officer and the County Treasurer in accordance with Ohio Revised Code Chapters 319, 321, 323, and 727, which, without limiting the generality of the foregoing, contemplates that the County Fiscal Officer and County Treasurer will pay the Special Assessments and Delinquency Amounts to the City on or before June 1 of each year. Immediately upon receipt of any moneys received by the City as Special Assessments, but in any event not later than 21 calendar days after the receipt of such moneys and the corresponding final settlement from the County Fiscal Officer, the City shall deliver to the Investor all such moneys received by the City as Special Assessments and Delinquency Amounts by ACH or check as determined in the sole discretion of the City. The Investor shall provide the City with account and payment information in the form of **Exhibit I** on the date on which this Agreement becomes effective. The Investor may from time to time provide updated written account and payment information in the form of **Exhibit I** to the City for the payment of Special Assessments and Delinquency Amounts, but the City shall maintain its right to send the special assessments by ACH or check in its sole discretion. If at any time during the term of this Agreement the County Fiscal Officer agrees, on behalf of the City, to disburse the Special Assessments and Delinquency Amounts to the Investor pursuant to instructions or procedures agreed upon by the County Fiscal Officer and the City, then, upon each transfer of an installment of the Special Assessments and Delinquency Amounts from the County Fiscal Officer to the Investor, the City shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments and Delinquency Amounts to the Investor.
- (g) Repayment of Project Advance. The Investor shall credit, on the dates shown on the Repayment Schedule (which is attached to, and incorporated into, this Agreement as **Exhibit B**), Special Assessments in the amounts shown on the Repayment Schedule to the payment of accrued interest on the Project Advance and to the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Investor, on the dates shown on the Repayment Schedule, further shall pay to the ESID, after the payment of accrued interest on the Project Advance, the repayment of the portion of principal of the Project Advance scheduled to be repaid on such date, and the payment of a \$600.00 semi-annual servicing fee to the Investor, a semi-annual fee of \$[_____] or such lesser amount as may be available from the Special Assessments on the applicable date after the payment of accrued interest on the Project Advance and the repayment of the portion of the principal of the Project Advance scheduled to

be repaid on such date. The Parties acknowledge and agree that the County Fiscal Officer may calculate, charge, and collect a fee on each annual installment of the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties, and that such fee shall be paid to the County Fiscal Officer with the Special Assessments, and that the County Fiscal Officer will retain such fee.

Section 2.3. Obligations Unconditional; Place of Payments. The City's obligation to transfer the Special Assessments and any Delinquency Amounts to the Investor under Section 2.2 of this Agreement shall be absolute and unconditional, and the City shall make such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Investor, the ESID, or the Owner; provided, however, that the City's obligation to transfer the Special Assessments and any Delinquency Amounts is limited to the Special Assessments and any Delinquency Amounts actually received by or on behalf of the City, and nothing in this Agreement shall be construed to obligate the City to transfer or pledge, and the City shall not transfer or pledge any special assessments not related to the ESID.

Section 2.4. Appropriation by the City; No Further Obligations. Upon the Parties' execution of this Agreement, all of the Special Assessments and Delinquency Amounts received or to be received by the City shall be deemed to have been appropriated to pay the City's obligation under this Agreement to pay to the Investor all Special Assessments and Delinquency Amounts received by the City. During the years during which this Agreement is in effect, the City shall take such further actions as may be necessary or desirable in order to appropriate the transfer of the Special Assessments and Delinquency Amounts actually received by the City in such amounts and at such times as will be sufficient to enable the City to satisfy its obligation under this Agreement to pay the City's obligation under this Agreement to pay to the Investor all Special Assessments and Delinquency Amounts received by the City; provided that the City shall not be responsible for the costs and expenses of any collection or enforcement actions, except to the extent of any Special Assessments and Delinquency Amounts actually received by the City; and provided further that nothing in this paragraph shall be construed as a waiver of the City's right to be indemnified pursuant to Section 6.4 of this Agreement or pursuant to the Special Assessment Agreement. The City has no obligation to use or apply to the payment of the Special Assessments and Delinquency Amounts any funds or revenues from any source other than the moneys received by the City as Special Assessments and Delinquency Amounts; provided, however, that nothing in this Agreement shall be deemed to prohibit the City from using, to the extent that it is authorized to do so, any other resources for the fulfillment of any of this Agreement's terms, conditions, or obligations.

Section 2.5. Security for Advanced Funds. To secure the transfer of the Special Assessments by the City to the Investor, and in accordance with the Special Assessment Act, the ESID hereby assigns, transfers, sets over, and shall pay all of its right, title, and interest in and to the Special Assessments related to the ESID actually received by or on behalf of the City to the Investor. The Owner and the City agree and consent to that assignment.

ARTICLE III: REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 3.1. The City's Representations and Warranties. The City represents and warrants that:

- (a) It is a municipal corporation duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the City that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the City's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the City and does not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.
- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the City has taken all steps necessary to establish this Agreement and the City's covenants and agreements within this Agreement, as valid and binding obligations of the City, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the City in which an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.2(e) is a valid and binding obligation of the City with respect to the Special Assessments received by the City under this Agreement.

Section 3.2. The ESID's Representations and Warranties. The ESID represents and warrants that:

- (a) It is a nonprofit corporation and special improvement district, duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the ESID that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the ESID's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the ESID and does

not and will not conflict with or result in a default under any agreement or instrument to which the ESID is a party or by which it is bound.

- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the ESID has taken all steps necessary to establish this Agreement and the ESID's covenants and agreements within this Agreement as valid and binding obligations of the ESID, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the ESID in which an unfavorable ruling or decision would materially adversely affect the ESID's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.5 is a valid and binding obligation of the ESID with respect to the ESID's right, title and interest in the Special Assessments under this Agreement.

Section 3.3. The Owner's Representations and Warranties. The Owner represents and warrants that:

- (a) It is a limited liability company duly organized, validly existing and in full force and effect under the laws of the State of Ohio. It has all requisite power to conduct its business as presently conducted and to own, or hold under lease, its assets and properties, and, is duly qualified to do business in all other jurisdictions in which it is required to be qualified, except where failure to be so qualified does not have a material adverse effect on it, and will remain so qualified and in full force and effect during the period during which Special Assessments shall be assessed, due, and payable.
- (b) It, by proper action, duly has authorized, executed, and delivered this Agreement, and it has taken all steps necessary to establish this Agreement and its covenants and agreements within this Agreement as valid and binding obligations, enforceable in accordance with their terms
- (c) There are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it, the Property, or the Project that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affect its financial condition (an "Action"), and during the term of this Agreement, the Owner shall promptly notify the Investor of any Action commenced or to its knowledge threatened against it.
- (d) It is not in default under this Agreement, and no condition, the continuance in existence of which would constitute a default under this Agreement exists. It is not in default in the payment of any Special Assessments or under any agreement or instrument related to the Special Assessments which has not been waived or allowed.

- (e) Except for any financing of the Property and the lien related thereto that Owner has previously disclosed in writing, it has made no contract or arrangement of any kind, other than this Agreement, which has given rise to, or the performance of which by the other party thereto would give rise to, a lien or claim of lien on its Project, except inchoate statutory liens in favor of suppliers, contractors, architects, subcontractors, laborers or materialmen performing work or services or supplying materials in connection with the acquiring, installing, equipping and improving of its Project.
- (f) No representation or warranty made by it contained in this Agreement, and no statement contained in any certificate, schedule, list, financial statement or other instrument furnished to the Investor or the ESID by it or on its behalf contained, as of the date thereof, any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading.
- (g) Since the date of the most recent financial statements of the Owner provided to the Investor, there has been no material adverse change in the financial condition of the Owner, nor has the Owner mortgaged, pledged or granted a security interest in or encumbered the Property since such date, except as otherwise disclosed to the Investor in writing, and the financial statements which have been delivered to the Investor prior to the date of this Agreement are true, correct, and current in all material respects and fairly represent the respective financial conditions of the subjects of the financial statements as of the respective dates of the financial statements.
- (h) The Owner has good and marketable title to its Property, subject only to existing liens, pledges, encumbrances, charges or other restrictions of record previously disclosed by the Owner to the Investor in writing, liens for taxes not yet due and payable, and minor liens of an immaterial nature.
- (i) The Project complies in all material respects with all applicable zoning, planning, building, environmental and other regulations of each Governmental Authority having jurisdiction of the Project, and all necessary permits, licenses, consents and permissions necessary for the Project have been or will be obtained.
- (j) The plans and specifications for the Project are satisfactory to the Owner, have been reviewed and approved by the general contractor for the Project, the tenants under any leases which require approval of the plans and specifications, the purchasers under any sales contracts which require approval of the plans and specifications, any architects for the Project, and, to the extent required by applicable law or any effective restrictive covenant, by all Governmental Authorities and the beneficiaries of any such covenants; all construction of the Project, if any, already performed on the Property has been performed on the Property in accordance with such approved plans and specifications and the restrictive covenants applicable to the plans and specifications; there are no structural defects in the Project or violations of any requirement of any

Governmental Authorities with respect to the Project; the planned use of the Project complies with applicable zoning ordinances, regulations, and restrictive covenants affecting the Property as well as all environmental, ecological, landmark and other applicable laws and regulations; and all requirements for such use have been satisfied.

- (k) The Owner has the Required Insurance Coverage and will maintain the Required Insurance Coverage at all times during the term of this Agreement, while any principal of or interest on the Project Advance remains outstanding, and while any Special Assessments remain to be paid. Any return of insurance premium or dividends based upon the Required Insurance Coverage shall be due and payable solely to the Owner or its Lender pursuant to any agreements between the Owner and its Lender, unless such premium shall have been paid by the Investor, in accordance with the distribution priority specified in Section 4.3.
- (l) Each Disbursement Request Form presented to the Investor, and the receipt of the funds requested by the Disbursement Request Form, shall constitute an affirmation that the representations and warranties contained in this Agreement remain true and correct as of the date of the Disbursement Request Form and the receipt of the funds requested by the Disbursement Request Form.
- (m) Each of the Property and the Project are, and at all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, used solely for the commercial purposes disclosed by the Owner to the Investor in writing.
- (n) The Project and the plans and specifications for the Project have been developed pursuant to an energy audit prepared by the Investor, which energy audit demonstrates that the Project is expected to generate \$[12,879.00] in average annual energy savings.
- (o) Each of the components of the Project is a qualified “special energy improvement project” pursuant to the definition of that term in Ohio Revised Code Section 1710.01(I).
- (p) At all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, the Owner shall comply in all respects with the Special Assessment Act, and shall take any and all action necessary to remain in compliance with the Special Assessment Act.

Section 3.4. The Owner’s Additional Agreements. The Owner agrees that:

- (a) It shall not transfer or convey any right, title, or interest, in or to the Property and the Project, except after giving prompt notice of any such transfer or conveyance to the Investor; provided, however, that the foregoing restrictions shall not apply to the grant or conveyance of any leasehold interests, mortgage interest, or lien

interest, except as may be otherwise provided in this Agreement. Before or simultaneous with any such transfer or conveyance, the Owner shall (i) execute, cause the transferee or purchaser to execute, and deliver to the Investor, the City, and the ESID a fully executed "Assignment and Assumption of Energy Project Cooperative Agreement" in the form attached to, and incorporated into, this Agreement as **Exhibit H**; (ii) execute, cause the transferee or purchaser to execute, and deliver to the Investor, an assignment of all construction contracts related to the Project; and (iii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent.

- (b) It shall pay when due all taxes, assessments, service payments in lieu of taxes, levies, claims and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on any portion of the Property. The Owner shall furnish the Investor, upon reasonable request, with proof of payment of any taxes, governmental charges, utility charges, insurance premiums or other charges required to be paid by the Owner under this Agreement. The Parties acknowledge and agree that the foregoing obligation is in addition to the Owner's obligation to pay the Special Assessment.
- (c) It shall not, without the prior written consent of the Investor, cause or agree to the imposition of any special assessments, other than the Special Assessments, on the Property for the purpose of paying the costs of "special energy improvement projects," as that term is defined in Ohio Revised Code Section 1710.01(I), as amended and in effect at the time.
- (d) It shall promptly pay and discharge all claims for labor performed and material and services furnished in connection with the acquisition, installation, equipment, and improvement of the Project.
- (e) Once annually until the Completion Date, the chief financial officer of the Owner shall provide the Investor with a certificate setting forth all sources and uses of funds with respect to the Project.
- (f) It promptly shall notify the Investor of any material damage or destruction to the Project.
- (g) Upon the reasonable request of the Investor, it shall take any actions and execute any further certificates, instruments, agreements, or documents as shall be reasonably necessary in connection with the performance of this Agreement and with the transactions, obligations, and undertakings contained in this Agreement.

- (h) It shall not cause the Property to be subdivided, platted, or otherwise separated into any additional parcels in the records of the County Fiscal Officer without the consent of the Investor. In the event that at any time following the Closing Date the Property is combined or subdivided into permanent parcels in the records of the County Fiscal Officer, then the Special Assessments shall be allocated among the resulting parcels in proportion to the improved building square footage of the existing parcels that is contained in each resulting parcel that contains a portion of an existing parcel. The Owner hereby certifies, represents, and warrants to the ESID, the Investor, and the City that in the event of a combination or subdivision of parcels, the portion of the Special Assessments allocated to each resulting parcel as described above will be in proportion to, and will not exceed, the special benefits to be conferred on the resulting parcel or parcels by the Project.

- (i) It does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, as defined in applicable state law, or any other federal, state or local environmental laws or regulations, and neither the Property nor any other of its premises has been so used previously, in each case, except as previously disclosed in writing to the Investor. There are no underground storage tanks located on the Property. There is no past or present non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws. There is no environmental remediation required (or anticipated to be required) with respect to the Property. The Owner does not know of, and has not received, any written or oral notice or other communication from any person (including but not limited to a governmental entity) relating to hazardous substances or remediation of hazardous substances, of possible liability of any person pursuant to any environmental law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with the foregoing.

ARTICLE IV: PROJECT ADVANCE; CONSTRUCTION OF PROJECT; REPAYMENT

Section 4.1. Project Advance. The Investor has made available to the Owner the Project Advance in the amount of \$5,569,278.00, of which \$[_____] will be net funded into the Project Account (as defined below) for disbursement pursuant to Section 4.2, closing costs in the amount of \$[_____] will be disbursed by the Investor in accordance with Section 4.2 and **Exhibit E**, and capitalized interest in the amount of \$[_____] will be retained for the account of the Investor for further payment to itself and the EISD in accordance with this Agreement. The Disbursing Agent shall hold the Project Advance in a segregated account established in the custody of the Investor, which account shall be referred to as the “Project Account.” Subject to the terms and conditions of this Agreement, the Disbursing Agent, upon the direction of the Owner, shall cause the Disbursing Agent to disburse amounts on deposit in the Project Account to the Owner or to such parties as may be named by the Owner in order to pay the costs of the Project.

If the Project Advance net funded to the Owner is insufficient to pay the costs of the Project pursuant to this Agreement, the Owner, nevertheless, shall complete the acquisition, installation, equipment, and improvement of its Project, and the Owner shall pay all such additional costs of its Project from its own funds. The Owner shall not be entitled to reimbursement for any such additional costs of its Project, nor shall it be entitled to any abatement, diminution, or postponement of the Special Assessments.

Section 4.2. Disbursements. In order to cause disbursement of amounts on deposit in the Project Account to pay or reimburse the costs of the Project, the Owner shall submit Disbursement Request Forms (a form of which is attached to this Agreement as **Exhibit C**) to the Investor, which Disbursement Request Forms each shall, in part, set forth the payments or reimbursements requested, and shall be accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. In addition, the following shall occur:

- (a) With each Disbursement Request Form:
 - (i) The Owner shall deliver to the Investor proof that each project milestone has occurred;
 - (ii) The Owner shall deliver to the Investor copies of all related receipts and invoices;
 - (iii) The Owner shall deliver to the Investor signed lien waivers in the form attached to the Disbursement Request Form as Schedule 2;
 - (iv) The Owner shall deliver to the Disbursing Agent, on behalf of the Investor, as necessary, bank information for wiring the amounts requested for disbursement;
 - (v) The Investor shall have received copies of all other disbursement requests for disbursements of other sources of funds, including from the loan from the Owner's Lender, that have been submitted on or prior to the date on which the related Disbursement Request is submitted, and all such disbursement requests shall have been validly approved in accordance with the Lender Loan Documents; and
 - (vi) All of the conditions to disbursement under the Disbursing Agreement shall have been satisfied.

- (b) With the first Disbursement Request Form submitted, in addition to the documents required under Section 4.2(a):
 - (i) The Owner shall deliver to the Investor copies of all construction permits required for the construction of the Project;
 - (ii) The Owner shall deliver to the Investor copies of all agreements with all subcontractors performing work or furnishing materials for the Project;
 - (iii) The Owner shall deliver to the Investor a construction schedule completed by the general contractor for the Project, which includes an anticipated date of completion of the Project; and
 - (iv) The Owner shall deliver to the Investor copies of all current policies of the Required Insurance Coverage;

- (v) The construction plans and specifications shall have been approved in all respects by the Investor in its sole discretion;
 - (vi) The budget shall have been approved by the Investor in its sole discretion;
 - (vii) The Owner shall deliver to the Investor the written consent of its existing mortgage lender to the levying, assessment, and collection of the Special Assessments, in the form attached to this Agreement as **Exhibit G**;
 - (viii) The Owner shall provide to the Investor evidence acceptable to the Investor, in its sole discretion, that the City Council and the ESID have approved the Project;
 - (ix) The Investor shall receive the executed Special Assessment Agreement and Owner Consent and evidence that the same has been recorded in the records of the Fiscal Officer of Cuyahoga County, Ohio with respect to the Property;
 - (x) The Owner and the ESID shall provide to the Investor original executed copies of this Agreement and any related certificates;
 - (xi) The Owner shall provide to the Investor a list of authorized representatives on whose instructions and directions the Investor may rely until such time as an updated list has been provided, as set forward in **Exhibit I**, attached hereto.
- (c) With the final Disbursement Request Form, in addition to the documents required under Section 4.2(a):
- (i) The Owner shall deliver to the Investor the final lien waiver and release;
 - (ii) The Owner shall deliver to the Investor the executed certificate in the form attached as **Exhibit D** to this Agreement; and
 - (iii) The Owner shall deliver to the Investor copies of all completion inspections and closed permits with respect to the Project.

Upon its receipt of each completed Disbursement Request Form, the Investor shall approve all or a portion of the payment or reimbursements requested to be disbursed from the Project Account. To the extent the Investor approves the payment or reimbursements requested to be disbursed from the Project Account, the Investor shall cause the Disbursing Agent to pay the Owner or such other parties as are indicated on the Disbursement Request Form the amounts described on such Disbursement Request Form which have been approved by the Investor.

Additionally, on the date this Agreement becomes effective, the Investor shall cause the Disbursing Agent to disburse to the ESID for closing costs related to the financing described in this Agreement in an amount not to exceed \$[_____], as detailed in **Exhibit E** to this Agreement. Without limiting the generality of the foregoing, disbursements made pursuant to this paragraph may be for fees to the Investor, fees to the ESID, legal fees, fees to the City, and other closing costs or contingencies.

If at any time an Event of Default has occurred and is continuing under this Agreement, the Investor may withhold approval of any requests for disbursement until the Event of Default is cured and its effects are removed.

Notwithstanding the foregoing, upon the Investor's receipt from the Owner's Lender of notice of a default under the Lender Loan Documents beyond the expiration of any applicable notice and cure period, the Owner shall forfeit all rights under this Agreement to the Lender (including, without limitation, any rights to disbursements), and the Lender shall be entitled to all of the rights of the Owner under this Agreement. So long as the Owner's Lender has cured (or caused the cure of) any Event of Default under this Agreement, or, if any Event of Default is not curable by the Lender, the Lender has agreed to complete construction of the Project notwithstanding the Event of Default under this Agreement, then disbursements shall be made available to the Lender in accordance with this Agreement and the Disbursing Agreement. In such event, the Owner hereby irrevocably makes, constitutes, and appoints the Owner's Lender as the Owner's true and lawful attorney and agent-in-fact to execute all documents and other agreements and instruments and do such other acts and things as may be necessary to preserve and perfect its interests and rights under this Agreement. The Owner acknowledges and agrees that its appointment of the Lender as its attorney and agent-in-fact for the purposes specified in this Section is an appointment coupled with an interest and shall be irrevocable until all of the obligations under the Lender Loan Documents are satisfied. Nothing contained in this Section shall obligate the Lender to perform any obligations on behalf of the Owner (including, without limitation, the obligation to complete the Project).

Section 4.3. Casualties and Takings. The Owner shall promptly notify the Investor if the Project is damaged or destroyed by fire, casualty, injury or any other cause (each such occurrence, a "Casualty"). Upon the occurrence of such Casualty, the Owner's Lender, if any, may elect, in its sole discretion and judgment, to restore the Property and the Project or to terminate the construction of the Project, and in either case, to direct the application of the insurance proceeds pursuant to the terms of Owner's Lender's agreement with the Owner, provided that if the insurance proceeds are not used to restore the Property and the Project, insurance proceeds will be distributed to the Owner's Lender and to the Investor in accordance with their insured interests, and any excess proceeds will be paid to the Owner.

Upon the occurrence of a Casualty, if no Person is a Lender at the time of such Casualty, the insurance proceeds shall be applied to pay the costs of the restoration of the Project or to the repayment of the outstanding balance of the Special Assessments, and in which case the Investor shall remain obligated to cause the Disbursing Agent to make disbursements of up to the total amount of the Project Advance in accordance with this Agreement.

In the event restoration of the Project or the Property is pursued, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, said insurance proceeds are insufficient to complete the restoration, the Owner shall deposit with the Disbursing Agent such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event any part of the Property or the Project shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (a "Taking"), the Owner's Lender, if any, may elect, in its sole discretion and judgment, not to

restore the Property or the Project or to restore the Property or the Project, and in either case, to direct the application of the proceeds of the Taking pursuant to the terms of its agreements with the Owner, provided that if the Takings proceeds are not used to restore the Property and the Project, Takings proceeds will be distributed to Owner's and to the Investor in accordance with their insured interests, and any excess Takings proceeds will be paid to the Owner. If the Lender determines not to restore the Property or the Project and release funds related thereto to the Owner, the Investor's obligation to cause the Disbursing Agent to make disbursements under this Agreement shall be terminated. If the Lender determines to restore the Property and the Project, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Disbursing Agent such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event that no Person is a Lender at the time of such Taking, the Investor's obligation to cause the Disbursing Agent to make disbursements under this Agreement shall be terminated unless the Property and the Project can be replaced and restored in a manner which will enable the Project to be functionally and economically utilized and occupied as originally intended. If the Property and the Project can be so restored, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications, and the Investor shall cause the Disbursing Agent to release the funds for such purpose. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Disbursing Agent such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

Section 4.4. Eligible Costs. The costs of the Project which are eligible for payment or reimbursement pursuant to this Agreement include the following:

- (a) costs incurred directly or indirectly for or in connection with the acquisition, installation, equipment, and improvement of the Project, including without limitation, costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, surveying, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;
- (b) financial, legal, recording, title, accounting, and printing and engraving fees, charges and expenses, and all other fees, charges and expenses incurred in connection with the financing described in this Agreement;
- (c) premiums attributable to any surety and payment and performance bonds and insurance required to be taken out and maintained until the date on which each Project is final and complete;
- (d) taxes, assessments and other governmental charges in respect of the Project that may become due and payable until the date on which each Project is final and complete;

- (e) costs, including, without limitation, attorney's fees, incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project; and
- (f) any other incidental or necessary costs, expenses, fees and charges properly chargeable to the cost of the acquisition, installation, equipment, and improvement of the Project.

Section 4.5. Completion of Project; Inspection. The Owner (a) in accordance with the approved plans and specifications for the Project, which plans and specifications shall not be materially revised without the prior written approval of the Investor, which approval shall not be unreasonably withheld, shall acquire, install, equip, and improve its Project with Project Advance with all commercially reasonable dispatch, (b) subject to its right to contest any disputed work, shall pay when due all fees, costs and expenses incurred or payable by the Owner in connection with that acquisition, installation, equipment, and improvement from funds made available therefor in accordance with this Agreement or otherwise, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable to the Owner under the terms of any contract, order, receipt, writing or instruction in connection with the acquisition, installation, equipment, and improvement of the Project, and shall utilize commercially reasonable efforts to enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is to be owned by the Owner and any contracts made by the Owner with respect to the Project or any work to be done by the Owner on or with respect to the Project are made or done by the Owner on its own behalf and not as agent or contractor for the ESID.

During the period of acquisition, installation, equipment, and improvement of the Project, the ESID and the Investor, and their respective agents, subject to reasonable security and safety regulations, and upon reasonable prior notice, shall have the right, during normal business hours, to inspect the Project. The ESID and the Investor and their respective agents shall utilize commercially reasonable efforts to minimize interference with the tenants of the Property during any such inspection.

The Investor reserves the right to deny the request for a Project Advance pursuant to Article IV of this Agreement if such inspection reveals that construction is not proceeding with reasonable dispatch. If, in the Investor's opinion, after 30 days' written notice to the Owner, the construction is not proceeding with reasonable dispatch, the Investor may (i) request that the Owner remove and replace the general contractor with a general contractor acceptable to the Investor, the failure of which by the Owner shall be a default under this Agreement, (ii) utilize funds to continue construction of the Project and such funds shall be considered Project Advances, or (iii) deny any Project Advance until such time as the construction resumes proceeding with reasonable dispatch.

The Owner shall notify the ESID, the City, and the Investor of the Completion Date by a certificate in the form attached as **Exhibit D** to this Agreement, signed by the Owner stating: (a) the date on which the acquisition, installation, equipment, and improvement of the Project was

substantially completed by the general contractor for the Project in accordance with the construction contract, and the Owner has no unresolved complaints regarding the work; (b) that the Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget for the Project approved by the Investor; (c) that the Owner has complied, and will continue to comply with all applicable statutes, regulations, and resolutions or ordinances in connection with the Property and the construction of the Project; (d) that the Owner holds fee ownership of the Property; (e) that the general contractor for the project has not offered the Owner any payment, refund, or any commission in return for completing Project; and (f) that all funds provided to the Owner by the Investor for the Project have been used in accordance with this Agreement. The certificate shall be delivered as promptly as practicable after the Completion Date.

Section 4.6. Repayment. The Parties acknowledge that pursuant to this Agreement, the Project Advance is expected to be repaid by the Special Assessments. The Parties agree that the Special Assessments have been levied and certified to the County Fiscal Officer in the amounts necessary to amortize the Project Advance, together with interest at the annual rate of 5.90%, a \$600.00 semi-annual servicing fee to the Investor, and a \$[_____] semi-annual administrative fee to the ESID over 50 semi-annual payments to be collected beginning approximately on January 31, 2022 and continuing through approximately July 20, 2046. The Parties further acknowledge that in addition to the amount of the Special Assessments and other related interest, fees, and penalties, the County Fiscal Officer may charge and collect a County Fiscal Officer collection fee on each annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Fiscal Officer pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Interest shall accrue on the entire amount of the Project Advance from the date of this Agreement; provided, however, that a portion of the Project Advance may be used to pay interest accruing and due and payable on the Project Advance prior to the date on which the first installment of the Special Assessments is paid to the Investor by the City. The Owner agrees to pay, as and when due, all Special Assessments with respect to its Property. The Parties acknowledge and agree that, pursuant to the laws of the State, the Special Assessments to be collected by the County Treasurer which as of the relevant date are not yet due and payable never shall be accelerated, and the lien of the Special Assessments never shall exceed the amount of Special Assessments which, as of the relevant date, are due and payable but remain unpaid.

Section 4.7. Prepayment. At any time after the second semi-annual payment of the Special Assessment occurring in 2030 has been made, the Owner may prepay any portion of the principal of the Project Advance to the Investor by paying, in immediately available funds, 100% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment.

Immediately upon any prepayment pursuant to this Section 4.7, the Investor shall notify the City of the prepayment, and the Owner, the Investor, and the City shall cooperate to reduce the amount of Special Assessments to be collected by the County Fiscal Officer pursuant to Section 2.2(d) of this Agreement.

Section 4.8. Payment of Fees and Expenses. If an Event of Default on the part of the Owner should occur under this Agreement such that the ESID, the Investor, or the City should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement or the collection of sums due under this Agreement, the Owner shall reimburse the ESID, the Investor, and the City, as applicable, for any reasonable out-of-pocket expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount of such expenses, together with interest on such amount from the date of demand for payment at an annual rate equal to the maximum rate allowable by law, shall constitute indebtedness under this Agreement, and the ESID, the Investor, and the City, as applicable, shall be entitled to seek the recovery of those expenses in such action except as limited by law or by judicial order or decision entered in such proceedings.

Section 4.9. Further Assurances. Upon the request of the Investor, the Owner shall take any actions and execute any further documents as the Investor deems necessary or appropriate to carry out the purposes of this Agreement.

ARTICLE V: EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any of the following shall occur, such occurrence shall be an "Event of Default" under this Agreement:

- (a) The Owner shall fail to pay an installment of the Special Assessments when due, after taking into account all applicable extensions;
- (b) The City shall fail to transfer, or cause the transfer of, any of the Special Assessments to the Investor within the time specified in this Agreement;
- (c) Any Party is in material breach of its representations or warranties under this Agreement; provided, however, that upon the material breach of a Party's representations or warranties under this Agreement, such Party shall have the right to cure such breach within five days of the receipt of notice, and, if so cured, such breach shall not constitute an Event of Default;
- (d) The ESID, the Owner, or the City, shall fail to observe and perform any other agreement, term, or condition contained in this Agreement, and the continuation of such failure for a period of 30 days after written notice of such failure shall have been given to the ESID, the Owner, or the City, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; provided, however, that if the failure is other than the payment of money, and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the ESID, an Owner, or the City, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;
- (e) The Owner abandons its Property or its Project;
- (f) The Owner commits waste upon its Property or its Project;

- (g) The Owner becomes bankrupt or insolvent or files or has filed against it (and such action is not stayed or dismissed within 90 days) a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes a general assignment for the benefit of creditors; or
- (h) Any workmanship or materials constituting a portion of the Project or incorporated into the Project shall be materially defective and shall not be corrected within 30 days after notice.

The declaration of an Event of Default above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Promptly upon any non-defaulting Party becoming aware that an Event of Default has occurred, such Party shall deliver notice of such Event of Default to each other Party under this Agreement in accordance with the notice procedures described in Section 6.5 of this Agreement.

Section 5.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) Upon an Event of Default described in Section 5.1(a) only, the Investor shall become entitled to receive any Delinquency Amounts actually received by the City.
- (b) The ESID, the Investor, and the City, together or separately, may pursue all remedies now or later existing at law or in equity to collect all amounts due and to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of any of the Parties, as applicable, under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the ESID or the City, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.
- (c) Any Party may pursue any other remedy which it may have, whether at law, in equity, or otherwise, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

Notwithstanding the foregoing, each of the ESID and the City shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to it at no cost or expense.

Section 5.3. Foreclosure. Pursuant to Section 2.1 of the Special Assessment Agreement by and among the County Treasurer, the City, the ESID, and the Owner and dated as of the date of this Agreement (the “Special Assessment Agreement”), the County Treasurer has agreed not to confirm the sale of the Property for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Property, as shall be certified by the ESID to the County Treasurer pursuant to the records of the County Treasurer without the consent of the ESID and the Investor. The ESID hereby agrees that in the event it is asked to provide its consent in accordance with Section 2.1, it will notify the Investor of such request, and it will not provide its consent pursuant to Section 2.1 of the Special Assessment Agreement without the Investor’s prior written direction.

Section 5.4. No Remedy Exclusive. No remedy conferred upon or reserved to the Parties by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or later existing at law, in equity or by statute; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power nor shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Parties to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Agreement.

Section 5.5. No Waiver. No failure by a Party to insist upon the strict performance by the other Parties of any provision of this Agreement shall constitute a waiver of such Party’s right to strict performance; and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Parties to observe or comply with any provision of this Agreement.

Section 5.6. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement immediately if it becomes aware of the occurrence of any Event of Default or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VI: MISCELLANEOUS

Section 6.1. Owner Waivers. The Owner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the

imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Ohio Revised Code Chapter 727 and the resolutions or ordinances in effect in the City (collectively, "Assessment Rights"). The Owner irrevocably waives all Assessment Rights as to its Project and consents to the imposition of the Special Assessments as to its Project immediately or at such time as the ESID determines to be appropriate, and the Owner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessments upon its Property as to its Project. The Owner further waives in connection with the Project: any and all questions as to the constitutionality of the laws under which the Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council of the City acting thereunder; and the right to file a claim for damages as provided in Ohio Revised Code Section 727.18 and any similar provision of the resolutions or ordinances in effect within the City.

Section 6.2. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of execution and delivery until the payment in full of the entire aggregate amount of the Special Assessments shall have been made to the Investor, or such time as the Parties shall agree in writing to terminate this Agreement. Any attempted termination of this Agreement prior to the payment in full of the entire aggregate amount of the Special Assessments which is not in writing and signed by each of the Parties to this Agreement shall be null and void.

Section 6.3. Litigation Notice. Each Party shall give all other Parties prompt notice of any action, suit, or proceeding by or against the notifying Party, at law or in equity, or before any governmental instrumentality or agency, of which the notifying Party has notice and which, if adversely determined would impair materially the right or ability of the Parties to perform their obligations under this Agreement. The notifying Party's prompt notice shall be accompanied by its written statement setting forth the details of the action, suit, or proceeding and any responsive actions with respect to the action, suit, or proceeding taken or proposed to be taken by the Party.

Section 6.4. Indemnification. The Owner shall indemnify and hold harmless the ESID, the Investor, and the City (including any member, officer, director, or employee thereof) (collectively, the "Indemnified Parties") against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon, incurred by or asserted against an Indemnified Party arising or resulting from (i) Owner's financing, acquisition, construction, installation, operation, use or maintenance of the Project, (ii) any act, failure to act or misrepresentation solely by the Owner in connection with, or in the performance of any obligation on the Owner's part to be performed under this Agreement or related to the Special Assessments resulting in material actual damages, or (iii) (a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law ("Materials of Environmental Concern") in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean-up, removal, response,

corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a "Release") (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (f) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (g) any misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

In the event any action or proceeding is brought against any Indemnified Party by reason of any such claim, such Indemnified Party will promptly give written notice thereof to the Owner. The Owner shall be entitled to participate at its own expense in the defense or, if it so elects, to assume at its own expense the defense of such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Owner; but if the Owner shall elect not to assume such defense, it shall reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by such Indemnified Party. If at any time the Indemnified Party becomes dissatisfied, in its reasonable discretion, with the selection of counsel by the Owner, a new mutually agreeable counsel shall be retained at the expense of the Owner. Each Indemnified Party agrees that the Owner shall have the sole right to compromise, settle or conclude any claim, suit, action or proceeding against any of the Indemnified Parties. Notwithstanding the foregoing, each Indemnified Party shall have the right to employ counsel in any such action at their own expense; and provided further that such Indemnified Party shall have the right to employ counsel in any such action and the fees and expenses of such counsel shall be at the expense of the Owner, if: (i) the employment of counsel by such Indemnified Party has been authorized by the Owner, (ii) there reasonably appears that there is a conflict of interest between the Owner and the Indemnified Party in the conduct of the defense of such action (in which case the Owner shall not have the right to direct the defense of such action on behalf of the Indemnified Party) or (iii) the Owner shall not in fact have employed counsel to assume the defense of such action. The Owner shall also indemnify the Indemnified Parties from and against all costs and expenses, including reasonable attorneys' fees, lawfully incurred in enforcing any obligations of the Owner under this Agreement. The obligations of the Owner under this Section shall survive the termination of this Agreement and shall be in addition to any

other rights, including without limitation, rights to indemnity which any Indemnified Party may have at law, in equity, by contract or otherwise.

None of the Investor, the City, or the ESID shall have any liability to the Owner or any other Person on account of (i) the Owner engaging a contractor from the list of contractors submitted by the ESID or the Investor to the Owner, (ii) the services performed by the contractor, or (iii) any neglect or failure on the part of the contractor to perform or properly perform its services. None of the Investor, the City, or the ESID assumes any obligation to the Owner or any other Person concerning contractors, the quality of construction of the Project or the absence of defects from the construction of the Project. The making of a Project Advance by the Investor shall not constitute the Investor's approval or acceptance of the construction theretofore completed. The Investor's inspection and approval of the budget, the construction work, the improvements, or the workmanship and materials used in the improvements, shall impose no liability of any kind on the Investor, the sole obligation of the Investor as the result of such inspection and approval being to make the Project Advances if, and to the extent, required by this Agreement. Any disbursement made by the Investor without the Investor having received each of the items to which it is entitled under this Agreement shall not constitute breach or modification of this Agreement, nor shall any written amendment to this Agreement be required as a result.

Section 6.5. Notices. All notices, certificates, requests or other communications under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 6.6. Extent of Covenants; No Personal Liability. All covenants, obligations, and agreements of the ESID and the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee of the ESID, the Board, the Owner, the City, the City Council, or the Investor in other than his or her official capacity; and none of the members of the Board or the City Council, nor any official of the ESID, the Owner, the City, or the Investor executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the ESID, the Owner, the City, or the Investor contained in this Agreement.

Section 6.7. Binding Effect; Assignment; Estoppel Certificates. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Parties. Except as specifically provided below, this Agreement shall not be assigned by the any of the Parties except as may be necessary to enforce or secure payment of the Special Assessments.

Notwithstanding anything in this Agreement to the contrary, the Owner freely may sell the Property and the Project or any portion of the Property and the Project from time to time and may assign this Agreement to an arms-length, good faith purchaser of the Property but only after notice of such assignment is given to the Investor, and only upon (i) the execution and delivery

to the City, the Investor, and the ESID of an “Assignment and Assumption of Energy Project Cooperative Agreement” in the form attached to, and incorporated into, this Agreement as **Exhibit H**; (ii) the execution and delivery to the Investor of an assignment of all construction contracts for the Project; and (iii) the payment by Owner of all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent. Following any assignment by the Owner as described above, all obligations of the Owner contained in this Agreement, the Special Assessment Agreement, and the Owner Consent shall be obligations of the assignee, and the assigning Owner shall be released of its obligations to a corresponding extent.

Notwithstanding anything in this Agreement to the contrary, the Investor shall have the unrestricted right at any time or from time to time, and without the Owner’s consent, to assign all or any portion of its rights and obligations under this Agreement, and may sell or assign any and all liens received directly or indirectly from the City to any Person (each, an “Investor Assignee”), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing so long as such amendment does not materially adversely impact the Owner’s rights and obligations under this Agreement. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Investor Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent. If, at any time, the Investor assigns any of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to an Investor Assignee, the Investor shall (i) give prompt notice of such assignment to the other Parties and (ii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel.

In addition, the Investor shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the Owner, to grant to one or more Persons (each, a “Participant”) participating interests in Investor’s obligation to make Project Advances under this Agreement or to any or all of the loans held by Investor under this Agreement. In the event of any such grant by the Investor of a participating interest to a Participant, whether or not upon notice to the Owner, the Investor shall remain responsible for the performance of its obligations under this Agreement, and the Owner shall continue to deal solely and directly with the Investor in connection with the Investor’s rights and obligations under this Agreement. The Owner agrees that the Investor may furnish any information concerning the Owner in its possession from time to time to prospective Investor Assignees and Participants.

This Agreement may be enforced only by the Parties, their permitted assignees, and others, who may, by law, stand in their respective places.

Any Party shall at any time and from time to time, upon not less than 30 days' prior written notice by the other party, execute, acknowledge and deliver to such party a statement in writing certifying that: (i) this Agreement is unmodified and in full force and effect (or, if there has been any modification of this Agreement, that the same is in full force and effect as modified and stating the modification or modifications); (ii) to the best of such Party's actual knowledge (without any duty of inquiry) there are no continuing Events of Default (or, if there is a continuing Event of Default, stating the nature and extent of such Event of Default); (iii) that, to the best of such Party's actual knowledge (without any duty of inquiry) there are no outstanding damages or liability arising from an Event of Default (or, if there is any outstanding damages or liability, stating the nature and extent of such damages or liability); (iv) if such certificate is being delivered by the Owner, the dates to which the Special Assessments have been paid; and (v) if such certificate is being delivered by the Investor, the dates to which the Special Assessments have been paid to the Investor. It is expressly understood and agreed that any such certificate delivered pursuant to this Section 6.7 may be relied upon by any prospective assignee of the Owner or any prospective Investor Assignee.

Section 6.8. Amendments and Supplements. Except as otherwise expressly provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by unanimous written agreement signed by each of the Parties materially affected by such proposed amendment, change, modification, alteration, or termination. For purposes of this Section, a materially affected Party is a Party with respect to which a material right or obligation under this Agreement is proposed to be amended, changed, modified, altered, or terminated. Any attempt to amend, change, modify, alter, or terminate this Agreement except by unanimous written agreement signed by all of the materially affected Parties or as otherwise provided in this Agreement shall be void.

Section 6.9. Execution Counterparts. This Agreement may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

Section 6.10. Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained in this Agreement is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Agreement. That invalidity or unenforceability shall not affect any valid and enforceable application of the provision, covenant, obligation, or agreement, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

Section 6.11. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed in their respective names, all as of the date first written above.

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A: NORTHEAST OHIO ADVANCED ENERGY DISTRICT, as the ESID

By: _____

Name: _____

Title: _____

21000 BROOKPARK LANDLORD LLC, as
the Owner

By: _____

Name: _____

Title: _____

PACE EQUITY LLC, as the Investor

By: _____

Name: _____

Title: _____

[Signature Page to Energy Project Cooperative Agreement]

CITY OF FAIRVIEW PARK, OHIO, as the
City

By: _____

Name: _____

Title: _____

[Signature Page to Energy Project Cooperative Agreement]

CITY FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the City of Fairview Park, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2020 under the foregoing Energy Project Cooperative Agreement have been lawfully appropriated by the City Council of the City of Fairview Park, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
City of Fairview Park, Ohio

Dated: _____, 2020

EXHIBIT A

DEFINITIONS

As used in this Agreement, the following words have the following meanings:

“*Agreement*” means this Energy Project Cooperative Agreement, dated as of [____], 2020, by and between the ESID, the Owner, the Investor, and the City, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

“*Board*” means the Board of Directors of the ESID.

“*City*” means the City of Fairview Park, Ohio.

“*City Council*” means the Council of the City of Fairview Park, Ohio.

“*Completion Date*” means the latest date on which substantial completion of the Project, in accordance with the Plans occurs, which date shall be established by the Completion Certificate attached to this Agreement as **Exhibit D**.

“*County*” means the County of Cuyahoga, Ohio.

“*County Fiscal Officer*” means the Fiscal Officer of the County.

“*County Prosecutor*” means the Prosecuting Attorney of the County.

“*County Treasurer*” means the Treasurer of the County.

“*Delinquency Amount*” means any penalties or interest which may be due on or with respect to any installment of the Special Assessments and which are not paid or taxable to any party other than the Investor under law.

“*Disbursement Request Form*” means the form attached to this Agreement as **Exhibit C**, which form shall be submitted by the Owner in order to receive disbursements from the Project Account.

“*Disbursing Agent*” means [Town Bank, a Wintrust Community Bank], in its capacity as “*Depository Agent*” under the Disbursement Agreement.

“*Disbursement Agreement*” means the Disbursement Agreement dated as of [____], 2020 by and among the Owner, the Investor, and PACE Equity Holdings Titling Trust, as the PACE Assignee, as the same may be validly amended or supplemented and in effect from time to time.

“*ESID*” means the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview,

Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District, a nonprofit corporation and energy special improvement district organized under the laws of the State.

“*Governmental Authority*” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Investor*” means PACE Equity LLC, a limited liability company duly organized and validly existing under the laws of the State of Wisconsin, together with any Investor Assignee.

“*Lender*” means any Person which has loaned money to the Owner to pay or refinance the costs of acquiring, financing, refinancing, or improving the Property and which loan is secured by a mortgage interest in the Property, or any permitted successors or assigns of such Person, including, initially, and without limitation, Perpetual Federal Savings Bank.

“*Lender Loan Documents*” means any loan agreement or loan agreements, mortgage or mortgages, and any other documents and instruments executed and delivered in connection with the a loan from a Lender, as they may be amended, modified, and supplemented from time to time under their terms.

“*Notice Address*” means:

- | | | |
|-----|-----------------|--|
| (a) | As to the City: | City of Fairview Park, Ohio
20777 Lorain Road
Fairview Park, Ohio 44126
Attention: _____ |
| (b) | As to the ESID: | Northeast Ohio Advanced Energy District
165 Center Road
Bedford, Ohio 44146
Attention: Jennifer Kuzma |
| | With a Copy To: | J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 S. Third Street
Columbus, Ohio 43215
Phone: (614) 227-2300
Email: pace@bricker.com |
| (c) | As to the Owner | 21000 Brookpark Landlord LLC
21000 Brookpark Road |

Fairview Park, Ohio 44135

With a Copy To:

(d) As to the Investor

PACE Equity LLC
731 North Jackson, Suite 420
Milwaukee, Wisconsin 53202
Attention: Kevin Moyer

“*Ordinance Levying Assessments*” means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.25 with respect to levying special assessments on real property within the ESID.

“*Ordinance to Proceed*” means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.23 with respect to levying special assessments on real property within the ESID.

“*Owner*” means 21000 Brookpark Landlord LLC, a limited liability company duly organized and validly existing under the laws of the State of Ohio, and any permitted successors or assigns.

“*Owner Consent*” means the Owner Consent dated as of [____], 2020 by the Owner and recorded in the records of the Cuyahoga County Fiscal Officer with respect to the Property.

“*PACE Counsel*” means Bricker & Eckler LLP, an Ohio limited liability partnership.

“*Parties*” means the ESID, the Owner, the Investor, and the City.

“*Person*” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or governmental bodies, political subdivisions, other legal entities, and natural persons.

“*Plan*” means the Northeast Ohio Advanced Energy Special Improvement District Commercial-Industrial Program Project Plan and the Northeast Ohio Advanced Energy Special Improvement District Commercial-Industrial Program Services Plan adopted by the City by its Ordinance No. [____]-20 of [____], 2020, and any and all future supplemental plans approved by the ESID and the City.

“*Project*” means the special energy improvement project described in the Plan with respect to the Property, for which Special Assessments are to be levied by the City, all in accordance with the Plan.

“*Project Account*” means the segregated account in the custody of the Investor for the benefit of the Owner which contains the Project Advance, and out of which disbursements may be made in accordance with Article IV of this Agreement.

“*Project Advance*” means the amount of immediately available funds to be transferred, set over, paid to, and held in the Project Account established pursuant to Section 4.1 of this Agreement for the benefit of the Owner.

“*Property*” means the real property subject to the Plan.

“*Repayment Schedule*” means the schedule attached to, and incorporated into, this Agreement as **Exhibit B**, which schedule establishes the dates and amounts for the repayment of the Project Advance by the Special Assessments paid by the Owner.

“*Required Builder’s Risk Insurance Coverage*” means at any time insurance coverage maintained with generally recognized, responsible insurance companies qualified to do business in the State in the minimum amount of the full replacement value of the Project and Project Site, insuring the Project against loss or damage during construction and containing loss deductible provisions not to exceed \$10,000, which insurance coverage shall name the Investor as lender loss payee.

“*Required Business Interruption Insurance Coverage*” means at all times after the Completion Date, business interruption and rent loss insurance maintained with generally recognized, responsible insurance companies qualified to do business in the State in a commercially reasonable minimum amount, which insurance coverage shall name the Investor as lender loss payee.

“*Required Flood Insurance Coverage*” means, as applicable, (i) if the Property or any part of the Property is identified by the United States Secretary of Housing and Urban Development as being situated in an area now or subsequently designated as having special flood hazards (including, without limitation, those areas designated as Zone A or Zone V), flood insurance in an amount equal to the lesser of: (a) the minimum amount required, under the terms of coverage, to compensate for any damage or loss on a replacement basis (or the unpaid balance of the Project Advances if replacement cost coverage is not available for the type of building insured); or (b) such lesser amount as may be required by the Investor, and containing a loss deductible with respect not in excess of \$10,000 per occurrence; and (ii) earthquake insurance in amounts and in form and substance satisfactory to the Investor in the event the Property is located in an area with a high degree of seismic activity, provided that the insurance pursuant to this section shall be on terms consistent with the Required Public Liability Insurance Coverage.

“*Required Insurance Coverage*” means, collectively, the Required Builder’s Risk Insurance Coverage, the Required Business Interruption Insurance Coverage, the Required Flood Insurance Coverage (if any), the Required Property Insurance Coverage and the Required Public Liability Insurance Coverage, each of which, in addition to the requirements described in their respective definitions, (i) must provide for 10 days’ notice to the Investor in the event of

cancellation or nonrenewal and (ii) must name as an additional insured (mortgagee/loss payee) the Investor.

“Required Property Insurance Coverage” means at any time insurance coverage evidenced on Acord 27 and maintained with generally recognized, responsible insurance companies qualified to do business in the State in the amount of (i) the then full replacement value of the Project and Property, insuring the Project against loss or damage by fire, windstorm, tornado and hail and extended coverage risks on a comprehensive all risk/special form insurance policy and containing loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as loss payee/mortgagee.

“Required Public Liability Insurance Coverage” means at any time commercial general accident and public liability insurance coverage evidenced on Acord 25 and maintained with generally recognized, responsible insurance companies qualified to do business in the State with coverage limits in the maximum amount of \$2,000,000 per occurrence for death or bodily injury and property damage liability combined, with loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as additional insureds.

“Resolution of Necessity” means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.12 with respect to levying special assessments on real property within the ESID.

“Special Assessment Act” means, collectively, Ohio Revised Code Section 727.01 *et seq.*, Ohio Revised Code Section 1710.01 *et seq.*, Ohio Revised Code Section 323.01 *et seq.*, Ohio Revised Code Section 319.01 *et seq.*, Ohio Revised Code Section 5721.01 *et seq.*, and related laws, Resolution No. [_____] approving the Petition and Plan and declaring the necessity of the Project passed on [_____] , 2020, Ordinance No. [_____] determining to proceed with the Project adopted on [_____] , 2020, and Ordinance No. [_____] levying the Special Assessments adopted on [_____] , 2020, all with respect to levying special assessments on real property within the ESID.

“Special Assessments” means the special assessments levied pursuant to the Special Assessment Act by the City with respect to the Project, a schedule of which is attached to, and incorporated into, the Plan.

“State” means the State of Ohio.

EXHIBIT B

REPAYMENT SCHEDULE

[Insert repayment schedule]

EXHIBIT C

DISBURSEMENT REQUEST FORM

[See Attached]

Request No. _____

Date: _____

APPLICATION FOR PAYMENT

To: PACE Equity, LLC

Under the Energy Project Cooperative Agreement dated as of [____], 2019 (the **Energy Project Cooperative Agreement**), by and among 21000 Brookpark Landlord LLC (**Owner**), PACE Equity LLC (**Investor**), the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District (the **ESID**), and the City of Fairview Park, Ohio (the **City**), and under the Escrow and Disbursement Agreement dated as of [____], 2020 (the **Disbursement Agreement**) by and among the Owner, the Investor, and PACE Equity Holdings Titling Trust, as PACE Assignee, the undersigned hereby requests the disbursement of construction funds from the Disbursement Agent in accordance with this request, and hereby certifies as follows:

1. All capitalized terms in this Application for Payment, unless otherwise defined herein, have the meanings specified in the Energy Project Cooperative Agreement.
2. The amounts requested either have been paid by the Owner, or are justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names are stated on **Attachment I** hereto and whose invoices are attached hereto) in accordance with the invoice(s) attached hereto who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Project.
3. Final lien waivers or releases executed by all parties receiving payment directly from the previous draw request through the current draw request are **attached hereto**.
4. **Attached hereto** is a completed AIA Document g702 or equivalent document, signed by the Owner's general contractor for the Project **and** a list of the applicable payees if payment will be made to an entity or entities other than the Owner's general contractor.
5. Each disbursement to the payees listed hereunder shall constitute a representation and warranty by the Owner, as of the date that such disbursement is made, that the conditions contained in Section 4.2 of the Energy Project Cooperative Agreement have been satisfied.

[Signature page follows]

21000 Brookpark Landlord LLC

Request No. _____

By: _____
Name: _____
Title: _____
Date: _____

ATTACHMENT I
TO APPLICATION FOR PAYMENT

SCHEDULE OF PAYMENTS REQUESTED

(Payments to be made in accordance with instructions on invoice attached hereto)

Payee Name	Description	Total Payment	Payment Directions

EXHIBIT D

FORM OF COMPLETION CERTIFICATE

21000 Brookpark Landlord LLC (the **Owner**) hereby certifies that the Project, as such term is defined in the Energy Project Cooperative Agreement entered into by and between the Owner, the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District, the City of Fairview Park, Ohio and PACE Equity LLC (the **Investor**) dated as of [_____], 2020 (the **Agreement**) has been completed at 21000 Brookpark Road, Fairview Park, Ohio 44135 (the **Property**) in strict compliance with the requirements of the Agreement.

Note: Capitalized terms used but not defined in this Completion Certificate have the meaning assigned to them in the Agreement to which a form of this Completion Certificate is attached and of which it forms a part.

THE OWNER HEREBY CERTIFIES:

(a) That the acquisition, construction, equipping, installation, and improvement of the Project was substantially completed on _____ in accordance with the construction contract, and the Owner has no unresolved complaints regarding the work;

(b) The Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget for the Project approved by the Investor;

(c) Owner has complied, and will continue to comply with all applicable statutes, regulations, and resolutions or ordinances in connection with the Property and the construction of the Project;

(d) the Owner holds fee ownership of the Property;

(e) the general contractor for the project has not offered the Owner any payment, refund, or any commission in return for completing Project; and

(f) all funds provided to the Owner by the Investor for the Project have been used in accordance with the Agreement

[Balance of Page Intentionally Left Blank]

NOTICE: DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU AGREE TO EACH OF THE ABOVE STATEMENTS.

21000 Brookpark Landlord LLC, as the Owner

By: _____

Name: _____

Title: _____

EXHIBIT E
CLOSING COSTS DETAIL

Pursuant to Section 4.2 of the foregoing Energy Project Cooperative Agreement, the Investor, on the date on which the Energy Project Cooperative Agreement becomes effective, shall disburse to the ESID or to the respective payee set forth below, the following closing costs:

[Insert closing costs]

EXHIBIT F
CONSENT OF MORTGAGEE

[See Attached]

EXHIBIT G

**FORM OF ASSIGNMENT AND ASSUMPTION OF ENERGY PROJECT
COOPERATIVE AGREEMENT**

ASSIGNMENT AND ASSUMPTION
OF
ENERGY PROJECT COOPERATIVE AGREEMENT

_____ (“Assignor”), in consideration of the sum of \$ _____ in hand paid and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Assignor’s execution of this Assignment and Assumption of Energy Project Cooperative Agreement (“Assignment”), assigns, transfers, sets over, and conveys to _____ (“Assignee”) all of Assignor’s right, title, and interest in and to that certain Energy Project Cooperative Agreement dated as of [____], 2020 between the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District (the “ESID”), Assignor, PACE Equity LLC, and the City of Fairview Park, Ohio (the “Energy Project Cooperative Agreement”).

By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Energy Project Cooperative Agreement. Assignee further represents and warrants that it has taken title to the “Property,” as that term is defined in the Energy Project Cooperative Agreement, subject to the Special Assessment Agreement dated as of even date with the Energy Project Cooperative Agreement between the Cuyahoga County Treasurer, the City of Fairview Park, Ohio, the ESID, 21000 Brookpark Landlord LLC, and PACE Equity LLC (the “Special Assessment Agreement”) and to the “Owner Consent” dated as of [____], 2020 by 21000 Brookpark Landlord LLC and recorded in the records of the Cuyahoga County Fiscal Officer with respect to the Property. By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Special Assessment Agreement and the Owner Consent.

Assignor and Assignee acknowledge and agree that executed copies of this Assignment shall be delivered to the City, the Investor, and the ESID, as each of those terms are defined in the Energy Project Cooperative Agreement, all in accordance with Sections 3.4(a) and 6.7 of the Energy Project Cooperative Agreement

In witness of their intent to be bound by this Assignment, each of Assignor and Assignee have executed this Assignment this _____ day of _____, _____, which

Assignment is effective this date. This Assignment may be executed in any number of counterparts, which when taken together shall be deemed one agreement.

[Signature Pages Follow]

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT I

INVESTOR ACCOUNT AND PAYMENT INFORMATION

[Insert Investor Account and Payment Information]

ENERGY PROJECT COOPERATIVE AGREEMENT

By and among

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BERA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:
NORTHEAST OHIO ADVANCED ENERGY DISTRICT;

21000 BROOKPARK LANDLORD LLC;

PACE EQUITY LLC; and

CITY OF FAIRVIEW PARK, OHIO

Dated as of [_____], 2020

BRICKER & ECKLER LLP

ENERGY PROJECT COOPERATIVE AGREEMENT

THIS ENERGY PROJECT COOPERATIVE AGREEMENT (the “Agreement”) is made and entered into as of [____], 2020, between the CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., doing business under the registered trade name NORTHEAST OHIO ADVANCED ENERGY DISTRICT, a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “ESID”), 21000 BROOKPARK LANDLORD LLC, a limited liability company duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “Owner”), PACE EQUITY LLC, a limited liability duly organized and validly existing under the laws of the State of Wisconsin (the “Investor”), and the CITY OF FAIRVIEW PARK, OHIO, a municipal corporation duly organized and validly existing under the constitution and laws of the State (the “City”) (the capitalized terms used in this Agreement and not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. On [___], 2020, the Council of the City (“City Council”) passed Ordinance No. [___]-20, which approved the Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project (the “Petition”) and the Articles of Incorporation of the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc.

B. The ESID is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State of Ohio to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 2o of the Ohio Constitution.

C. On [___], 2020, by its Ordinance No. [___]-20, the City Council further approved the Plan, as a plan for public improvements or public services for the ESID under Ohio Revised Code Chapter 1710.02(F).

D. Pursuant to the Plan, the ESID, among other services, shall assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy improvement projects.

E. In order to obtain financing for special energy improvement projects and to create special assessment revenues available to pay and repay the costs of special energy improvement projects, the Petition requested that the City Council levy Special Assessments against the Owner's property as more fully described in the Plan.

F. The ESID, the Owner, the Investor, and the City (collectively the "Parties," and each, a "Party") each have determined that the most efficient and effective way to implement the financing, acquisition, installation, equipment, and improvement of energy special improvement projects and to further the public purposes set forth above is through this Agreement, pursuant to the Special Assessment Act and on the terms set forth in this Agreement, with (i) the Investor providing the Project Advance to finance the costs of the special energy improvement projects described in the Plan, (ii) the ESID and the Owner cooperating to acquire, install, equip and improve special energy improvement projects, (iii) the Owner agreeing to make Special Assessment payments in an aggregate amount that will provide revenues sufficient to pay or repay the permitted costs of the special energy improvement projects, (iv) the City agreeing to assign and transfer all Special Assessment payments actually received by the City to the Investor to repay the Project Advance; and (v) the ESID agreeing to assign, transfer, and set over to the Investor any of its right, title, or interest in and to the Special Assessments which it may have by operation of law, this Agreement, or otherwise; provided that a portion of the Special Assessments may be retained by, or be payable to, the City or the ESID, all pursuant to and in accordance with this Agreement.

G. The Parties each have full right and lawful authority to enter into this Agreement and to perform and observe its provisions on their respective parts to be performed and observed, and have determined to enter into this Agreement to set forth their respective rights, duties, responsibilities, obligations, and contributions with respect to the implementation of special energy improvement projects within the ESID.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and agreements contained in this Agreement, the Parties agree as follows; provided, that any obligation of the ESID created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the ESID, or give rise to any pecuniary liability of the ESID, but any such obligation shall be payable solely from the Special Assessments actually received by the ESID, if any; and provided, further, that any obligation of the City created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the City, or give rise to any pecuniary liability of the City, but any such obligation shall be payable solely from the Special Assessments actually received by the City, if any:

ARTICLE I: DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, words and terms used in this Agreement shall have the meanings set forth in **Exhibit A** to this Agreement unless the context or use clearly indicates another meaning or intent. Definitions shall apply equally to both the singular and plural forms of any of the words and terms. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

Section 1.2. Interpretation. Any reference in this Agreement to the ESID, the ESID Board, the Owner, the City, the City Council, the Investor, or to any member or officer of any of the foregoing, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Special Assessment Act, or to a section, provision or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America, includes that section, provision, or chapter as amended, modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Section 1.3. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any of this Agreement's Articles, Sections, subsections, paragraphs, subparagraphs or clauses.

ARTICLE II: COOPERATIVE ARRANGEMENTS; ASSIGNMENT OF SPECIAL ASSESSMENTS

Section 2.1. Agreement Between the City, the ESID, and the Investor. The Owner and the ESID have requested the assistance of the Investor and the City in the financing of special energy improvement projects within the ESID. For the reasons set forth in this Agreement's Recitals—which Recitals are incorporated into this Agreement by this reference as a statement of the public purposes of this Agreement and the intended arrangements among the Parties—the City and the ESID have requested the assistance and cooperation of the Investor in the collection and payment of Special Assessments in accordance with this Agreement. The Parties intend this Agreement to be, and it shall be, an agreement among the Parties to cooperate in the financing, acquisition, installation, equipment, and improvement of “special energy improvement projects,” pursuant to Ohio Revised Code Chapter 1710, and as that term is defined in Ohio Revised Code Section 1710.01(I). The Parties intend this Agreement's provisions to be, and they shall be construed as, agreements to take effective cooperative action and to safeguard the Parties' interests.

Upon the considerations stated above and upon and subject to the terms and conditions of this Agreement, the Investor, on behalf of the Parties, shall make the Project Advance available to the Owner to pay the costs of the Project. The City and the ESID shall assign, transfer, set over, and pay the Special Assessments actually received by the City or the ESID, respectively, to the Investor, to pay the costs of the Project at the times and in the manner provided in this Agreement; provided, however, that the City, the ESID, and the Investor intend that the City shall receive all Special Assessments from the County Treasurer and shall transfer, set over, and pay all Special Assessments received from the County Treasurer directly to the Investor. The City, the ESID, and the Investor further intend and agree that the Investor shall pay to the ESID, out of the Special Assessments received by the Investor, a semi-annual fee of \$[_____] for the ESID's administrative expenses; provided, however, that if the amount of Special Assessments

received by the Investor in any year are insufficient to pay the principal of, and interest on the Project Advance due in that year and the semi-annual fee of \$[_____] due to the ESID, the Special Assessments received shall first be applied to the payment of interest on the Project Advance, then to the repayment of the principal of the Project Advance, and then to the payment of the semi-annual fee due to the ESID.

Notwithstanding anything in this Agreement to the contrary, any obligations of the City under this Agreement, including the obligation to transfer the Special Assessments received by the City to the Investor, shall be a special obligation of the City and shall be required to be made only from Special Assessments actually received by or on behalf of the City, if any. The City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the City's faith and credit or taxing power, and the ESID, the Owner, and the Investor do not have and shall not have any right to have taxes levied by the City for the transfer of the Special Assessments.

Section 2.2. Special Assessments; City Transfer of Special Assessments.

- (a) The Special Assessment Proceedings. The City has taken all necessary actions required by the Special Assessment Act to levy and collect the Special Assessments on the Property.

Pursuant to Ohio Revised Code Section 727.33, the City has certified the Special Assessments to the County Fiscal Officer for collection, and the County Fiscal Officer shall collect the unpaid Special Assessments with and in the same manner as other real property taxes and pay the amount collected to the City. The Parties intend that the County Fiscal Officer and the County Treasurer shall have the duty to collect the Special Assessments through enforcement proceedings in accordance with applicable law.

- (b) Collection of Delinquent Special Assessments. The ESID and the Investor are hereby authorized to take any and all actions as assignees of and, to the extent required by law, in the name of, for, and on behalf of, the City to collect delinquent Special Assessments levied by the City pursuant to the Special Assessment Act and to cause the lien securing the delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Fiscal Officer, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used in accordance with this Agreement.
- (c) Prepayment of Special Assessments. The Parties agree that the Special Assessments assessed against the Property and payable to the City pursuant to the Special Assessment Act may be prepaid to the Investor by the Owner in accordance with Section 4.7 of this Agreement. Except as set forth in this Section 2.2(c) and Section 4.7 of this Agreement, the Owner shall not prepay any Special

Assessments. Notwithstanding the foregoing, if the Owner attempts to cause a prepayment of the Special Assessments by paying to the County Treasurer any amount as a full or partial prepayment of Special Assessments, and if the City shall have knowledge of the same, the City immediately shall notify the Investor, and, unless provided the express written consent of the Investor, the City shall not cause any reduction in the amount of Special Assessments. Except as specifically provided in this Agreement to the contrary, no other action pursuant to any provision of this Agreement shall abate in any way the payment of the Special Assessments by the owners of property or the transfer of the Special Assessments by the City to the Investor.

- (d) Reduction of Special Assessments. The Parties agree that the Special Assessments may be subject to reduction, but only upon the express written consent or instruction of the Investor. If the Owner causes the Special Assessments to be prepaid in accordance with Sections 2.2(c) and 4.7 of this Agreement, upon the City's receipt of the Investor's express written consent or instruction, the City shall certify to the County Fiscal Officer, prior to the last date in the then-current tax year on which municipal corporations may certify special assessments to the County Fiscal Officer, a reduction in the amount of Special Assessments collected such that, following such reduction, the amount of Special Assessments remaining to be paid shall be equal to the amounts necessary to pay, as and when due, the remaining outstanding principal of the Project Advance, together with interest at the annual rate of 6.05%, a \$600.00 semi-annual servicing fee to the Investor, and a \$[_____] semi-annual administrative fee to the ESID. The parties acknowledge and agree that County Fiscal Officer may calculate, charge, and collect a collection fee on each annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Fiscal Officer pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Notwithstanding anything in this Agreement to the contrary, the City shall not cause any reduction in the amount of Special Assessments without the prior written consent or instruction of the Investor.
- (e) Assignment of Special Assessments. The City agrees that it shall establish its funds for the collection of the Special Assessments as separate funds maintained on the City's books and records and to be held in the custody of a bank with which the City maintains a depository relationship. The City hereby assigns to the Investor all of its right, title and interest in and to: (i) the Special Assessments received by the City under this Agreement, (ii) the City's special assessment funds established for the Project, and (iii) any other property received or to be received from the City under this Agreement. The City further shall transfer, set over, and pay the Special Assessments and Delinquency Amounts to the Investor in accordance with this Agreement. The ESID acknowledges and consents to the City's assignment of the Special Assessments to the Investor. The Parties agree that each of the City, the ESID, and the Investor, as assignee of the Special Assessments, is authorized to take any and all actions, whether at law, or in equity, to collect delinquent Special Assessments levied by the City pursuant to

law and to cause the lien securing any delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Fiscal Officer, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings.

- (f) Transfer of Special Assessments. The parties anticipate that semi-annual installments of the Special Assessments and Delinquency Amounts will be paid to the City by the County Fiscal Officer and the County Treasurer in accordance with Ohio Revised Code Chapters 319, 321, 323, and 727, which, without limiting the generality of the foregoing, contemplates that the County Fiscal Officer and County Treasurer will pay the Special Assessments and Delinquency Amounts to the City on or before June 1 of each year. Immediately upon receipt of any moneys received by the City as Special Assessments, but in any event not later than 21 calendar days after the receipt of such moneys and the corresponding final settlement from the County Fiscal Officer, the City shall deliver to the Investor all such moneys received by the City as Special Assessments and Delinquency Amounts by ACH or check as determined in the sole discretion of the City. The Investor shall provide the City with account and payment information in the form of **Exhibit I** on the date on which this Agreement becomes effective. The Investor may from time to time provide updated written account and payment information in the form of **Exhibit I** to the City for the payment of Special Assessments and Delinquency Amounts, but the City shall maintain its right to send the special assessments by ACH or check in its sole discretion. If at any time during the term of this Agreement the County Fiscal Officer agrees, on behalf of the City, to disburse the Special Assessments and Delinquency Amounts to the Investor pursuant to instructions or procedures agreed upon by the County Fiscal Officer and the City, then, upon each transfer of an installment of the Special Assessments and Delinquency Amounts from the County Fiscal Officer to the Investor, the City shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments and Delinquency Amounts to the Investor.
- (g) Repayment of Project Advance. The Investor shall credit, on the dates shown on the Repayment Schedule (which is attached to, and incorporated into, this Agreement as **Exhibit B**), Special Assessments in the amounts shown on the Repayment Schedule to the payment of accrued interest on the Project Advance and to the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Investor, on the dates shown on the Repayment Schedule, further shall pay to the ESID, after the payment of accrued interest on the Project Advance, the repayment of the portion of principal of the Project Advance scheduled to be repaid on such date, and the payment of a \$600.00 semi-annual servicing fee to the Investor, a semi-annual fee of \$[_____] or such lesser amount as may be available from the Special Assessments on the applicable date after the payment of accrued interest on the Project Advance and the repayment of the portion of the principal of the Project Advance scheduled to

be repaid on such date. The Parties acknowledge and agree that the County Fiscal Officer may calculate, charge, and collect a fee on each annual installment of the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties, and that such fee shall be paid to the County Fiscal Officer with the Special Assessments, and that the County Fiscal Officer will retain such fee.

Section 2.3. Obligations Unconditional; Place of Payments. The City's obligation to transfer the Special Assessments and any Delinquency Amounts to the Investor under Section 2.2 of this Agreement shall be absolute and unconditional, and the City shall make such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Investor, the ESID, or the Owner; provided, however, that the City's obligation to transfer the Special Assessments and any Delinquency Amounts is limited to the Special Assessments and any Delinquency Amounts actually received by or on behalf of the City, and nothing in this Agreement shall be construed to obligate the City to transfer or pledge, and the City shall not transfer or pledge any special assessments not related to the ESID.

Section 2.4. Appropriation by the City; No Further Obligations. Upon the Parties' execution of this Agreement, all of the Special Assessments and Delinquency Amounts received or to be received by the City shall be deemed to have been appropriated to pay the City's obligation under this Agreement to pay to the Investor all Special Assessments and Delinquency Amounts received by the City. During the years during which this Agreement is in effect, the City shall take such further actions as may be necessary or desirable in order to appropriate the transfer of the Special Assessments and Delinquency Amounts actually received by the City in such amounts and at such times as will be sufficient to enable the City to satisfy its obligation under this Agreement to pay the City's obligation under this Agreement to pay to the Investor all Special Assessments and Delinquency Amounts received by the City; provided that the City shall not be responsible for the costs and expenses of any collection or enforcement actions, except to the extent of any Special Assessments and Delinquency Amounts actually received by the City; and provided further that nothing in this paragraph shall be construed as a waiver of the City's right to be indemnified pursuant to Section 6.4 of this Agreement or pursuant to the Special Assessment Agreement. The City has no obligation to use or apply to the payment of the Special Assessments and Delinquency Amounts any funds or revenues from any source other than the moneys received by the City as Special Assessments and Delinquency Amounts; provided, however, that nothing in this Agreement shall be deemed to prohibit the City from using, to the extent that it is authorized to do so, any other resources for the fulfillment of any of this Agreement's terms, conditions, or obligations.

Section 2.5. Security for Advanced Funds. To secure the transfer of the Special Assessments by the City to the Investor, and in accordance with the Special Assessment Act, the ESID hereby assigns, transfers, sets over, and shall pay all of its right, title, and interest in and to the Special Assessments related to the ESID actually received by or on behalf of the City to the Investor. The Owner and the City agree and consent to that assignment.

ARTICLE III: REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 3.1. The City's Representations and Warranties. The City represents and warrants that:

- (a) It is a municipal corporation duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the City that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the City's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the City and does not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.
- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the City has taken all steps necessary to establish this Agreement and the City's covenants and agreements within this Agreement, as valid and binding obligations of the City, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the City in which an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.2(e) is a valid and binding obligation of the City with respect to the Special Assessments received by the City under this Agreement.

Section 3.2. The ESID's Representations and Warranties. The ESID represents and warrants that:

- (a) It is a nonprofit corporation and special improvement district, duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the ESID that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the ESID's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the ESID and does

not and will not conflict with or result in a default under any agreement or instrument to which the ESID is a party or by which it is bound.

- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the ESID has taken all steps necessary to establish this Agreement and the ESID's covenants and agreements within this Agreement as valid and binding obligations of the ESID, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the ESID in which an unfavorable ruling or decision would materially adversely affect the ESID's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.5 is a valid and binding obligation of the ESID with respect to the ESID's right, title and interest in the Special Assessments under this Agreement.

Section 3.3. The Owner's Representations and Warranties. The Owner represents and warrants that:

- (a) It is a limited liability company duly organized, validly existing and in full force and effect under the laws of the State of Ohio. It has all requisite power to conduct its business as presently conducted and to own, or hold under lease, its assets and properties, and, is duly qualified to do business in all other jurisdictions in which it is required to be qualified, except where failure to be so qualified does not have a material adverse effect on it, and will remain so qualified and in full force and effect during the period during which Special Assessments shall be assessed, due, and payable.
- (b) It, by proper action, duly has authorized, executed, and delivered this Agreement, and it has taken all steps necessary to establish this Agreement and its covenants and agreements within this Agreement as valid and binding obligations, enforceable in accordance with their terms
- (c) There are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it, the Property, or the Project that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affect its financial condition (an "Action"), and during the term of this Agreement, the Owner shall promptly notify the Investor of any Action commenced or to its knowledge threatened against it.
- (d) It is not in default under this Agreement, and no condition, the continuance in existence of which would constitute a default under this Agreement exists. It is not in default in the payment of any Special Assessments or under any agreement or instrument related to the Special Assessments which has not been waived or allowed.

- (e) Except for any financing of the Property and the lien related thereto that Owner has previously disclosed in writing, it has made no contract or arrangement of any kind, other than this Agreement, which has given rise to, or the performance of which by the other party thereto would give rise to, a lien or claim of lien on its Project, except inchoate statutory liens in favor of suppliers, contractors, architects, subcontractors, laborers or materialmen performing work or services or supplying materials in connection with the acquiring, installing, equipping and improving of its Project.
- (f) No representation or warranty made by it contained in this Agreement, and no statement contained in any certificate, schedule, list, financial statement or other instrument furnished to the Investor or the ESID by it or on its behalf contained, as of the date thereof, any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading.
- (g) Since the date of the most recent financial statements of the Owner provided to the Investor, there has been no material adverse change in the financial condition of the Owner, nor has the Owner mortgaged, pledged or granted a security interest in or encumbered the Property since such date, except as otherwise disclosed to the Investor in writing, and the financial statements which have been delivered to the Investor prior to the date of this Agreement are true, correct, and current in all material respects and fairly represent the respective financial conditions of the subjects of the financial statements as of the respective dates of the financial statements.
- (h) The Owner has good and marketable title to its Property, subject only to existing liens, pledges, encumbrances, charges or other restrictions of record previously disclosed by the Owner to the Investor in writing, liens for taxes not yet due and payable, and minor liens of an immaterial nature.
- (i) The Project complies in all material respects with all applicable zoning, planning, building, environmental and other regulations of each Governmental Authority having jurisdiction of the Project, and all necessary permits, licenses, consents and permissions necessary for the Project have been or will be obtained.
- (j) The plans and specifications for the Project are satisfactory to the Owner, have been reviewed and approved by the general contractor for the Project, the tenants under any leases which require approval of the plans and specifications, the purchasers under any sales contracts which require approval of the plans and specifications, any architects for the Project, and, to the extent required by applicable law or any effective restrictive covenant, by all Governmental Authorities and the beneficiaries of any such covenants; all construction of the Project, if any, already performed on the Property has been performed on the Property in accordance with such approved plans and specifications and the restrictive covenants applicable to the plans and specifications; there are no structural defects in the Project or violations of any requirement of any

Governmental Authorities with respect to the Project; the planned use of the Project complies with applicable zoning ordinances, regulations, and restrictive covenants affecting the Property as well as all environmental, ecological, landmark and other applicable laws and regulations; and all requirements for such use have been satisfied.

- (k) The Owner has the Required Insurance Coverage and will maintain the Required Insurance Coverage at all times during the term of this Agreement, while any principal of or interest on the Project Advance remains outstanding, and while any Special Assessments remain to be paid. Any return of insurance premium or dividends based upon the Required Insurance Coverage shall be due and payable solely to the Owner or its Lender pursuant to any agreements between the Owner and its Lender, unless such premium shall have been paid by the Investor, in accordance with the distribution priority specified in Section 4.3.
- (l) Each Disbursement Request Form presented to the Investor, and the receipt of the funds requested by the Disbursement Request Form, shall constitute an affirmation that the representations and warranties contained in this Agreement remain true and correct as of the date of the Disbursement Request Form and the receipt of the funds requested by the Disbursement Request Form.
- (m) Each of the Property and the Project are, and at all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, used solely for the commercial purposes disclosed by the Owner to the Investor in writing.
- (n) The Project and the plans and specifications for the Project have been developed pursuant to an energy audit prepared by the Investor, which energy audit demonstrates that the Project is expected to generate \$[12,879.00] in average annual energy savings.
- (o) Each of the components of the Project is a qualified “special energy improvement project” pursuant to the definition of that term in Ohio Revised Code Section 1710.01(I).
- (p) At all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, the Owner shall comply in all respects with the Special Assessment Act, and shall take any and all action necessary to remain in compliance with the Special Assessment Act.

Section 3.4. The Owner’s Additional Agreements. The Owner agrees that:

- (a) It shall not transfer or convey any right, title, or interest, in or to the Property and the Project, except after giving prompt notice of any such transfer or conveyance to the Investor; provided, however, that the foregoing restrictions shall not apply to the grant or conveyance of any leasehold interests, mortgage interest, or lien

interest, except as may be otherwise provided in this Agreement. Before or simultaneous with any such transfer or conveyance, the Owner shall (i) execute, cause the transferee or purchaser to execute, and deliver to the Investor, the City, and the ESID a fully executed "Assignment and Assumption of Energy Project Cooperative Agreement" in the form attached to, and incorporated into, this Agreement as **Exhibit H**; (ii) execute, cause the transferee or purchaser to execute, and deliver to the Investor, an assignment of all construction contracts related to the Project; and (iii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent.

- (b) It shall pay when due all taxes, assessments, service payments in lieu of taxes, levies, claims and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on any portion of the Property. The Owner shall furnish the Investor, upon reasonable request, with proof of payment of any taxes, governmental charges, utility charges, insurance premiums or other charges required to be paid by the Owner under this Agreement. The Parties acknowledge and agree that the foregoing obligation is in addition to the Owner's obligation to pay the Special Assessment.
- (c) It shall not, without the prior written consent of the Investor, cause or agree to the imposition of any special assessments, other than the Special Assessments, on the Property for the purpose of paying the costs of "special energy improvement projects," as that term is defined in Ohio Revised Code Section 1710.01(I), as amended and in effect at the time.
- (d) It shall promptly pay and discharge all claims for labor performed and material and services furnished in connection with the acquisition, installation, equipment, and improvement of the Project.
- (e) Once annually until the Completion Date, the chief financial officer of the Owner shall provide the Investor with a certificate setting forth all sources and uses of funds with respect to the Project.
- (f) It promptly shall notify the Investor of any material damage or destruction to the Project.
- (g) Upon the reasonable request of the Investor, it shall take any actions and execute any further certificates, instruments, agreements, or documents as shall be reasonably necessary in connection with the performance of this Agreement and with the transactions, obligations, and undertakings contained in this Agreement.

- (h) It shall not cause the Property to be subdivided, platted, or otherwise separated into any additional parcels in the records of the County Fiscal Officer without the consent of the Investor. In the event that at any time following the Closing Date the Property is combined or subdivided into permanent parcels in the records of the County Fiscal Officer, then the Special Assessments shall be allocated among the resulting parcels in proportion to the improved building square footage of the existing parcels that is contained in each resulting parcel that contains a portion of an existing parcel. The Owner hereby certifies, represents, and warrants to the ESID, the Investor, and the City that in the event of a combination or subdivision of parcels, the portion of the Special Assessments allocated to each resulting parcel as described above will be in proportion to, and will not exceed, the special benefits to be conferred on the resulting parcel or parcels by the Project.

- (i) It does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, as defined in applicable state law, or any other federal, state or local environmental laws or regulations, and neither the Property nor any other of its premises has been so used previously, in each case, except as previously disclosed in writing to the Investor. There are no underground storage tanks located on the Property. There is no past or present non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws. There is no environmental remediation required (or anticipated to be required) with respect to the Property. The Owner does not know of, and has not received, any written or oral notice or other communication from any person (including but not limited to a governmental entity) relating to hazardous substances or remediation of hazardous substances, of possible liability of any person pursuant to any environmental law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with the foregoing.

ARTICLE IV: PROJECT ADVANCE; CONSTRUCTION OF PROJECT; REPAYMENT

Section 4.1. Project Advance. The Investor has made available to the Owner the Project Advance in the amount of \$2,960,345.00, of which \$[_____] will be net funded into the Project Account (as defined below) for disbursement pursuant to Section 4.2, closing costs in the amount of \$[_____] will be disbursed by the Investor in accordance with Section 4.2 and **Exhibit E**, and capitalized interest in the amount of \$[_____] will be retained for the account of the Investor for further payment to itself and the EISD in accordance with this Agreement. The Disbursing Agent shall hold the Project Advance in a segregated account established in the custody of the Investor, which account shall be referred to as the “Project Account.” Subject to the terms and conditions of this Agreement, the Disbursing Agent, upon the direction of the Owner, shall cause the Disbursing Agent to disburse amounts on deposit in the Project Account to the Owner or to such parties as may be named by the Owner in order to pay the costs of the Project.

If the Project Advance net funded to the Owner is insufficient to pay the costs of the Project pursuant to this Agreement, the Owner, nevertheless, shall complete the acquisition, installation, equipment, and improvement of its Project, and the Owner shall pay all such additional costs of its Project from its own funds. The Owner shall not be entitled to reimbursement for any such additional costs of its Project, nor shall it be entitled to any abatement, diminution, or postponement of the Special Assessments.

Section 4.2. Disbursements. In order to cause disbursement of amounts on deposit in the Project Account to pay or reimburse the costs of the Project, the Owner shall submit Disbursement Request Forms (a form of which is attached to this Agreement as **Exhibit C**) to the Investor, which Disbursement Request Forms each shall, in part, set forth the payments or reimbursements requested, and shall be accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. In addition, the following shall occur:

- (a) With each Disbursement Request Form:
 - (i) The Owner shall deliver to the Investor proof that each project milestone has occurred;
 - (ii) The Owner shall deliver to the Investor copies of all related receipts and invoices;
 - (iii) The Owner shall deliver to the Investor signed lien waivers in the form attached to the Disbursement Request Form as Schedule 2;
 - (iv) The Owner shall deliver to the Disbursing Agent, on behalf of the Investor, as necessary, bank information for wiring the amounts requested for disbursement;
 - (v) The Investor shall have received copies of all other disbursement requests for disbursements of other sources of funds, including from the loan from the Owner's Lender, that have been submitted on or prior to the date on which the related Disbursement Request is submitted, and all such disbursement requests shall have been validly approved in accordance with the Lender Loan Documents; and
 - (vi) All of the conditions to disbursement under the Disbursing Agreement shall have been satisfied.

- (b) With the first Disbursement Request Form submitted, in addition to the documents required under Section 4.2(a):
 - (i) The Owner shall deliver to the Investor copies of all construction permits required for the construction of the Project;
 - (ii) The Owner shall deliver to the Investor copies of all agreements with all subcontractors performing work or furnishing materials for the Project;
 - (iii) The Owner shall deliver to the Investor a construction schedule completed by the general contractor for the Project, which includes an anticipated date of completion of the Project; and
 - (iv) The Owner shall deliver to the Investor copies of all current policies of the Required Insurance Coverage;

- (v) The construction plans and specifications shall have been approved in all respects by the Investor in its sole discretion;
 - (vi) The budget shall have been approved by the Investor in its sole discretion;
 - (vii) The Owner shall deliver to the Investor the written consent of its existing mortgage lender to the levying, assessment, and collection of the Special Assessments, in the form attached to this Agreement as **Exhibit G**;
 - (viii) The Owner shall provide to the Investor evidence acceptable to the Investor, in its sole discretion, that the City Council and the ESID have approved the Project;
 - (ix) The Investor shall receive the executed Special Assessment Agreement and Owner Consent and evidence that the same has been recorded in the records of the Fiscal Officer of Cuyahoga County, Ohio with respect to the Property;
 - (x) The Owner and the ESID shall provide to the Investor original executed copies of this Agreement and any related certificates;
 - (xi) The Owner shall provide to the Investor a list of authorized representatives on whose instructions and directions the Investor may rely until such time as an updated list has been provided, as set forward in **Exhibit I**, attached hereto.
- (c) With the final Disbursement Request Form, in addition to the documents required under Section 4.2(a):
- (i) The Owner shall deliver to the Investor the final lien waiver and release;
 - (ii) The Owner shall deliver to the Investor the executed certificate in the form attached as **Exhibit D** to this Agreement; and
 - (iii) The Owner shall deliver to the Investor copies of all completion inspections and closed permits with respect to the Project.

Upon its receipt of each completed Disbursement Request Form, the Investor shall approve all or a portion of the payment or reimbursements requested to be disbursed from the Project Account. To the extent the Investor approves the payment or reimbursements requested to be disbursed from the Project Account, the Investor shall cause the Disbursing Agent to pay the Owner or such other parties as are indicated on the Disbursement Request Form the amounts described on such Disbursement Request Form which have been approved by the Investor.

Additionally, on the date this Agreement becomes effective, the Investor shall cause the Disbursing Agent to disburse to the ESID for closing costs related to the financing described in this Agreement in an amount not to exceed \$[_____], as detailed in **Exhibit E** to this Agreement. Without limiting the generality of the foregoing, disbursements made pursuant to this paragraph may be for fees to the Investor, fees to the ESID, legal fees, fees to the City, and other closing costs or contingencies.

If at any time an Event of Default has occurred and is continuing under this Agreement, the Investor may withhold approval of any requests for disbursement until the Event of Default is cured and its effects are removed.

Notwithstanding the foregoing, upon the Investor's receipt from the Owner's Lender of notice of a default under the Lender Loan Documents beyond the expiration of any applicable notice and cure period, the Owner shall forfeit all rights under this Agreement to the Lender (including, without limitation, any rights to disbursements), and the Lender shall be entitled to all of the rights of the Owner under this Agreement. So long as the Owner's Lender has cured (or caused the cure of) any Event of Default under this Agreement, or, if any Event of Default is not curable by the Lender, the Lender has agreed to complete construction of the Project notwithstanding the Event of Default under this Agreement, then disbursements shall be made available to the Lender in accordance with this Agreement and the Disbursing Agreement. In such event, the Owner hereby irrevocably makes, constitutes, and appoints the Owner's Lender as the Owner's true and lawful attorney and agent-in-fact to execute all documents and other agreements and instruments and do such other acts and things as may be necessary to preserve and perfect its interests and rights under this Agreement. The Owner acknowledges and agrees that its appointment of the Lender as its attorney and agent-in-fact for the purposes specified in this Section is an appointment coupled with an interest and shall be irrevocable until all of the obligations under the Lender Loan Documents are satisfied. Nothing contained in this Section shall obligate the Lender to perform any obligations on behalf of the Owner (including, without limitation, the obligation to complete the Project).

Section 4.3. Casualties and Takings. The Owner shall promptly notify the Investor if the Project is damaged or destroyed by fire, casualty, injury or any other cause (each such occurrence, a "Casualty"). Upon the occurrence of such Casualty, the Owner's Lender, if any, may elect, in its sole discretion and judgment, to restore the Property and the Project or to terminate the construction of the Project, and in either case, to direct the application of the insurance proceeds pursuant to the terms of Owner's Lender's agreement with the Owner, provided that if the insurance proceeds are not used to restore the Property and the Project, insurance proceeds will be distributed to the Owner's Lender and to the Investor in accordance with their insured interests, and any excess proceeds will be paid to the Owner.

Upon the occurrence of a Casualty, if no Person is a Lender at the time of such Casualty, the insurance proceeds shall be applied to pay the costs of the restoration of the Project or to the repayment of the outstanding balance of the Special Assessments, and in which case the Investor shall remain obligated to cause the Disbursing Agent to make disbursements of up to the total amount of the Project Advance in accordance with this Agreement.

In the event restoration of the Project or the Property is pursued, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, said insurance proceeds are insufficient to complete the restoration, the Owner shall deposit with the Disbursing Agent such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event any part of the Property or the Project shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (a "Taking"), the Owner's Lender, if any, may elect, in its sole discretion and judgment, not to

restore the Property or the Project or to restore the Property or the Project, and in either case, to direct the application of the proceeds of the Taking pursuant to the terms of its agreements with the Owner, provided that if the Takings proceeds are not used to restore the Property and the Project, Takings proceeds will be distributed to Owner's and to the Investor in accordance with their insured interests, and any excess Takings proceeds will be paid to the Owner. If the Lender determines not to restore the Property or the Project and release funds related thereto to the Owner, the Investor's obligation to cause the Disbursing Agent to make disbursements under this Agreement shall be terminated. If the Lender determines to restore the Property and the Project, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Disbursing Agent such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event that no Person is a Lender at the time of such Taking, the Investor's obligation to cause the Disbursing Agent to make disbursements under this Agreement shall be terminated unless the Property and the Project can be replaced and restored in a manner which will enable the Project to be functionally and economically utilized and occupied as originally intended. If the Property and the Project can be so restored, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications, and the Investor shall cause the Disbursing Agent to release the funds for such purpose. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Disbursing Agent such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

Section 4.4. Eligible Costs. The costs of the Project which are eligible for payment or reimbursement pursuant to this Agreement include the following:

- (a) costs incurred directly or indirectly for or in connection with the acquisition, installation, equipment, and improvement of the Project, including without limitation, costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, surveying, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;
- (b) financial, legal, recording, title, accounting, and printing and engraving fees, charges and expenses, and all other fees, charges and expenses incurred in connection with the financing described in this Agreement;
- (c) premiums attributable to any surety and payment and performance bonds and insurance required to be taken out and maintained until the date on which each Project is final and complete;
- (d) taxes, assessments and other governmental charges in respect of the Project that may become due and payable until the date on which each Project is final and complete;

- (e) costs, including, without limitation, attorney's fees, incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project; and
- (f) any other incidental or necessary costs, expenses, fees and charges properly chargeable to the cost of the acquisition, installation, equipment, and improvement of the Project.

Section 4.5. Completion of Project; Inspection. The Owner (a) in accordance with the approved plans and specifications for the Project, which plans and specifications shall not be materially revised without the prior written approval of the Investor, which approval shall not be unreasonably withheld, shall acquire, install, equip, and improve its Project with Project Advance with all commercially reasonable dispatch, (b) subject to its right to contest any disputed work, shall pay when due all fees, costs and expenses incurred or payable by the Owner in connection with that acquisition, installation, equipment, and improvement from funds made available therefor in accordance with this Agreement or otherwise, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable to the Owner under the terms of any contract, order, receipt, writing or instruction in connection with the acquisition, installation, equipment, and improvement of the Project, and shall utilize commercially reasonable efforts to enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is to be owned by the Owner and any contracts made by the Owner with respect to the Project or any work to be done by the Owner on or with respect to the Project are made or done by the Owner on its own behalf and not as agent or contractor for the ESID.

During the period of acquisition, installation, equipment, and improvement of the Project, the ESID and the Investor, and their respective agents, subject to reasonable security and safety regulations, and upon reasonable prior notice, shall have the right, during normal business hours, to inspect the Project. The ESID and the Investor and their respective agents shall utilize commercially reasonable efforts to minimize interference with the tenants of the Property during any such inspection.

The Investor reserves the right to deny the request for a Project Advance pursuant to Article IV of this Agreement if such inspection reveals that construction is not proceeding with reasonable dispatch. If, in the Investor's opinion, after 30 days' written notice to the Owner, the construction is not proceeding with reasonable dispatch, the Investor may (i) request that the Owner remove and replace the general contractor with a general contractor acceptable to the Investor, the failure of which by the Owner shall be a default under this Agreement, (ii) utilize funds to continue construction of the Project and such funds shall be considered Project Advances, or (iii) deny any Project Advance until such time as the construction resumes proceeding with reasonable dispatch.

The Owner shall notify the ESID, the City, and the Investor of the Completion Date by a certificate in the form attached as **Exhibit D** to this Agreement, signed by the Owner stating: (a) the date on which the acquisition, installation, equipment, and improvement of the Project was

substantially completed by the general contractor for the Project in accordance with the construction contract, and the Owner has no unresolved complaints regarding the work; (b) that the Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget for the Project approved by the Investor; (c) that the Owner has complied, and will continue to comply with all applicable statutes, regulations, and resolutions or ordinances in connection with the Property and the construction of the Project; (d) that the Owner holds fee ownership of the Property; (e) that the general contractor for the project has not offered the Owner any payment, refund, or any commission in return for completing Project; and (f) that all funds provided to the Owner by the Investor for the Project have been used in accordance with this Agreement. The certificate shall be delivered as promptly as practicable after the Completion Date.

Section 4.6. Repayment. The Parties acknowledge that pursuant to this Agreement, the Project Advance is expected to be repaid by the Special Assessments. The Parties agree that the Special Assessments have been levied and certified to the County Fiscal Officer in the amounts necessary to amortize the Project Advance, together with interest at the annual rate of 6.05%, a \$600.00 semi-annual servicing fee to the Investor, and a \$[_____] semi-annual administrative fee to the ESID over 50 semi-annual payments to be collected beginning approximately on January 31, 2022 and continuing through approximately July 20, 2046. The Parties further acknowledge that in addition to the amount of the Special Assessments and other related interest, fees, and penalties, the County Fiscal Officer may charge and collect a County Fiscal Officer collection fee on each annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Fiscal Officer pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Interest shall accrue on the entire amount of the Project Advance from the date of this Agreement; provided, however, that a portion of the Project Advance may be used to pay interest accruing and due and payable on the Project Advance prior to the date on which the first installment of the Special Assessments is paid to the Investor by the City. The Owner agrees to pay, as and when due, all Special Assessments with respect to its Property. The Parties acknowledge and agree that, pursuant to the laws of the State, the Special Assessments to be collected by the County Treasurer which as of the relevant date are not yet due and payable never shall be accelerated, and the lien of the Special Assessments never shall exceed the amount of Special Assessments which, as of the relevant date, are due and payable but remain unpaid.

Section 4.7. Prepayment. At any time after the second semi-annual payment of the Special Assessment occurring in 2030 has been made, the Owner may prepay any portion of the principal of the Project Advance to the Investor by paying, in immediately available funds, 100% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment.

Immediately upon any prepayment pursuant to this Section 4.7, the Investor shall notify the City of the prepayment, and the Owner, the Investor, and the City shall cooperate to reduce the amount of Special Assessments to be collected by the County Fiscal Officer pursuant to Section 2.2(d) of this Agreement.

Section 4.8. Payment of Fees and Expenses. If an Event of Default on the part of the Owner should occur under this Agreement such that the ESID, the Investor, or the City should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement or the collection of sums due under this Agreement, the Owner shall reimburse the ESID, the Investor, and the City, as applicable, for any reasonable out-of-pocket expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount of such expenses, together with interest on such amount from the date of demand for payment at an annual rate equal to the maximum rate allowable by law, shall constitute indebtedness under this Agreement, and the ESID, the Investor, and the City, as applicable, shall be entitled to seek the recovery of those expenses in such action except as limited by law or by judicial order or decision entered in such proceedings.

Section 4.9. Further Assurances. Upon the request of the Investor, the Owner shall take any actions and execute any further documents as the Investor deems necessary or appropriate to carry out the purposes of this Agreement.

ARTICLE V: EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any of the following shall occur, such occurrence shall be an "Event of Default" under this Agreement:

- (a) The Owner shall fail to pay an installment of the Special Assessments when due, after taking into account all applicable extensions;
- (b) The City shall fail to transfer, or cause the transfer of, any of the Special Assessments to the Investor within the time specified in this Agreement;
- (c) Any Party is in material breach of its representations or warranties under this Agreement; provided, however, that upon the material breach of a Party's representations or warranties under this Agreement, such Party shall have the right to cure such breach within five days of the receipt of notice, and, if so cured, such breach shall not constitute an Event of Default;
- (d) The ESID, the Owner, or the City, shall fail to observe and perform any other agreement, term, or condition contained in this Agreement, and the continuation of such failure for a period of 30 days after written notice of such failure shall have been given to the ESID, the Owner, or the City, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; provided, however, that if the failure is other than the payment of money, and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the ESID, an Owner, or the City, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;
- (e) The Owner abandons its Property or its Project;
- (f) The Owner commits waste upon its Property or its Project;

- (g) The Owner becomes bankrupt or insolvent or files or has filed against it (and such action is not stayed or dismissed within 90 days) a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes a general assignment for the benefit of creditors; or
- (h) Any workmanship or materials constituting a portion of the Project or incorporated into the Project shall be materially defective and shall not be corrected within 30 days after notice.

The declaration of an Event of Default above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Promptly upon any non-defaulting Party becoming aware that an Event of Default has occurred, such Party shall deliver notice of such Event of Default to each other Party under this Agreement in accordance with the notice procedures described in Section 6.5 of this Agreement.

Section 5.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) Upon an Event of Default described in Section 5.1(a) only, the Investor shall become entitled to receive any Delinquency Amounts actually received by the City.
- (b) The ESID, the Investor, and the City, together or separately, may pursue all remedies now or later existing at law or in equity to collect all amounts due and to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of any of the Parties, as applicable, under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the ESID or the City, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.
- (c) Any Party may pursue any other remedy which it may have, whether at law, in equity, or otherwise, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

Notwithstanding the foregoing, each of the ESID and the City shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to it at no cost or expense.

Section 5.3. Foreclosure. Pursuant to Section 2.1 of the Special Assessment Agreement by and among the County Treasurer, the City, the ESID, and the Owner and dated as of the date of this Agreement (the “Special Assessment Agreement”), the County Treasurer has agreed not to confirm the sale of the Property for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Property, as shall be certified by the ESID to the County Treasurer pursuant to the records of the County Treasurer without the consent of the ESID and the Investor. The ESID hereby agrees that in the event it is asked to provide its consent in accordance with Section 2.1, it will notify the Investor of such request, and it will not provide its consent pursuant to Section 2.1 of the Special Assessment Agreement without the Investor’s prior written direction.

Section 5.4. No Remedy Exclusive. No remedy conferred upon or reserved to the Parties by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or later existing at law, in equity or by statute; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power nor shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Parties to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Agreement.

Section 5.5. No Waiver. No failure by a Party to insist upon the strict performance by the other Parties of any provision of this Agreement shall constitute a waiver of such Party’s right to strict performance; and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Parties to observe or comply with any provision of this Agreement.

Section 5.6. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement immediately if it becomes aware of the occurrence of any Event of Default or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VI: MISCELLANEOUS

Section 6.1. Owner Waivers. The Owner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the

imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Ohio Revised Code Chapter 727 and the resolutions or ordinances in effect in the City (collectively, "Assessment Rights"). The Owner irrevocably waives all Assessment Rights as to its Project and consents to the imposition of the Special Assessments as to its Project immediately or at such time as the ESID determines to be appropriate, and the Owner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessments upon its Property as to its Project. The Owner further waives in connection with the Project: any and all questions as to the constitutionality of the laws under which the Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council of the City acting thereunder; and the right to file a claim for damages as provided in Ohio Revised Code Section 727.18 and any similar provision of the resolutions or ordinances in effect within the City.

Section 6.2. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of execution and delivery until the payment in full of the entire aggregate amount of the Special Assessments shall have been made to the Investor, or such time as the Parties shall agree in writing to terminate this Agreement. Any attempted termination of this Agreement prior to the payment in full of the entire aggregate amount of the Special Assessments which is not in writing and signed by each of the Parties to this Agreement shall be null and void.

Section 6.3. Litigation Notice. Each Party shall give all other Parties prompt notice of any action, suit, or proceeding by or against the notifying Party, at law or in equity, or before any governmental instrumentality or agency, of which the notifying Party has notice and which, if adversely determined would impair materially the right or ability of the Parties to perform their obligations under this Agreement. The notifying Party's prompt notice shall be accompanied by its written statement setting forth the details of the action, suit, or proceeding and any responsive actions with respect to the action, suit, or proceeding taken or proposed to be taken by the Party.

Section 6.4. Indemnification. The Owner shall indemnify and hold harmless the ESID, the Investor, and the City (including any member, officer, director, or employee thereof) (collectively, the "Indemnified Parties") against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon, incurred by or asserted against an Indemnified Party arising or resulting from (i) Owner's financing, acquisition, construction, installation, operation, use or maintenance of the Project, (ii) any act, failure to act or misrepresentation solely by the Owner in connection with, or in the performance of any obligation on the Owner's part to be performed under this Agreement or related to the Special Assessments resulting in material actual damages, or (iii) (a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law ("Materials of Environmental Concern") in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean-up, removal, response,

corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a "Release") (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (f) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (g) any misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

In the event any action or proceeding is brought against any Indemnified Party by reason of any such claim, such Indemnified Party will promptly give written notice thereof to the Owner. The Owner shall be entitled to participate at its own expense in the defense or, if it so elects, to assume at its own expense the defense of such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Owner; but if the Owner shall elect not to assume such defense, it shall reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by such Indemnified Party. If at any time the Indemnified Party becomes dissatisfied, in its reasonable discretion, with the selection of counsel by the Owner, a new mutually agreeable counsel shall be retained at the expense of the Owner. Each Indemnified Party agrees that the Owner shall have the sole right to compromise, settle or conclude any claim, suit, action or proceeding against any of the Indemnified Parties. Notwithstanding the foregoing, each Indemnified Party shall have the right to employ counsel in any such action at their own expense; and provided further that such Indemnified Party shall have the right to employ counsel in any such action and the fees and expenses of such counsel shall be at the expense of the Owner, if: (i) the employment of counsel by such Indemnified Party has been authorized by the Owner, (ii) there reasonably appears that there is a conflict of interest between the Owner and the Indemnified Party in the conduct of the defense of such action (in which case the Owner shall not have the right to direct the defense of such action on behalf of the Indemnified Party) or (iii) the Owner shall not in fact have employed counsel to assume the defense of such action. The Owner shall also indemnify the Indemnified Parties from and against all costs and expenses, including reasonable attorneys' fees, lawfully incurred in enforcing any obligations of the Owner under this Agreement. The obligations of the Owner under this Section shall survive the termination of this Agreement and shall be in addition to any

other rights, including without limitation, rights to indemnity which any Indemnified Party may have at law, in equity, by contract or otherwise.

None of the Investor, the City, or the ESID shall have any liability to the Owner or any other Person on account of (i) the Owner engaging a contractor from the list of contractors submitted by the ESID or the Investor to the Owner, (ii) the services performed by the contractor, or (iii) any neglect or failure on the part of the contractor to perform or properly perform its services. None of the Investor, the City, or the ESID assumes any obligation to the Owner or any other Person concerning contractors, the quality of construction of the Project or the absence of defects from the construction of the Project. The making of a Project Advance by the Investor shall not constitute the Investor's approval or acceptance of the construction theretofore completed. The Investor's inspection and approval of the budget, the construction work, the improvements, or the workmanship and materials used in the improvements, shall impose no liability of any kind on the Investor, the sole obligation of the Investor as the result of such inspection and approval being to make the Project Advances if, and to the extent, required by this Agreement. Any disbursement made by the Investor without the Investor having received each of the items to which it is entitled under this Agreement shall not constitute breach or modification of this Agreement, nor shall any written amendment to this Agreement be required as a result.

Section 6.5. Notices. All notices, certificates, requests or other communications under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 6.6. Extent of Covenants; No Personal Liability. All covenants, obligations, and agreements of the ESID and the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee of the ESID, the Board, the Owner, the City, the City Council, or the Investor in other than his or her official capacity; and none of the members of the Board or the City Council, nor any official of the ESID, the Owner, the City, or the Investor executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the ESID, the Owner, the City, or the Investor contained in this Agreement.

Section 6.7. Binding Effect; Assignment; Estoppel Certificates. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Parties. Except as specifically provided below, this Agreement shall not be assigned by the any of the Parties except as may be necessary to enforce or secure payment of the Special Assessments.

Notwithstanding anything in this Agreement to the contrary, the Owner freely may sell the Property and the Project or any portion of the Property and the Project from time to time and may assign this Agreement to an arms-length, good faith purchaser of the Property but only after notice of such assignment is given to the Investor, and only upon (i) the execution and delivery

to the City, the Investor, and the ESID of an “Assignment and Assumption of Energy Project Cooperative Agreement” in the form attached to, and incorporated into, this Agreement as **Exhibit H**; and (ii) the execution and delivery to the Investor of an assignment of all construction contracts for the Project. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent. Following any assignment by the Owner as described above, all obligations of the Owner contained in this Agreement, the Special Assessment Agreement, and the Owner Consent shall be obligations of the assignee, and the assigning Owner shall be released of its obligations to a corresponding extent.

Notwithstanding anything in this Agreement to the contrary, the Investor shall have the unrestricted right at any time or from time to time, and without the Owner’s consent, to assign all or any portion of its rights and obligations under this Agreement, and may sell or assign any and all liens received directly or indirectly from the City to any Person (each, an “Investor Assignee”), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing so long as such amendment does not materially adversely impact the Owner’s rights and obligations under this Agreement. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Investor Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent. If, at any time, the Investor assigns any of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to an Investor Assignee, the Investor shall (i) give prompt notice of such assignment to the other Parties and (ii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel.

In addition, the Investor shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the Owner, to grant to one or more Persons (each, a “Participant”) participating interests in Investor’s obligation to make Project Advances under this Agreement or to any or all of the loans held by Investor under this Agreement. In the event of any such grant by the Investor of a participating interest to a Participant, whether or not upon notice to the Owner, the Investor shall remain responsible for the performance of its obligations under this Agreement, and the Owner shall continue to deal solely and directly with the Investor in connection with the Investor’s rights and obligations under this Agreement. The Owner agrees that the Investor may furnish any information concerning the Owner in its possession from time to time to prospective Investor Assignees and Participants.

This Agreement may be enforced only by the Parties, their permitted assignees, and others, who may, by law, stand in their respective places.

Any Party shall at any time and from time to time, upon not less than 30 days' prior written notice by the other party, execute, acknowledge and deliver to such party a statement in writing certifying that: (i) this Agreement is unmodified and in full force and effect (or, if there has been any modification of this Agreement, that the same is in full force and effect as modified and stating the modification or modifications); (ii) to the best of such Party's actual knowledge (without any duty of inquiry) there are no continuing Events of Default (or, if there is a continuing Event of Default, stating the nature and extent of such Event of Default); (iii) that, to the best of such Party's actual knowledge (without any duty of inquiry) there are no outstanding damages or liability arising from an Event of Default (or, if there is any outstanding damages or liability, stating the nature and extent of such damages or liability); (iv) if such certificate is being delivered by the Owner, the dates to which the Special Assessments have been paid; and (v) if such certificate is being delivered by the Investor, the dates to which the Special Assessments have been paid to the Investor. It is expressly understood and agreed that any such certificate delivered pursuant to this Section 6.7 may be relied upon by any prospective assignee of the Owner or any prospective Investor Assignee.

Section 6.8. Amendments and Supplements. Except as otherwise expressly provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by unanimous written agreement signed by each of the Parties materially affected by such proposed amendment, change, modification, alteration, or termination. For purposes of this Section, a materially affected Party is a Party with respect to which a material right or obligation under this Agreement is proposed to be amended, changed, modified, altered, or terminated. Any attempt to amend, change, modify, alter, or terminate this Agreement except by unanimous written agreement signed by all of the materially affected Parties or as otherwise provided in this Agreement shall be void.

Section 6.9. Execution Counterparts. This Agreement may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

Section 6.10. Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained in this Agreement is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Agreement. That invalidity or unenforceability shall not affect any valid and enforceable application of the provision, covenant, obligation, or agreement, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

Section 6.11. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed in their respective names, all as of the date first written above.

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A: NORTHEAST OHIO ADVANCED ENERGY DISTRICT, as the ESID

By: _____

Name: _____

Title: _____

21000 BROOKPARK LANDLORD LLC, as
the Owner

By: _____

Name: _____

Title: _____

PACE EQUITY LLC, as the Investor

By: _____

Name: _____

Title: _____

[Signature Page to Energy Project Cooperative Agreement]

CITY OF FAIRVIEW PARK, OHIO, as the
City

By: _____

Name: _____

Title: _____

[Signature Page to Energy Project Cooperative Agreement]

CITY FISCAL OFFICER CERTIFICATE

The undersigned, Fiscal Officer of the City of Fairview Park, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2020 under the foregoing Energy Project Cooperative Agreement have been lawfully appropriated by the City Council of the City of Fairview Park, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
City of Fairview Park, Ohio

Dated: _____, 2020

EXHIBIT A

DEFINITIONS

As used in this Agreement, the following words have the following meanings:

“*Agreement*” means this Energy Project Cooperative Agreement, dated as of [____], 2020, by and between the ESID, the Owner, the Investor, and the City, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

“*Board*” means the Board of Directors of the ESID.

“*City*” means the City of Fairview Park, Ohio.

“*City Council*” means the Council of the City of Fairview Park, Ohio.

“*Completion Date*” means the latest date on which substantial completion of the Project, in accordance with the Plans occurs, which date shall be established by the Completion Certificate attached to this Agreement as Exhibit D.

“*County*” means the County of Cuyahoga, Ohio.

“*County Fiscal Officer*” means the Fiscal Officer of the County.

“*County Prosecutor*” means the Prosecuting Attorney of the County.

“*County Treasurer*” means the Treasurer of the County.

“*Delinquency Amount*” means any penalties or interest which may be due on or with respect to any installment of the Special Assessments and which are not paid or taxable to any party other than the Investor under law.

“*Disbursement Request Form*” means the form attached to this Agreement as Exhibit C, which form shall be submitted by the Owner in order to receive disbursements from the Project Account.

“*Disbursing Agent*” means [Town Bank, a Wintrust Community Bank], in its capacity as “*Depository Agent*” under the Disbursement Agreement.

“*Disbursement Agreement*” means the Disbursement Agreement dated as of [____], 2020 by and among the Owner, the Investor, and PACE Equity Holdings Titling Trust, as the PACE Assignee, as the same may be validly amended or supplemented and in effect from time to time.

“*ESID*” means the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview,

Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District, a nonprofit corporation and energy special improvement district organized under the laws of the State.

“*Governmental Authority*” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Investor*” means PACE Equity LLC, a limited liability company duly organized and validly existing under the laws of the State of Wisconsin, together with any Investor Assignee.

“*Lender*” means any Person which has loaned money to the Owner to pay or refinance the costs of acquiring, financing, refinancing, or improving the Property and which loan is secured by a mortgage interest in the Property, or any permitted successors or assigns of such Person, including, initially, and without limitation, Perpetual Federal Savings Bank.

“*Lender Loan Documents*” means any loan agreement or loan agreements, mortgage or mortgages, and any other documents and instruments executed and delivered in connection with the a loan from a Lender, as they may be amended, modified, and supplemented from time to time under their terms.

“*Notice Address*” means:

- | | | |
|-----|-----------------|--|
| (a) | As to the City: | City of Fairview Park, Ohio
20777 Lorain Road
Fairview Park, Ohio 44126
Attention: _____ |
| (b) | As to the ESID: | Northeast Ohio Advanced Energy District
165 Center Road
Bedford, Ohio 44146
Attention: Jennifer Kuzma |
| | With a Copy To: | J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 S. Third Street
Columbus, Ohio 43215
Phone: (614) 227-2300
Email: pace@bricker.com |
| (c) | As to the Owner | 21000 Brookpark Landlord LLC
21000 Brookpark Road |

Fairview Park, Ohio 44135

With a Copy To:

(d) As to the Investor

PACE Equity LLC
731 North Jackson, Suite 420
Milwaukee, Wisconsin 53202
Attention: Kevin Moyer

“*Ordinance Levying Assessments*” means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.25 with respect to levying special assessments on real property within the ESID.

“*Ordinance to Proceed*” means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.23 with respect to levying special assessments on real property within the ESID.

“*Owner*” means 21000 Brookpark Landlord LLC, a limited liability company duly organized and validly existing under the laws of the State of Ohio, and any permitted successors or assigns.

“*Owner Consent*” means the Owner Consent dated as of [____], 2020 by the Owner and recorded in the records of the Cuyahoga County Fiscal Officer with respect to the Property.

“*PACE Counsel*” means Bricker & Eckler LLP, an Ohio limited liability partnership.

“*Parties*” means the ESID, the Owner, the Investor, and the City.

“*Person*” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or governmental bodies, political subdivisions, other legal entities, and natural persons.

“*Plan*” means the Northeast Ohio Advanced Energy Special Improvement District Commercial-Industrial Program Project Plan and the Northeast Ohio Advanced Energy Special Improvement District Commercial-Industrial Program Services Plan adopted by the City by its Ordinance No. [____]-20 of [____], 2020, and any and all future supplemental plans approved by the ESID and the City.

“*Project*” means the special energy improvement project described in the Plan with respect to the Property, for which Special Assessments are to be levied by the City, all in accordance with the Plan.

“*Project Account*” means the segregated account in the custody of the Investor for the benefit of the Owner which contains the Project Advance, and out of which disbursements may be made in accordance with Article IV of this Agreement.

“*Project Advance*” means the amount of immediately available funds to be transferred, set over, paid to, and held in the Project Account established pursuant to Section 4.1 of this Agreement for the benefit of the Owner.

“*Property*” means the real property subject to the Plan.

“*Repayment Schedule*” means the schedule attached to, and incorporated into, this Agreement as **Exhibit B**, which schedule establishes the dates and amounts for the repayment of the Project Advance by the Special Assessments paid by the Owner.

“*Required Builder’s Risk Insurance Coverage*” means at any time insurance coverage maintained with generally recognized, responsible insurance companies qualified to do business in the State in the minimum amount of the full replacement value of the Project and Project Site, insuring the Project against loss or damage during construction and containing loss deductible provisions not to exceed \$10,000, which insurance coverage shall name the Investor as lender loss payee.

“*Required Business Interruption Insurance Coverage*” means at all times after the Completion Date, business interruption and rent loss insurance maintained with generally recognized, responsible insurance companies qualified to do business in the State in a commercially reasonable minimum amount, which insurance coverage shall name the Investor as lender loss payee.

“*Required Flood Insurance Coverage*” means, as applicable, (i) if the Property or any part of the Property is identified by the United States Secretary of Housing and Urban Development as being situated in an area now or subsequently designated as having special flood hazards (including, without limitation, those areas designated as Zone A or Zone V), flood insurance in an amount equal to the lesser of: (a) the minimum amount required, under the terms of coverage, to compensate for any damage or loss on a replacement basis (or the unpaid balance of the Project Advances if replacement cost coverage is not available for the type of building insured); or (b) such lesser amount as may be required by the Investor, and containing a loss deductible with respect not in excess of \$10,000 per occurrence; and (ii) earthquake insurance in amounts and in form and substance satisfactory to the Investor in the event the Property is located in an area with a high degree of seismic activity, provided that the insurance pursuant to this section shall be on terms consistent with the Required Public Liability Insurance Coverage.

“*Required Insurance Coverage*” means, collectively, the Required Builder’s Risk Insurance Coverage, the Required Business Interruption Insurance Coverage, the Required Flood Insurance Coverage (if any), the Required Property Insurance Coverage and the Required Public Liability Insurance Coverage, each of which, in addition to the requirements described in their respective definitions, (i) must provide for 10 days’ notice to the Investor in the event of

cancellation or nonrenewal and (ii) must name as an additional insured (mortgagee/loss payee) the Investor.

“Required Property Insurance Coverage” means at any time insurance coverage evidenced on Acord 27 and maintained with generally recognized, responsible insurance companies qualified to do business in the State in the amount of (i) the then full replacement value of the Project and Property, insuring the Project against loss or damage by fire, windstorm, tornado and hail and extended coverage risks on a comprehensive all risk/special form insurance policy and containing loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as loss payee/mortgagee.

“Required Public Liability Insurance Coverage” means at any time commercial general accident and public liability insurance coverage evidenced on Acord 25 and maintained with generally recognized, responsible insurance companies qualified to do business in the State with coverage limits in the maximum amount of \$2,000,000 per occurrence for death or bodily injury and property damage liability combined, with loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as additional insureds.

“Resolution of Necessity” means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.12 with respect to levying special assessments on real property within the ESID.

“Special Assessment Act” means, collectively, Ohio Revised Code Section 727.01 *et seq.*, Ohio Revised Code Section 1710.01 *et seq.*, Ohio Revised Code Section 323.01 *et seq.*, Ohio Revised Code Section 319.01 *et seq.*, Ohio Revised Code Section 5721.01 *et seq.*, and related laws, Resolution No. [_____] approving the Petition and Plan and declaring the necessity of the Project passed on [_____] , 2020, Ordinance No. [_____] determining to proceed with the Project adopted on [_____] , 2020, and Ordinance No. [_____] levying the Special Assessments adopted on [_____] , 2020, all with respect to levying special assessments on real property within the ESID.

“Special Assessments” means the special assessments levied pursuant to the Special Assessment Act by the City with respect to the Project, a schedule of which is attached to, and incorporated into, the Plan.

“State” means the State of Ohio.

EXHIBIT B
REPAYMENT SCHEDULE

[Insert repayment schedule]

EXHIBIT C

DISBURSEMENT REQUEST FORM

[See Attached]

Request No. _____

Date: _____

APPLICATION FOR PAYMENT

To: PACE Equity, LLC

Under the Energy Project Cooperative Agreement dated as of [____], 2019 (the **Energy Project Cooperative Agreement**), by and among 21000 Brookpark Landlord LLC (**Owner**), PACE Equity LLC (**Investor**), the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District (the **ESID**), and the City of Fairview Park, Ohio (the **City**), and under the Escrow and Disbursement Agreement dated as of [____], 2020 (the **Disbursement Agreement**) by and among the Owner, the Investor, and PACE Equity Holdings Titling Trust, as PACE Assignee, the undersigned hereby requests the disbursement of construction funds from the Disbursement Agent in accordance with this request, and hereby certifies as follows:

1. All capitalized terms in this Application for Payment, unless otherwise defined herein, have the meanings specified in the Energy Project Cooperative Agreement.
2. The amounts requested either have been paid by the Owner, or are justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names are stated on **Attachment I** hereto and whose invoices are attached hereto) in accordance with the invoice(s) attached hereto who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Project.
3. Final lien waivers or releases executed by all parties receiving payment directly from the previous draw request through the current draw request are **attached hereto**.
4. **Attached hereto** is a completed AIA Document g702 or equivalent document, signed by the Owner's general contractor for the Project **and** a list of the applicable payees if payment will be made to an entity or entities other than the Owner's general contractor.
5. Each disbursement to the payees listed hereunder shall constitute a representation and warranty by the Owner, as of the date that such disbursement is made, that the conditions contained in Section 4.2 of the Energy Project Cooperative Agreement have been satisfied.

[Signature page follows]

21000 Brookpark Landlord LLC

Request No. _____

By: _____
Name: _____
Title: _____
Date: _____

ATTACHMENT I
TO APPLICATION FOR PAYMENT

SCHEDULE OF PAYMENTS REQUESTED

(Payments to be made in accordance with instructions on invoice attached hereto)

Payee Name	Description	Total Payment	Payment Directions

EXHIBIT D

FORM OF COMPLETION CERTIFICATE

21000 Brookpark Landlord LLC (the **Owner**) hereby certifies that the Project, as such term is defined in the Energy Project Cooperative Agreement entered into by and between the Owner, the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District, the City of Fairview Park, Ohio and PACE Equity LLC (the **Investor**) dated as of [____], 2020 (the **Agreement**) has been completed at 21000 Brookpark Road, Fairview Park, Ohio 44135 (the **Property**) in strict compliance with the requirements of the Agreement.

Note: Capitalized terms used but not defined in this Completion Certificate have the meaning assigned to them in the Agreement to which a form of this Completion Certificate is attached and of which it forms a part.

THE OWNER HEREBY CERTIFIES:

(a) That the acquisition, construction, equipping, installation, and improvement of the Project was substantially completed on _____ in accordance with the construction contract, and the Owner has no unresolved complaints regarding the work;

(b) The Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget for the Project approved by the Investor;

(c) Owner has complied, and will continue to comply with all applicable statutes, regulations, and resolutions or ordinances in connection with the Property and the construction of the Project;

(d) the Owner holds fee ownership of the Property;

(e) the general contractor for the project has not offered the Owner any payment, refund, or any commission in return for completing Project; and

(f) all funds provided to the Owner by the Investor for the Project have been used in accordance with the Agreement

[Balance of Page Intentionally Left Blank]

NOTICE: DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU AGREE TO EACH OF THE ABOVE STATEMENTS.

21000 Brookpark Landlord LLC, as the Owner

By: _____

Name: _____

Title: _____

EXHIBIT E
CLOSING COSTS DETAIL

Pursuant to Section 4.2 of the foregoing Energy Project Cooperative Agreement, the Investor, on the date on which the Energy Project Cooperative Agreement becomes effective, shall disburse to the ESID or to the respective payee set forth below, the following closing costs:

[Insert closing costs]

EXHIBIT F
CONSENT OF MORTGAGEE

[See Attached]

EXHIBIT G

**FORM OF ASSIGNMENT AND ASSUMPTION OF ENERGY PROJECT
COOPERATIVE AGREEMENT**

ASSIGNMENT AND ASSUMPTION
OF
ENERGY PROJECT COOPERATIVE AGREEMENT

_____ (“Assignor”), in consideration of the sum of \$ _____ in hand paid and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Assignor’s execution of this Assignment and Assumption of Energy Project Cooperative Agreement (“Assignment”), assigns, transfers, sets over, and conveys to _____ (“Assignee”) all of Assignor’s right, title, and interest in and to that certain Energy Project Cooperative Agreement dated as of [____], 2020 between the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy Improvement District (the “ESID”), Assignor, PACE Equity LLC, and the City of Fairview Park, Ohio (the “Energy Project Cooperative Agreement”).

By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Energy Project Cooperative Agreement. Assignee further represents and warrants that it has taken title to the “Property,” as that term is defined in the Energy Project Cooperative Agreement, subject to the Special Assessment Agreement dated as of even date with the Energy Project Cooperative Agreement between the Cuyahoga County Treasurer, the City of Fairview Park, Ohio, the ESID, 21000 Brookpark Landlord LLC, and PACE Equity LLC (the “Special Assessment Agreement”) and to the “Owner Consent” dated as of [____], 2020 by 21000 Brookpark Landlord LLC and recorded in the records of the Cuyahoga County Fiscal Officer with respect to the Property. By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Special Assessment Agreement and the Owner Consent.

Assignor and Assignee acknowledge and agree that executed copies of this Assignment shall be delivered to the City, the Investor, and the ESID, as each of those terms are defined in the Energy Project Cooperative Agreement, all in accordance with Sections 3.4(a) and 6.7 of the Energy Project Cooperative Agreement

In witness of their intent to be bound by this Assignment, each of Assignor and Assignee have executed this Assignment this _____ day of _____, _____, which

Assignment is effective this date. This Assignment may be executed in any number of counterparts, which when taken together shall be deemed one agreement.

[Signature Pages Follow]

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT I

INVESTOR ACCOUNT AND PAYMENT INFORMATION

[Insert Investor Account and Payment Information]

SPECIAL ASSESSMENT AGREEMENT
(ORC Sections 5721.33 and 9.482)

by and among

COUNTY TREASURER OF CUYAHOGA COUNTY, OHIO
("Treasurer"),

And

CITY OF FAIRVIEW PARK, OHIO
("City"),

And

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:

NORTHEAST OHIO ADVANCED ENERGY DISTRICT;
("District"),

And

21000 BROOKPARK LANDLORD LLC
("Owner")

And

PACE EQUITY LLC
("Investor")

Dated as of [____], 2020

SPECIAL ASSESSMENT AGREEMENT

THIS SPECIAL ASSESSMENT AGREEMENT (this “Agreement”) is made effective as of [____], 2020, by and among the County Treasurer of Cuyahoga County, Ohio (the “Treasurer”), the City of Fairview Park, Ohio (the “City”), the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy District (“District”), 21000 Brookpark Landlord LLC (the “Owner”), and PACE Equity LLC (together with its permitted successors and assigns, the “Investor”).

BACKGROUND:

WHEREAS, the District was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Resolution 1078-10 of the City Council of the City of Cleveland, Ohio, approved on September 20, 2010; and

WHEREAS, the Owner has determined that it is in its best interests to cause the acquisition, installation, equipment, and improvement of special energy efficiency improvements, including, without limitation, energy efficient building envelope improvements, high-efficiency interior and exterior lighting, high-efficiency HVAC system, energy efficient plumbing system, and related improvements (collectively, the “Project”) on the real property located within Cuyahoga County, Ohio (the “County”) and the City, and as more fully described in **Exhibit A** to this Agreement (the “Assessed Lands”); and

WHEREAS, the costs of the Project are being funded in part through an advance in the amount of \$5,569,278.00 (the “Project Advance”) to the Owner pursuant to an Energy Project Cooperative Agreement dated as of [____], 2020 (the “Energy Project Cooperative Agreement”) between the District, the Investor, the Owner, and the City; and

WHEREAS, to secure the repayment of the principal of, and the payment of any premium, fees, and unpaid interest on, the Project Advance used to finance the Project (the “Project Costs”), (i) the Owner, signed and delivered to the Clerk of the Council a Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project (the “Petition”) for the acquisition, installation, equipment, and improvement of the Project and evidencing the Owner’s agreement to the levy and collection of special assessments by the City (the “Special Assessments”) on the Assessed Lands, which are located within the District, in amounts sufficient to pay the Project Costs, and (ii) the City (a) has taken all the necessary actions required by Ohio Revised Code Chapter 727, including, without limitation, the passage of the assessing resolution or ordinance pursuant to the requirements of Ohio Revised Code Section 727.25, for the levying of the Special Assessments and has caused or

will cause the Special Assessments to be certified to the County Fiscal Officer of Cuyahoga County, Ohio (the "County Fiscal Officer") for collection by the Treasurer in semi-annual installments, and (b) hereby has agreed to transfer to the Investor the payments of Special Assessments received to pay the Project Costs; and

WHEREAS, the Owner agrees that the delivery of the Petition and the requests and agreements made in the Petition are irrevocable and that the parties to this Agreement have acted and will act in reliance on the agreements contained in the Petition; and

WHEREAS, pursuant to the Petition, the Special Assessments have been levied against the Assessed Lands as described in the Petition and pursuant to this Agreement the Owner is willing to agree to make Special Assessment payments in accordance with the Petition; and

WHEREAS, Ohio Revised Code Chapters 323 and 5721 set forth certain parameters and timing requirements for the foreclosure of property on which taxes and assessments, including the Special Assessments, are due and owing and remain unpaid; and

WHEREAS, upon the occurrence of an Event of Default pursuant to the Energy Project Cooperative Agreement, it may be necessary for the District to foreclose on the lien of the Special Assessments with respect to the Assessed Lands as set forth in Section 2 of this Agreement; and

WHEREAS, in consideration of the Project Advance, the Owner is willing to consent to an expedited foreclosure process with respect to the lien of the Special Assessments, the form of the consent being attached hereto as Exhibit B (the "Owner Consent") and the Owner Consent with respect to the foreclosure of the Special Assessments as soon as possible (as referenced in Section 2 hereof) shall be a covenant running with Assessed Lands and binding upon the Owner and upon future owners of the Assessed Lands until the Project Costs are paid in full; and

WHEREAS, based on the Owner Consent and other considerations, at the request of the District, upon the occurrence of an Event of Default under the Energy Project Cooperative Agreement, the Treasurer and the City have agreed to foreclose the lien of the Special Assessments as soon as possible as described herein; and

WHEREAS, if any assessments, including, without limitation, the Special Assessments, payments in lieu of taxes, real property taxes, or other governmental charges levied on the Assessed Lands are not paid when due and thereafter remain delinquent, the Treasurer, pursuant to Ohio Revised Code Sections 5721.30 through 5721.41 (the "Delinquent Tax Lien Sale Act"), specifically Ohio Revised Code Section 5721.33, may, in his discretion, but is not required to, negotiate with one or more persons the sale of any number of tax certificates ("Tax Certificates") which evidence the liens (the "Tax Liens") of the State of Ohio (the "State") and its applicable taxing districts for such delinquent assessments, including Special Assessments, real property taxes, payments in lieu of taxes, governmental charges, or penalties and interest on such Assessed Lands; and

WHEREAS, pursuant to the Delinquent Tax Lien Sale Act, the Treasurer, in his discretion, may sell such Tax Certificates at a discount from the full amount of the general real estate taxes, assessments, including the Special Assessments, penalties, and interest that have become delinquent; and

WHEREAS, if the Treasurer were to sell such Tax Certificates at a discount (other than in accordance with the provisions of this Agreement), the proceeds of such sale representing the delinquent Special Assessments might be insufficient to pay the Project Costs; and

WHEREAS, the Treasurer does not desire to take any action with respect to the collection of the Special Assessments that might adversely affect the repayment of the Project Advance without the consent of the District or adversely affect the payment of the Project Costs without the consent of the District; and

WHEREAS, the Treasurer has agreed to remit to the District, in the event of a default under the Energy Project Cooperative Agreement, as set forth in this Agreement, amounts collected by the Treasurer and relating to the Special Assessments, including without limitation amounts collected by the Treasurer as a result of foreclosure of the lien of the Special Assessments on the Assessed Lands and including amounts received from a sale of Tax Certificates pursuant to the Delinquent Tax Lien Sale Act;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, and desiring to be legally bound hereunder, the parties hereto covenant and agree as follows:

Section 1. Special Assessments.

1.1 The Owner, prior to the execution and delivery of this Agreement, signed and delivered to the Clerk of the Council the Petition for the acquisition, installation, equipment, and improvement of the Project and evidencing the agreement of the Owner to the levy of the Special Assessments as security for the Project Advance. The Owner agrees that the delivery of the Petition and the requests and agreements made therein are irrevocable and that the parties hereto have acted and will act in reliance on the agreements contained in that Petition. The City shall take all necessary actions required by Ohio Revised Code Chapter 727 to levy and collect the Special Assessments on the Assessed Lands. On [____], 2020 the City passed Ordinance No. [____] pursuant to the requirements of Ohio Revised Code Section 727.25 for the levying of the Special Assessments (the "Assessing Ordinance"). The Clerk of the Council certified (or caused to be certified) the Assessing Ordinance to the County Fiscal Officer as set forth in the Petition.

1.2 The City shall cause the Special Assessments, as set forth in the Assessment Schedule attached to the Petition, to be certified to the County Fiscal Officer on or before the last date for the certification of special assessments to the County Fiscal Officer of each year during which the Special Assessments are to be levied pursuant to the Assessment

Schedule. The parties acknowledge that pursuant to such certification, the Special Assessments are expected to be collected and paid to the City pursuant to Ohio Revised Code Chapters 319, 321, 323, and 727.

1.3 In the event the Project Advance is prepaid or redeemed in accordance with the Energy Project Cooperative Agreement, in whole or in part, the Investor, the City, and the District shall, in cooperation with the Owner, and to the extent permitted by law, cause the aggregate lien of the Special Assessments to be no greater than the remaining principal of and interest and premium, if any, on the Project Advance through maturity.

1.4 To the extent that the Owner prepays any of the required payments to the Investor pursuant to the Energy Project Cooperative Agreement, then the amounts of the Special Assessments shall be reduced in accordance with the appropriate Assessment Schedule attached to the Petition.

1.5 To facilitate the repayment of the Project Advance, the City, pursuant to Section 2.2 of the Energy Project Cooperative Agreement, assigned to the Investor all of its right, title, and interest in and to the Special Assessments, the funds of the City contained within the Special Assessment fund established to collect and hold the Special Assessments, and any other property received or to be received from the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and the Investor each hereby acknowledges, agrees with, and consents to those assignments.

1.6 Pursuant to Section 2.5 of the Energy Project Cooperative Agreement, the District assigned to the Investor any and all of its right, title, and interest it may have in and to the Special Assessments related to the District actually received by or on behalf of the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and the Investor each hereby acknowledges, agrees with, and consents to those assignments.

1.7 Notwithstanding anything in this Agreement to the contrary, the Treasurer's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The Treasurer's obligations shall be limited to the moneys levied, collected, and received in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The Treasurer's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the County.

1.8 Notwithstanding anything in this Agreement to the contrary, the City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligation under this Agreement shall be limited to any moneys received from the County in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City.

Section 2. Foreclosure Process.

2.1 The Treasurer, the City, the Investor, and the Owner each acknowledge that the Special Assessments are to secure payments relating to the Project Advance, including the Project Costs and other amounts as provided under the Energy Project Cooperative Agreement. The Treasurer agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, upon the Treasurer's receipt of written notice from the Investor or the District, with a copy to the other of the Investor or the District, and to the Owner and the City, that an Event of Default (as defined under the Energy Project Cooperative Agreement, as applicable) has occurred and is continuing and which notice directs Treasurer to foreclose on the lien of the Special Assessments, the Treasurer will, not later than 30 days from the date of the receipt of such notice, diligently prosecute a foreclosure action against the Assessed Lands, following the procedures for lien foreclosures established in Ohio Revised Code Section 323.25 and related sections. The foreclosure action shall be to collect all Special Assessments then due and owing on the Assessed Lands in accordance with the Petition. Without the prior written consent of the District and the Investor, the Treasurer will not confirm the sale of the Assessed Lands for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Assessed Lands, as shall be certified by the District to the Treasurer pursuant to the records of the Treasurer. All fees and expenses of the Treasurer in collecting the Special Assessments are to be included and paid for by the Owner.

2.2 The Treasurer hereby acknowledges that the City has assigned all of its right, title, and interest in and to the Special Assessments to the Investor, and that the District has assigned all of its right, title, and interest it may have in and to the Special Assessments to the Investor, and the Treasurer hereby agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, the Treasurer will not sell or negotiate the sale of one or more Tax Certificates related to the Assessed Lands for an amount less than 100% of the amount levied and certified for collection without the prior written consent of the District and the Investor.

2.3 The Treasurer hereby covenants and agrees that if any of the general real estate taxes, payments in lieu of taxes, assessments, including the Special Assessments, governmental charges, or penalties and interest on the Assessed Lands are delinquent and the Delinquent Tax Lien Sale Act would permit the Treasurer to negotiate the sale of Tax Certificates with respect thereto, the Treasurer will, prior to giving any notice under the Delinquent Tax Lien Sale Act of a sale of Tax Certificates with respect to the Assessed Lands, give written notice to the District and the Investor regarding the same and state therein whether the Treasurer reasonably anticipates receiving no less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, originally levied and certified for collection plus other charges, including attorney's fees, or whether the Treasurer reasonably expects to receive less than 100% of the general real

estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, levied and certified for collection plus other charges, including attorney's fees, and in accordance with this Agreement is requesting the consent of the District and the Investor for such a sale.

2.4 The Treasurer agrees not to utilize the authority contained in Ohio Revised Code Chapter 5722 to transfer any of the Assessed Lands to the county land reutilization corporation, to sell or convey any of the Assessed Lands to any political subdivision under the authority contained in Ohio Revised Code Chapter 5722, or to clear the liens and encumbrances applicable to the Assessed Lands under the authority contained in Ohio Revised Code Chapter 5722 without the express written consent of the District and the Investor.

2.5 Nothing in this Agreement shall, or shall be construed to, prevent the Treasurer from selling one or more Tax Certificates with respect to the Assessed Lands to a third party without the consent of the District if the price received for the Tax Certificate or Tax Certificates equals or exceeds 100% of the delinquent general real estate taxes, assessments, including the Special Assessments, penalties and interest on the Assessed Lands outstanding against the Assessed Lands at the time of such sale.

2.6 The District and the Investor each hereby agrees that upon written notice from the Treasurer pursuant to Section 2.1 of this Agreement, it, within 30 days of receipt of the Treasurer's notice, shall give a written response to the Treasurer indicating therein whether it consents to the request for sale of a Tax Certificate or Tax Certificates.

2.7 No delay or failure of the District or the Investor to give a written response shall be construed to be a consent to such request or to be a waiver of the right to give such consent. No consent or refusal thereof by the District or the Investor in response to a request by the Treasurer shall extend to or affect any subsequent request of the Treasurer or shall impair the rights of the District or the Investor with respect any such subsequent request.

2.8 So long as the Project Costs are outstanding, the Treasurer hereby covenants and agrees (a) to remit to the City all Special Assessments collected from the Assessed Lands in semi-annual installments in the same manner and at the same time as real property taxes are paid to the City in accordance with Ohio Revised Code Chapter 323, including any delinquency procedures, penalties, and interest provided for therein; (b) to the extent the Treasurer receives amounts collected from Tax Certificates, as provided for in Ohio Revised Code Chapter 323, after payment of reasonable fees and expenses of the Treasurer, all amounts collected by the Treasurer from Tax Certificates shall be remitted to the City; and (c) to the extent the Treasurer seeks and is appointed as receiver for the Assessed Lands, as provided for in Ohio Revised Code Chapter 323, after payment of reasonable fees and expenses of the Treasurer, all amounts collected by the Treasurer, as receiver for the Assessed Lands and collected as a result of the Special Assessments, shall be remitted to the City.

Section 3. Indemnification by Owner

3.1 The Owner hereby releases the District, the City, the Treasurer, the Investor, and their respective officers, directors, and employees (the “Indemnified Parties”), from, agrees that the Indemnified Parties shall not be liable for, and indemnifies the Indemnified Parties against, all liabilities, claims, costs, and expenses, including out-of-pocket and incidental expenses and legal fees, imposed upon, incurred, or asserted against Indemnified Parties, on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, installation, equipment, improvement, maintenance, operation, and use of the Owner’s Project; (ii) any breach or default on the part of the Owner in the performance of any covenant, obligation, or agreement of the Owner under the Energy Project Cooperative Agreement, or arising from any act or failure to act by the Owner, or any of the Owner’s agents, contractors, servants, employees, or licensees; (iii) the Owner’s failure to comply with any requirement of this Agreement; (iv) the efforts of the City and the Treasurer to collect Special Assessments; (v) any legal costs or out-of-pocket costs incurred by the District specifically related to additional approvals or actions that may be required by the District arising after the date of the Energy Project Cooperative Agreement (and in the case of such legal costs or out-of-pocket costs, agrees to pay such costs directly to the District); and (vi) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv), or (v) above, provided, however that the Owner shall not indemnify the Indemnified Parties as provided above to the extent that any liability, claim, cost, or expenses arises out of or results from the gross negligence, willful misconduct, or breach of this Agreement or the Energy Project Cooperative Agreement of the Indemnified Parties.

3.2 The Owner agrees to indemnify, to pay, and to hold each of the Indemnified Parties harmless from and against all liabilities, and all reasonable costs and expenses, including out-of-pocket expenses and attorneys’ fees, arising out of any federal, state, or local environmental laws, regulations, resolutions or ordinances, incurred by any of the Indemnified Parties as a result of the existence on or release from the Owner’s Project Site of Hazardous Materials, which in any way result from any act of omission or commission of the Owner or any of its agents, employees, independent contractors, invitees, licensees, successors, assignees, or tenants.

Section 4. Additional Agreements and Covenants.

4.1 The agreements of the parties hereafter with respect to the foreclosure process shall be a covenant running with the Assessed Lands and, so long as Project Costs are payable from or secured, at least in part, by the revenues derived from the Special Assessments, such covenant shall be binding upon the Assessed Lands (except as released as provided in the Owner Consents), the Owner and any future owner of all or any portion of the Assessed Lands. This Agreement, the Owner Consents, and all other required documents and agreements, shall be recorded with the Champaign County, Ohio Recorder’s Office, so that the agreements of the parties hereafter with respect to the foreclosure process established pursuant to this Agreement is a covenant running with and is enforceable against the Assessed Lands.

4.2 If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

4.3 This Agreement shall inure to the benefit of each of the parties, and each of their successors and assigns, all subject to the provisions of this Agreement. This Agreement may be amended only by a written instrument of the parties, and any attempt to amend or modify this Agreement without a written instrument signed by all of the parties to this Agreement shall be null and void. Notices given hereunder shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the parties as follows:

If to City: City of Fairview Park, Ohio
20777 Lorain Road
Fairview Park, Ohio 44126
Attention: Law

If to Treasurer: County Treasurer
Cuyahoga County, Ohio
2079 East Ninth Street
Cleveland, OH 44115

If to the District: Northeast Ohio Advanced Energy District
165 Center Road
Bedford, OH 441146
Attention: Jennifer Kuzma

With a Copy To: J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215
Phone: (614) 227-2300
Email: pace@bricker.com

If to the Owner: 21000 Brookpark Landlord LLC
21000 Brookpark Road
Fairview Park, Ohio 44135

With a Copy To: _____

If to the Investor: PACE Equity LLC
731 North Jackson, Suite 420
Milwaukee, Wisconsin, 53202
Attention: Kevin Moyer

4.4 (a) The Investor shall have the unrestricted right at any time or from time to time, and without the Treasurer, the City, the District, or the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement and may sell or assign any and all liens received directly or indirectly from the City to any person (each, an "Investor Assignee"), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing. Any such documents, instruments and agreements evidencing any assignment of the rights and obligations under this Agreement shall be recorded in the office of the Recorder of Champaign County, Ohio. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent.

(b) The Investor shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the Treasurer, the City, the District, or the Owner, to grant to one or more persons (each, a "Participant") participating interests in the Investor's obligation to make Project Advances under the Energy Project Cooperative Agreement or any or all of the loans held by Investor under the Energy Project Cooperative Agreement. In the event of any such grant by the Investor of a participating interest to a Participant, whether or not upon notice to the Treasurer, the City, the District, and the Owner, the Investor shall remain responsible for the performance of its obligations under the Energy Project Cooperative Agreement and the Owner shall continue to deal solely and directly with the Investor in connection with the Investor's rights and obligations under the Energy Project Cooperative Agreement.

(c) The Investor may furnish any information concerning the Owner in its possession from time to time to prospective Investor Assignees and Participants.

4.5 This Agreement shall be construed in accordance with the laws of the State of Ohio.

4.6 This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(Signature Pages Immediately Follow)

IN WITNESS WHEREOF, each party to this Agreement has caused this Agreement to be executed in its respective name and capacity by its respective duly authorized officers, all as of the day and the year first written above.

Approved as to form:

“TREASURER”
COUNTY TREASURER OF CUYAHOGA
COUNTY, OHIO

Prosecuting Attorney
County of Cuyahoga, Ohio

Treasurer
County of Cuyahoga, Ohio

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named CUYAHOGA COUNTY TREASURER, _____, who acknowledged that such officer did sign the foregoing instrument and the same is such officer’s free act and deed as such officer of Cuyahoga County, Ohio. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

“DISTRICT”

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A: NORTHEAST OHIO ADVANCED ENERGY DISTRICT

STATE OF OHIO)
)
COUNTY OF _____)

SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A: NORTHEAST OHIO ADVANCED ENERGY DISTRICT by _____, its _____, who acknowledged that such officer did sign the foregoing instrument and that the same is such officer’s free act and deed as such officer and of said district. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

“INVESTOR”
PACE EQUITY LLC

By: _____

Name: _____

Title: _____

STATE OF _____)

)

SS:

COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named PACE EQUITY LLC by _____, its _____, who acknowledged that such officer did sign the foregoing instrument and that the same is such officer’s free act and deed as such officer and of said limited liability company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

This instrument prepared by:
J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third St.
Columbus, Ohio 43215

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Fairview Park, Ohio, hereby certifies that the City has established a special assessment fund, into which the Special Assessments (as that term is defined in the foregoing Agreement) received by the City shall be deposited, free from any previous encumbrances. The City shall use the moneys deposited in such special assessment fund to meet its obligations under the foregoing Agreement. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Dated: _____, 2020

Fiscal Officer
City of Fairview Park, Ohio

EXHIBIT A

DESCRIPTION OF ASSESSED LANDS

Cuyahoga County Fiscal Officer Parcel ID No.: 331-35-002

[Insert Legal Description]

EXHIBIT B

OWNER CONSENT

(Affidavit of Facts Relating to Title Made Pursuant to O.R.C. §5301.252)

The undersigned, _____, having been duly cautioned and sworn, deposes and states as follows:

The undersigned is the _____ of 21000 Brookpark Landlord LLC, an Ohio limited liability company (the "Owner").

This Owner Consent, dated as of [____], 2020, is given by the Owner pursuant to the Special Assessment Agreement dated as of [____], 2020 (the "Agreement") by and among the County Treasurer of Cuyahoga County, Ohio (the "Treasurer"), the City of Fairview Park, Ohio (the "City"), the City of Cleveland, Ohio (the "City"), the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., D/B/A: Northeast Ohio Advanced Energy District (the "District"), PACE Equity LLC (together with its permitted successors and assigns under the Agreement, the "Investor"), and the Owner. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

The Agreement provides for an accelerated foreclosure process with respect to certain Special Assessments which have been levied on the Assessed Lands by the City in order to pay the costs of special energy improvement projects under Ohio Revised Code Chapter 1710. The Assessed Lands are described in Exhibit 1 to this Owner Consent, and the Special Assessments are disclosed on Exhibit 2 to this consent.

The Agreement further provides that if an event of default occurs and is continuing with respect to a required semi-annual payment of Special Assessments or an "Event of Default" (as that term is defined in the Energy Project Cooperative Agreement, as appropriate) under the Energy Project Cooperative Agreement occurs and is continuing, the Treasurer will pursue an accelerated foreclosure of the lien of the Special Assessments, all as provided in the Agreement. In consideration of the Project Advance to finance the Project, the Owner hereby consents to the accelerated foreclosure process with respect to the lien of the Special Assessments then due and owing with respect to the Assessed Lands, as provided in the Agreement.

The Owner is the owner of the Assessed Lands. The Owner covenants and agrees that so long as the Project Advance remains outstanding, except as the covenant may be released by the District and the Investor, as applicable, in writing, the accelerated foreclosure process established pursuant to the Agreement shall be a covenant on and running with, and shall be binding upon, the Assessed Lands, the Owner and all future owners of the Assessed Lands. Any release,

modification or waiver of the covenant running with the land by the District, or the Investor, as applicable, shall be filed of record with the Cuyahoga County, Ohio Fiscal Officer's Office. The Owner agrees that this Owner Consent shall be recorded with the Cuyahoga County, Ohio Fiscal Officer's Office and the Owner covenants and agrees to record such documents and to take such reasonable steps as are necessary, so that the accelerated foreclosure process with respect to the lien of the Special Assessments is a covenant on and running with the Assessed Lands and is binding on the Owner and any and all future owners of all or any portion of the Assessed Lands.

The Special Assessments have been levied by the City and certified to the County Fiscal Officer for placement on the tax list and duplicate and collection with and in the same manner as real property taxes as special assessments binding against the Assessed Lands in each of the years disclosed in the schedule of Special Assessments attached to this Owner Consent as Exhibit 2. Unless earlier paid by the Owner or any successor in interest of the Owner to the Assessed Lands, the Special Assessments shall be levied, billed, due and payable, and collected in each of the years in each of the amounts disclosed on Exhibit 2.

Anything in this Owner Consent to the contrary notwithstanding, this Owner Consent shall in no way be construed as a waiver by the Owner of its statutory right of redemption, including the full applicable redemption period.

(Signature Page Immediately Follows)

Further affiant sayeth naught.

“OWNER”

21000 BROOKPARK LANDLORD LLC

By: _____

Name: _____

Title: _____

STATE OF _____)

) SS:

COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named 21000 BROOKPARK LANDLORD LLC by _____, its _____, who acknowledged that he did sign the foregoing instrument and that the same is such officer’s free act and deed as such officer and of said limited liability company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

This instrument was prepared by:

J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215

EXHIBIT 1

DESCRIPTION OF ASSESSED LANDS

[Insert Legal Description]

EXHIBIT 2

SCHEDULE OF SPECIAL ASSESSMENTS

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$215,001.53
July 20, 2022	215,001.53
January 31, 2023	215,001.53
July 20, 2023	215,001.53
January 31, 2024	215,001.53
July 20, 2024	215,001.53
January 31, 2025	215,001.53
July 20, 2025	215,001.53
January 31, 2026	215,001.53
July 20, 2026	215,001.53
January 31, 2027	215,001.53
July 20, 2027	215,001.53
January 31, 2028	215,001.53
July 20, 2028	215,001.53
January 31, 2029	215,001.53
July 20, 2029	215,001.53
January 31, 2030	215,001.53
July 20, 2030	215,001.53
January 31, 2031	215,001.53
July 20, 2031	215,001.53
January 31, 2032	215,001.53
July 20, 2032	215,001.53
January 31, 2033	215,001.53
July 20, 2033	215,001.53
January 31, 2034	215,001.53
July 20, 2034	215,001.53
January 31, 2035	215,001.53
July 20, 2035	215,001.53
January 31, 2036	215,001.53
July 20, 2036	215,001.53
January 31, 2037	215,001.53
July 20, 2037	215,001.53
January 31, 2038	215,001.53
July 20, 2038	215,001.53
January 31, 2039	215,001.53
July 20, 2039	215,001.53

January 31, 2040	215,001.53
July 20, 2040	215,001.53
January 31, 2041	215,001.53
July 20, 2041	215,001.53
January 31, 2042	215,001.53
July 20, 2042	215,001.53
January 31, 2043	215,001.53
July 20, 2043	215,001.53
January 31, 2044	215,001.53
July 20, 2044	215,001.53
January 31, 2045	215,001.53
July 20, 2045	215,001.53
January 31, 2046	215,001.53
July 20, 2046	215,001.53

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment by the Cuyahoga County Fiscal Officer under certain conditions.

** 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 this Exhibit B.

SPECIAL ASSESSMENT AGREEMENT
(ORC Sections 5721.33 and 9.482)

by and among

COUNTY TREASURER OF CUYAHOGA COUNTY, OHIO
("Treasurer"),

And

CITY OF FAIRVIEW PARK, OHIO
("City"),

And

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BEREA, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:

NORTHEAST OHIO ADVANCED ENERGY DISTRICT;
("District"),

And

21000 BROOKPARK LANDLORD LLC
("Owner")

And

PACE EQUITY LLC
("Investor")

Dated as of [____], 2020

SPECIAL ASSESSMENT AGREEMENT

THIS SPECIAL ASSESSMENT AGREEMENT (this “Agreement”) is made effective as of [____], 2020, by and among the County Treasurer of Cuyahoga County, Ohio (the “Treasurer”), the City of Fairview Park, Ohio (the “City”), the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., doing business under the registered trade name Northeast Ohio Advanced Energy District (“District”), 21000 Brookpark Landlord LLC (the “Owner”), and PACE Equity LLC (together with its permitted successors and assigns, the “Investor”).

BACKGROUND:

WHEREAS, the District was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Resolution 1078-10 of the City Council of the City of Cleveland, Ohio, approved on September 20, 2010; and

WHEREAS, the Owner has determined that it is in its best interests to cause the acquisition, installation, equipment, and improvement of special energy efficiency improvements, including, without limitation, energy efficient building envelope improvements, high-efficiency interior and exterior lighting, high-efficiency HVAC system, [energy efficient plumbing system], and related improvements (collectively, the “Project”) on the real property located within Cuyahoga County, Ohio (the “County”) and the City, and as more fully described in **Exhibit A** to this Agreement (the “Assessed Lands”); and

WHEREAS, the costs of the Project are being funded in part through an advance in the amount of \$2,960,345.00 (the “Project Advance”) to the Owner pursuant to an Energy Project Cooperative Agreement dated as of [____], 2020 (the “Energy Project Cooperative Agreement”) between the District, the Investor, the Owner, and the City; and

WHEREAS, to secure the repayment of the principal of, and the payment of any premium, fees, and unpaid interest on, the Project Advance used to finance the Project (the “Project Costs”), (i) the Owner, signed and delivered to the Clerk of the Council a Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project (the “Petition”) for the acquisition, installation, equipment, and improvement of the Project and evidencing the Owner’s agreement to the levy and collection of special assessments by the City (the “Special Assessments”) on the Assessed Lands, which are located within the District, in amounts sufficient to pay the Project Costs, and (ii) the City (a) has taken all the necessary actions required by Ohio Revised Code Chapter 727, including, without limitation, the passage of the assessing resolution or ordinance pursuant to the requirements of Ohio Revised Code Section 727.25, for the levying of the Special Assessments and has caused or

will cause the Special Assessments to be certified to the County Fiscal Officer of Cuyahoga County, Ohio (the “County Fiscal Officer”) for collection by the Treasurer in semi-annual installments, and (b) hereby has agreed to transfer to the Investor the payments of Special Assessments received to pay the Project Costs; and

WHEREAS, the Owner agrees that the delivery of the Petition and the requests and agreements made in the Petition are irrevocable and that the parties to this Agreement have acted and will act in reliance on the agreements contained in the Petition; and

WHEREAS, pursuant to the Petition, the Special Assessments have been levied against the Assessed Lands as described in the Petition and pursuant to this Agreement the Owner is willing to agree to make Special Assessment payments in accordance with the Petition; and

WHEREAS, Ohio Revised Code Chapters 323 and 5721 set forth certain parameters and timing requirements for the foreclosure of property on which taxes and assessments, including the Special Assessments, are due and owing and remain unpaid; and

WHEREAS, upon the occurrence of an Event of Default pursuant to the Energy Project Cooperative Agreement, it may be necessary for the District to foreclose on the lien of the Special Assessments with respect to the Assessed Lands as set forth in Section 2 of this Agreement; and

WHEREAS, in consideration of the Project Advance, the Owner is willing to consent to an expedited foreclosure process with respect to the lien of the Special Assessments, the form of the consent being attached hereto as Exhibit B (the “Owner Consent”) and the Owner Consent with respect to the foreclosure of the Special Assessments as soon as possible (as referenced in Section 2 hereof) shall be a covenant running with Assessed Lands and binding upon the Owner and upon future owners of the Assessed Lands until the Project Costs are paid in full; and

WHEREAS, based on the Owner Consent and other considerations, at the request of the District, upon the occurrence of an Event of Default under the Energy Project Cooperative Agreement, the Treasurer and the City have agreed to foreclose the lien of the Special Assessments as soon as possible as described herein; and

WHEREAS, if any assessments, including, without limitation, the Special Assessments, payments in lieu of taxes, real property taxes, or other governmental charges levied on the Assessed Lands are not paid when due and thereafter remain delinquent, the Treasurer, pursuant to Ohio Revised Code Sections 5721.30 through 5721.41 (the “Delinquent Tax Lien Sale Act”), specifically Ohio Revised Code Section 5721.33, may, in his discretion, but is not required to, negotiate with one or more persons the sale of any number of tax certificates (“Tax Certificates”) which evidence the liens (the “Tax Liens”) of the State of Ohio (the “State”) and its applicable taxing districts for such delinquent assessments, including Special Assessments, real property taxes, payments in lieu of taxes, governmental charges, or penalties and interest on such Assessed Lands; and

WHEREAS, pursuant to the Delinquent Tax Lien Sale Act, the Treasurer, in his discretion, may sell such Tax Certificates at a discount from the full amount of the general real estate taxes, assessments, including the Special Assessments, penalties, and interest that have become delinquent; and

WHEREAS, if the Treasurer were to sell such Tax Certificates at a discount (other than in accordance with the provisions of this Agreement), the proceeds of such sale representing the delinquent Special Assessments might be insufficient to pay the Project Costs; and

WHEREAS, the Treasurer does not desire to take any action with respect to the collection of the Special Assessments that might adversely affect the repayment of the Project Advance without the consent of the District or adversely affect the payment of the Project Costs without the consent of the District; and

WHEREAS, the Treasurer has agreed to remit to the District, in the event of a default under the Energy Project Cooperative Agreement, as set forth in this Agreement, amounts collected by the Treasurer and relating to the Special Assessments, including without limitation amounts collected by the Treasurer as a result of foreclosure of the lien of the Special Assessments on the Assessed Lands and including amounts received from a sale of Tax Certificates pursuant to the Delinquent Tax Lien Sale Act;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, and desiring to be legally bound hereunder, the parties hereto covenant and agree as follows:

Section 1. Special Assessments.

1.1 The Owner, prior to the execution and delivery of this Agreement, signed and delivered to the Clerk of the Council the Petition for the acquisition, installation, equipment, and improvement of the Project and evidencing the agreement of the Owner to the levy of the Special Assessments as security for the Project Advance. The Owner agrees that the delivery of the Petition and the requests and agreements made therein are irrevocable and that the parties hereto have acted and will act in reliance on the agreements contained in that Petition. The City shall take all necessary actions required by Ohio Revised Code Chapter 727 to levy and collect the Special Assessments on the Assessed Lands. On [____], 2020 the City passed Ordinance No. [____] pursuant to the requirements of Ohio Revised Code Section 727.25 for the levying of the Special Assessments (the "Assessing Ordinance"). The Clerk of the Council certified (or caused to be certified) the Assessing Ordinance to the County Fiscal Officer as set forth in the Petition.

1.2 The City shall cause the Special Assessments, as set forth in the Assessment Schedule attached to the Petition, to be certified to the County Fiscal Officer on or before the last date for the certification of special assessments to the County Fiscal Officer of each year during which the Special Assessments are to be levied pursuant to the Assessment

Schedule. The parties acknowledge that pursuant to such certification, the Special Assessments are expected to be collected and paid to the City pursuant to Ohio Revised Code Chapters 319, 321, 323, and 727.

1.3 In the event the Project Advance is prepaid or redeemed in accordance with the Energy Project Cooperative Agreement, in whole or in part, the Investor, the City, and the District shall, in cooperation with the Owner, and to the extent permitted by law, cause the aggregate lien of the Special Assessments to be no greater than the remaining principal of and interest and premium, if any, on the Project Advance through maturity.

1.4 To the extent that the Owner prepays any of the required payments to the Investor pursuant to the Energy Project Cooperative Agreement, then the amounts of the Special Assessments shall be reduced in accordance with the appropriate Assessment Schedule attached to the Petition.

1.5 To facilitate the repayment of the Project Advance, the City, pursuant to Section 2.2 of the Energy Project Cooperative Agreement, assigned to the Investor all of its right, title, and interest in and to the Special Assessments, the funds of the City contained within the Special Assessment fund established to collect and hold the Special Assessments, and any other property received or to be received from the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and the Investor each hereby acknowledges, agrees with, and consents to those assignments.

1.6 Pursuant to Section 2.5 of the Energy Project Cooperative Agreement, the District assigned to the Investor any and all of its right, title, and interest it may have in and to the Special Assessments related to the District actually received by or on behalf of the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and the Investor each hereby acknowledges, agrees with, and consents to those assignments.

1.7 Notwithstanding anything in this Agreement to the contrary, the Treasurer's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The Treasurer's obligations shall be limited to the moneys levied, collected, and received in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The Treasurer's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the County.

1.8 Notwithstanding anything in this Agreement to the contrary, the City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligation under this Agreement shall be limited to any moneys received from the County in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City.

Section 2. Foreclosure Process.

2.1 The Treasurer, the City, the Investor, and the Owner each acknowledge that the Special Assessments are to secure payments relating to the Project Advance, including the Project Costs and other amounts as provided under the Energy Project Cooperative Agreement. The Treasurer agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, upon the Treasurer's receipt of written notice from the Investor or the District, with a copy to the other of the Investor or the District, and to the Owner and the City, that an Event of Default (as defined under the Energy Project Cooperative Agreement, as applicable) has occurred and is continuing and which notice directs Treasurer to foreclose on the lien of the Special Assessments, the Treasurer will, not later than 30 days from the date of the receipt of such notice, diligently prosecute a foreclosure action against the Assessed Lands, following the procedures for lien foreclosures established in Ohio Revised Code Section 323.25 and related sections. The foreclosure action shall be to collect all Special Assessments then due and owing on the Assessed Lands in accordance with the Petition. Without the prior written consent of the District and the Investor, the Treasurer will not confirm the sale of the Assessed Lands for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Assessed Lands, as shall be certified by the District to the Treasurer pursuant to the records of the Treasurer. All fees and expenses of the Treasurer in collecting the Special Assessments are to be included and paid for by the Owner.

2.2 The Treasurer hereby acknowledges that the City has assigned all of its right, title, and interest in and to the Special Assessments to the Investor, and that the District has assigned all of its right, title, and interest it may have in and to the Special Assessments to the Investor, and the Treasurer hereby agrees that so long as the Project Advance is outstanding and the Project Costs and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, the Treasurer will not sell or negotiate the sale of one or more Tax Certificates related to the Assessed Lands for an amount less than 100% of the amount levied and certified for collection without the prior written consent of the District and the Investor.

2.3 The Treasurer hereby covenants and agrees that if any of the general real estate taxes, payments in lieu of taxes, assessments, including the Special Assessments, governmental charges, or penalties and interest on the Assessed Lands are delinquent and the Delinquent Tax Lien Sale Act would permit the Treasurer to negotiate the sale of Tax Certificates with respect thereto, the Treasurer will, prior to giving any notice under the Delinquent Tax Lien Sale Act of a sale of Tax Certificates with respect to the Assessed Lands, give written notice to the District and the Investor regarding the same and state therein whether the Treasurer reasonably anticipates receiving no less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, originally levied and certified for collection plus other charges, including attorney's fees, or whether the Treasurer reasonably expects to receive less than 100% of the general real

estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, levied and certified for collection plus other charges, including attorney's fees, and in accordance with this Agreement is requesting the consent of the District and the Investor for such a sale.

2.4 The Treasurer agrees not to utilize the authority contained in Ohio Revised Code Chapter 5722 to transfer any of the Assessed Lands to the county land reutilization corporation, to sell or convey any of the Assessed Lands to any political subdivision under the authority contained in Ohio Revised Code Chapter 5722, or to clear the liens and encumbrances applicable to the Assessed Lands under the authority contained in Ohio Revised Code Chapter 5722 without the express written consent of the District and the Investor.

2.5 Nothing in this Agreement shall, or shall be construed to, prevent the Treasurer from selling one or more Tax Certificates with respect to the Assessed Lands to a third party without the consent of the District if the price received for the Tax Certificate or Tax Certificates equals or exceeds 100% of the delinquent general real estate taxes, assessments, including the Special Assessments, penalties and interest on the Assessed Lands outstanding against the Assessed Lands at the time of such sale.

2.6 The District and the Investor each hereby agrees that upon written notice from the Treasurer pursuant to Section 2.1 of this Agreement, it, within 30 days of receipt of the Treasurer's notice, shall give a written response to the Treasurer indicating therein whether it consents to the request for sale of a Tax Certificate or Tax Certificates.

2.7 No delay or failure of the District or the Investor to give a written response shall be construed to be a consent to such request or to be a waiver of the right to give such consent. No consent or refusal thereof by the District or the Investor in response to a request by the Treasurer shall extend to or affect any subsequent request of the Treasurer or shall impair the rights of the District or the Investor with respect any such subsequent request.

2.8 So long as the Project Costs are outstanding, the Treasurer hereby covenants and agrees (a) to remit to the City all Special Assessments collected from the Assessed Lands in semi-annual installments in the same manner and at the same time as real property taxes are paid to the City in accordance with Ohio Revised Code Chapter 323, including any delinquency procedures, penalties, and interest provided for therein; (b) to the extent the Treasurer receives amounts collected from Tax Certificates, as provided for in Ohio Revised Code Chapter 323, after payment of reasonable fees and expenses of the Treasurer, all amounts collected by the Treasurer from Tax Certificates shall be remitted to the City; and (c) to the extent the Treasurer seeks and is appointed as receiver for the Assessed Lands, as provided for in Ohio Revised Code Chapter 323, after payment of reasonable fees and expenses of the Treasurer, all amounts collected by the Treasurer, as receiver for the Assessed Lands and collected as a result of the Special Assessments, shall be remitted to the City.

Section 3. Indemnification by Owner

3.1 The Owner hereby releases the District, the City, the Treasurer, the Investor, and their respective officers, directors, and employees (the “Indemnified Parties”), from, agrees that the Indemnified Parties shall not be liable for, and indemnifies the Indemnified Parties against, all liabilities, claims, costs, and expenses, including out-of-pocket and incidental expenses and legal fees, imposed upon, incurred, or asserted against Indemnified Parties, on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, installation, equipment, improvement, maintenance, operation, and use of the Owner’s Project; (ii) any breach or default on the part of the Owner in the performance of any covenant, obligation, or agreement of the Owner under the Energy Project Cooperative Agreement, or arising from any act or failure to act by the Owner, or any of the Owner’s agents, contractors, servants, employees, or licensees; (iii) the Owner’s failure to comply with any requirement of this Agreement; (iv) the efforts of the City and the Treasurer to collect Special Assessments; (v) any legal costs or out-of-pocket costs incurred by the District specifically related to additional approvals or actions that may be required by the District arising after the date of the Energy Project Cooperative Agreement (and in the case of such legal costs or out-of-pocket costs, agrees to pay such costs directly to the District); and (vi) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv), or (v) above, provided, however that the Owner shall not indemnify the Indemnified Parties as provided above to the extent that any liability, claim, cost, or expenses arises out of or results from the gross negligence, willful misconduct, or breach of this Agreement or the Energy Project Cooperative Agreement of the Indemnified Parties.

3.2 The Owner agrees to indemnify, to pay, and to hold each of the Indemnified Parties harmless from and against all liabilities, and all reasonable costs and expenses, including out-of-pocket expenses and attorneys’ fees, arising out of any federal, state, or local environmental laws, regulations, resolutions or ordinances, incurred by any of the Indemnified Parties as a result of the existence on or release from the Owner’s Project Site of Hazardous Materials, which in any way result from any act of omission or commission of the Owner or any of its agents, employees, independent contractors, invitees, licensees, successors, assignees, or tenants.

Section 4. Additional Agreements and Covenants.

4.1 The agreements of the parties hereafter with respect to the foreclosure process shall be a covenant running with the Assessed Lands and, so long as Project Costs are payable from or secured, at least in part, by the revenues derived from the Special Assessments, such covenant shall be binding upon the Assessed Lands (except as released as provided in the Owner Consents), the Owner and any future owner of all or any portion of the Assessed Lands. This Agreement, the Owner Consents, and all other required documents and agreements, shall be recorded with the Champaign County, Ohio Recorder’s Office, so that the agreements of the parties hereafter with respect to the foreclosure process established pursuant to this Agreement is a covenant running with and is enforceable against the Assessed Lands.

4.2 If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

4.3 This Agreement shall inure to the benefit of each of the parties, and each of their successors and assigns, all subject to the provisions of this Agreement. This Agreement may be amended only by a written instrument of the parties, and any attempt to amend or modify this Agreement without a written instrument signed by all of the parties to this Agreement shall be null and void. Notices given hereunder shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the parties as follows:

If to City: City of Fairview Park, Ohio
20777 Lorain Road
Fairview Park, Ohio 44126
Attention: Law

If to Treasurer: County Treasurer
Cuyahoga County, Ohio
2079 East Ninth Street
Cleveland, OH 44115

If to the District: Northeast Ohio Advanced Energy District
165 Center Road
Bedford, OH 441146
Attention: Jennifer Kuzma

With a Copy To: J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215
Phone: (614) 227-2300
Email: pace@bricker.com

If to the Owner: 21000 Brookpark Landlord LLC
21000 Brookpark Road
Fairview Park, Ohio 44135

With a Copy To: _____

If to the Investor: PACE Equity LLC
731 North Jackson, Suite 420
Milwaukee, Wisconsin, 53202
Attention: Kevin Moyer

4.4 (a) The Investor shall have the unrestricted right at any time or from time to time, and without the Treasurer, the City, the District, or the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement and may sell or assign any and all liens received directly or indirectly from the City to any person (each, an "Investor Assignee"), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing. Any such documents, instruments and agreements evidencing any assignment of the rights and obligations under this Agreement shall be recorded in the office of the Recorder of Champaign County, Ohio. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent.

(b) The Investor shall have the unrestricted right at any time and from time to time, and without the consent of or notice of the Treasurer, the City, the District, or the Owner, to grant to one or more persons (each, a "Participant") participating interests in the Investor's obligation to make Project Advances under the Energy Project Cooperative Agreement or any or all of the loans held by Investor under the Energy Project Cooperative Agreement. In the event of any such grant by the Investor of a participating interest to a Participant, whether or not upon notice to the Treasurer, the City, the District, and the Owner, the Investor shall remain responsible for the performance of its obligations under the Energy Project Cooperative Agreement and the Owner shall continue to deal solely and directly with the Investor in connection with the Investor's rights and obligations under the Energy Project Cooperative Agreement.

(c) The Investor may furnish any information concerning the Owner in its possession from time to time to prospective Investor Assignees and Participants.

4.5 This Agreement shall be construed in accordance with the laws of the State of Ohio.

4.6 This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(Signature Pages Immediately Follow)

“DISTRICT”

CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BERE A, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A: NORTHEAST OHIO ADVANCED ENERGY DISTRICT

STATE OF OHIO)
)
COUNTY OF _____)

SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named CITY OF BEDFORD, OHIO, CITY OF BEDFORD HEIGHTS, OHIO, CITY OF BERE A, OHIO, CITY OF BROOK PARK, OHIO, CITY OF BROOKLYN, OHIO, CITY OF CLEVELAND, OHIO, CITY OF CLEVELAND HEIGHTS, OHIO, CITY OF EAST CLEVELAND, OHIO, CITY OF EUCLID, OHIO, CITY OF FAIRVIEW, OHIO, CITY OF GARFIELD HEIGHTS, OHIO, CITY OF LAKEWOOD, OHIO, CITY OF MAPLE HEIGHTS, OHIO, CITY OF PARMA, OHIO, CITY OF PARMA HEIGHTS, OHIO, CITY OF SHAKER HEIGHTS, OHIO, CITY OF SOLON, OHIO, CITY OF SOUTH EUCLID, OHIO, CITY OF UNIVERSITY HEIGHTS, OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A: NORTHEAST OHIO ADVANCED ENERGY DISTRICT by _____, its _____, who acknowledged that such officer did sign the foregoing instrument and that the same is such officer’s free act and deed as such officer and of said district. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

“INVESTOR”
PACE EQUITY LLC

By: _____

Name: _____

Title: _____

STATE OF _____)

)

SS:

COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named PACE EQUITY LLC by _____, its _____, who acknowledged that such officer did sign the foregoing instrument and that the same is such officer’s free act and deed as such officer and of said limited liability company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

This instrument prepared by:
J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third St.
Columbus, Ohio 43215

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Fairview Park, Ohio, hereby certifies that the City has established a special assessment fund, into which the Special Assessments (as that term is defined in the foregoing Agreement) received by the City shall be deposited, free from any previous encumbrances. The City shall use the moneys deposited in such special assessment fund to meet its obligations under the foregoing Agreement. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Dated: _____, 2020

Fiscal Officer
City of Fairview Park, Ohio

EXHIBIT A

DESCRIPTION OF ASSESSED LANDS

Cuyahoga County Fiscal Officer Parcel ID No.: 331-35-002

[Insert Legal Description]

EXHIBIT B

OWNER CONSENT

(Affidavit of Facts Relating to Title Made Pursuant to O.R.C. §5301.252)

The undersigned, _____, having been duly cautioned and sworn, deposes and states as follows:

The undersigned is the _____ of 21000 Brookpark Landlord LLC, an Ohio limited liability company (the "Owner").

This Owner Consent, dated as of [____], 2020, is given by the Owner pursuant to the Special Assessment Agreement dated as of [____], 2020 (the "Agreement") by and among the County Treasurer of Cuyahoga County, Ohio (the "Treasurer"), the City of Fairview Park, Ohio (the "City"), the City of Cleveland, Ohio (the "City"), the City of Bedford, Ohio, City of Bedford Heights, Ohio, City of Berea, Ohio, City of Brook Park, Ohio, City of Brooklyn, Ohio, City of Cleveland, Ohio, City of Cleveland Heights, Ohio, City of East Cleveland, Ohio, City of Euclid, Ohio, City of Fairview, Ohio, City of Garfield Heights, Ohio, City of Lakewood, Ohio, City of Maple Heights, Ohio, City of Parma, Ohio, City of Parma Heights, Ohio, City of Shaker Heights, Ohio, City of Solon, Ohio, City of South Euclid, Ohio, City of University Heights, Ohio Advanced Energy Special Improvement District, Inc., D/B/A: Northeast Ohio Advanced Energy District (the "District"), PACE Equity LLC (together with its permitted successors and assigns under the Agreement, the "Investor"), and the Owner. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

The Agreement provides for an accelerated foreclosure process with respect to certain Special Assessments which have been levied on the Assessed Lands by the City in order to pay the costs of special energy improvement projects under Ohio Revised Code Chapter 1710. The Assessed Lands are described in Exhibit 1 to this Owner Consent, and the Special Assessments are disclosed on Exhibit 2 to this consent.

The Agreement further provides that if an event of default occurs and is continuing with respect to a required semi-annual payment of Special Assessments or an "Event of Default" (as that term is defined in the Energy Project Cooperative Agreement, as appropriate) under the Energy Project Cooperative Agreement occurs and is continuing, the Treasurer will pursue an accelerated foreclosure of the lien of the Special Assessments, all as provided in the Agreement. In consideration of the Project Advance to finance the Project, the Owner hereby consents to the accelerated foreclosure process with respect to the lien of the Special Assessments then due and owing with respect to the Assessed Lands, as provided in the Agreement.

The Owner is the owner of the Assessed Lands. The Owner covenants and agrees that so long as the Project Advance remains outstanding, except as the covenant may be released by the District and the Investor, as applicable, in writing, the accelerated foreclosure process established pursuant to the Agreement shall be a covenant on and running with, and shall be binding upon, the Assessed Lands, the Owner and all future owners of the Assessed Lands. Any release,

modification or waiver of the covenant running with the land by the District, or the Investor, as applicable, shall be filed of record with the Cuyahoga County, Ohio Fiscal Officer's Office. The Owner agrees that this Owner Consent shall be recorded with the Cuyahoga County, Ohio Fiscal Officer's Office and the Owner covenants and agrees to record such documents and to take such reasonable steps as are necessary, so that the accelerated foreclosure process with respect to the lien of the Special Assessments is a covenant on and running with the Assessed Lands and is binding on the Owner and any and all future owners of all or any portion of the Assessed Lands.

The Special Assessments have been levied by the City and certified to the County Fiscal Officer for placement on the tax list and duplicate and collection with and in the same manner as real property taxes as special assessments binding against the Assessed Lands in each of the years disclosed in the schedule of Special Assessments attached to this Owner Consent as Exhibit 2. Unless earlier paid by the Owner or any successor in interest of the Owner to the Assessed Lands, the Special Assessments shall be levied, billed, due and payable, and collected in each of the years in each of the amounts disclosed on Exhibit 2.

Anything in this Owner Consent to the contrary notwithstanding, this Owner Consent shall in no way be construed as a waiver by the Owner of its statutory right of redemption, including the full applicable redemption period.

(Signature Page Immediately Follows)

Further affiant sayeth naught.

“OWNER”

21000 BROOKPARK LANDLORD LLC

By: _____

Name: _____

Title: _____

STATE OF _____)

) SS:

COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named 21000 BROOKPARK LANDLORD LLC by _____, its _____, who acknowledged that he did sign the foregoing instrument and that the same is such officer’s free act and deed as such officer and of said limited liability company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2020.

Notary Public

This instrument was prepared by:

J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215

EXHIBIT 1

DESCRIPTION OF ASSESSED LANDS

[Insert Legal Description]

EXHIBIT 2

SCHEDULE OF SPECIAL ASSESSMENTS

Special Assessment Payment Date*	Special Assessment Payment Amount**
January 31, 2022	\$116,187.19
July 20, 2022	116,187.19
January 31, 2023	116,187.19
July 20, 2023	116,187.19
January 31, 2024	116,187.19
July 20, 2024	116,187.19
January 31, 2025	116,187.19
July 20, 2025	116,187.19
January 31, 2026	116,187.19
July 20, 2026	116,187.19
January 31, 2027	116,187.19
July 20, 2027	116,187.19
January 31, 2028	116,187.19
July 20, 2028	116,187.19
January 31, 2029	116,187.19
July 20, 2029	116,187.19
January 31, 2030	116,187.19
July 20, 2030	116,187.19
January 31, 2031	116,187.19
July 20, 2031	116,187.19
January 31, 2032	116,187.19
July 20, 2032	116,187.19
January 31, 2033	116,187.19
July 20, 2033	116,187.19
January 31, 2034	116,187.19
July 20, 2034	116,187.19
January 31, 2035	116,187.19
July 20, 2035	116,187.19
January 31, 2036	116,187.19
July 20, 2036	116,187.19
January 31, 2037	116,187.19
July 20, 2037	116,187.19
January 31, 2038	116,187.19
July 20, 2038	116,187.19
January 31, 2039	116,187.19
July 20, 2039	116,187.19

January 31, 2040	116,187.19
July 20, 2040	116,187.19
January 31, 2041	116,187.19
July 20, 2041	116,187.19
January 31, 2042	116,187.19
July 20, 2042	116,187.19
January 31, 2043	116,187.19
July 20, 2043	116,187.19
January 31, 2044	116,187.19
July 20, 2044	116,187.19
January 31, 2045	116,187.19
July 20, 2045	116,187.19
January 31, 2046	116,187.19
July 20, 2046	116,187.19

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit B are subject to adjustment by the Cuyahoga County Fiscal Officer under certain conditions.

** 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 this Exhibit B.

Property Assessed Clean Energy (PACE) Financing in Ohio

Caleb Bell

614.227.2384

jbell@bricker.com

Margaret Comey

513.688.8433

Margaret.Comey@lockelord.com

What We'll Cover Today

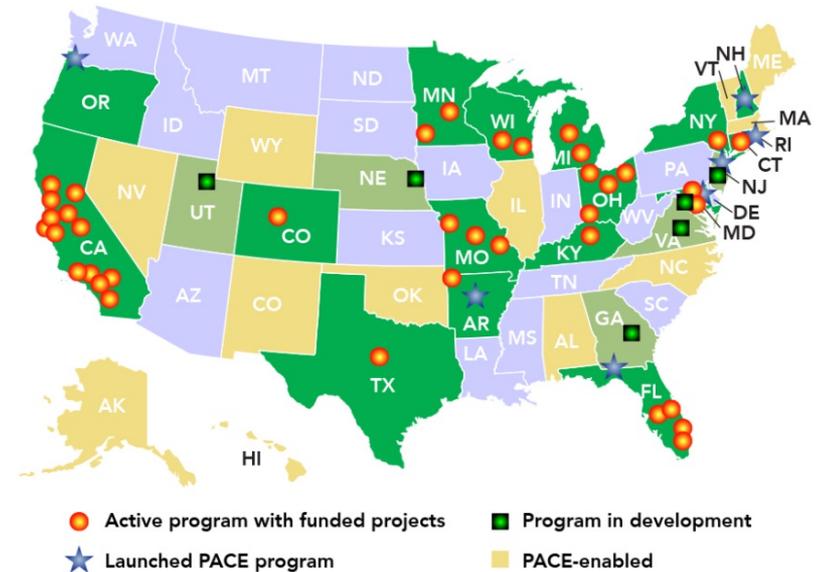
- Understand municipal special assessment process.
- Understand the difference between regular special assessments and PACE special assessments.
- Identify PACE-eligible improvements.
- Identify projects that are candidates for PACE financing.
- Understand lending alternatives for PACE projects.
- Case studies
- Q&A

PACE – “Property Assessed Clean Energy”



State Authorizing Legislation

- PACE = “Property Assessed Clean Energy”
- 30+ states authorize PACE
- States have several PACE laws for various reasons:
 - PACE is covered in more than one law
 - PACE laws have been passed over time to implement various aspects of PACE financing
 - PACE laws have been amended



Special Assessments Generally – Public Use

Special assessments:

- governmental charges
- not taxes
- imposed on real property benefited by an improvement
- used to pay the costs of improvement
- imposed in recognition of the “special benefit” received
- collected like real property taxes

Special Assessments for Energy Improvements – Private Use

- PACE assessments fund privately-owned improvements.
- PACE assessments use existing or modified special assessment laws.
- Privately-owned improvements must be “public use” or provide “public good.”
- States adopted PACE laws or relied on State constitutional provisions stating that energy conservation is a “public good.”
- Due process concerns are modified or reduced.

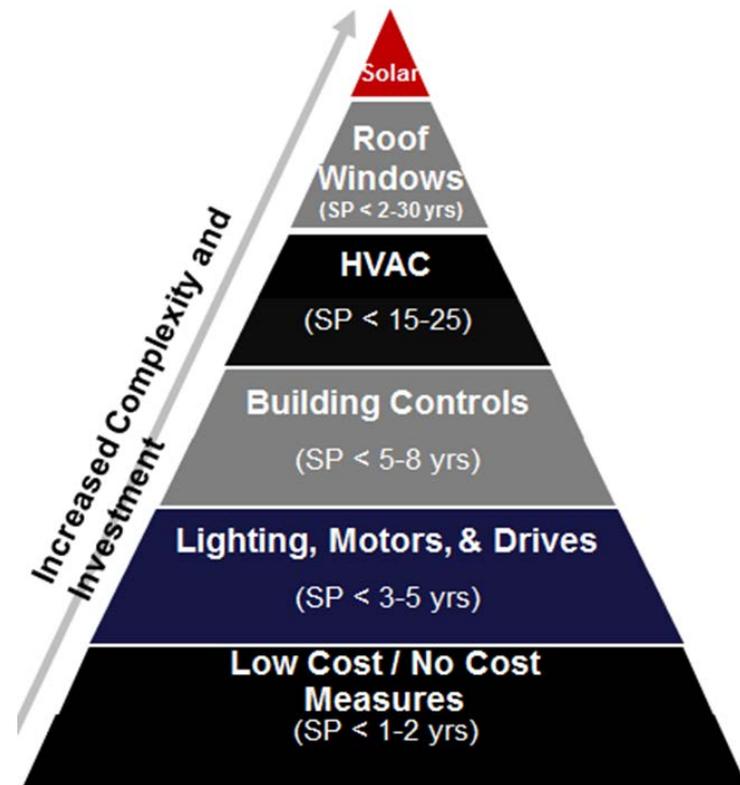
Special Assessments for Energy Improvements – Private Use

- Energy efficiency improvements
 - HVAC
 - Lighting
 - Roofs, windows, insulation
- Alternative energy improvements
 - Solar photovoltaic (PV) and thermal
 - Wind
 - Geothermal
 - Biomass
- Water efficiency improvements



Ohio's PACE Law

- Solar photovoltaic (i.e., roof-top and ground-mounted solar arrays)
- Solar thermal systems (i.e., solar water heating systems)
- Geothermal
- Wind
- Biomass
- Gasification
- **Energy efficiency improvements**



Ohio's PACE Law

“Energy Efficiency Improvement” is given a special statutory definition:

- “...energy efficiency technologies, products, and activities that (1) reduce or support the reduction of energy consumption, (2) allow for the reduction in demand, or (3) support the production of clean, renewable energy and that are or will be permanently fixed to real property.”

“Reduction In Demand” means:

- “...a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives.”

Ohio's PACE Law

“Customer-generated energy project” means:

“... a wind, biomass, or gasification facility that produces electricity”

- EITHER the facility is designed to have a generating capacity of 250kw or less
- OR the facility is:
 - Designed to have a generating capacity of more than 250kw;
 - Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;
 - Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and
 - Not producing energy for direct sale by the facility owner to the public.

Special Assessment Authorization

- PACE assessments require the creation of districts or programs.
- Ohio ESIDs require
 - formation of a separate legal entity
 - articles, codes, and board representation
 - audits
 - other action items

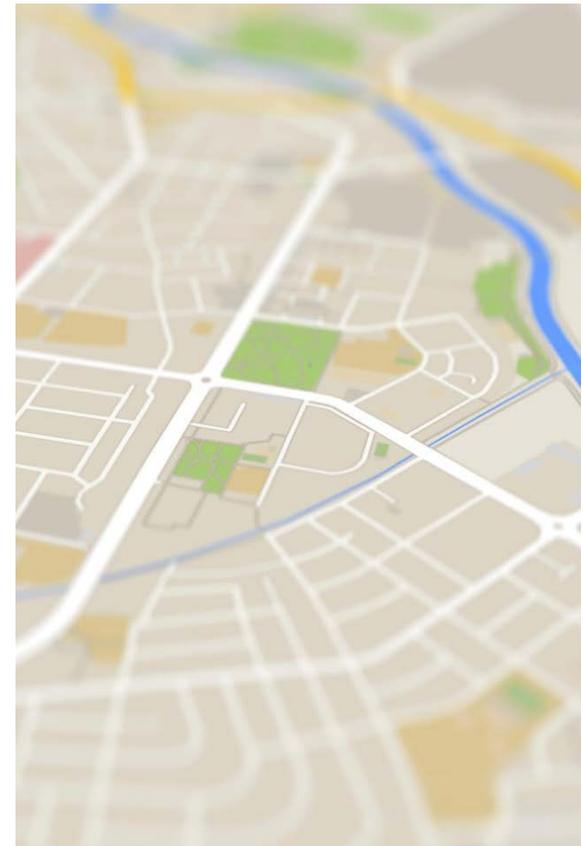
Energy Special Improvement Districts

- ESIDs are available for all property types (i.e., residential, commercial, industrial, non-profit and government property)
- Petition(s) by property owner(s)
- Legislative approval by local government
- District territory may be noncontiguous
- Single parcel projects

ESIDs - Applicable Law

Ohio Revised Code Section 1710.02(A)

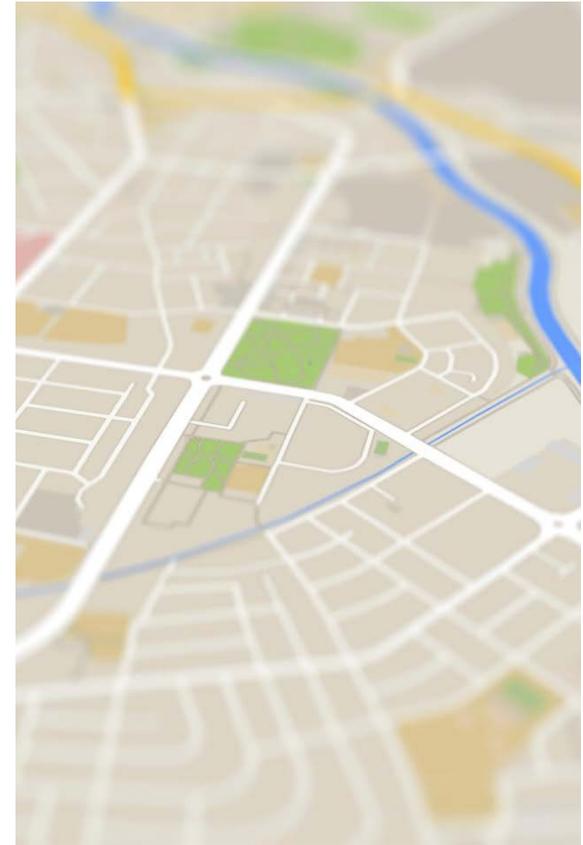
“A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships...”



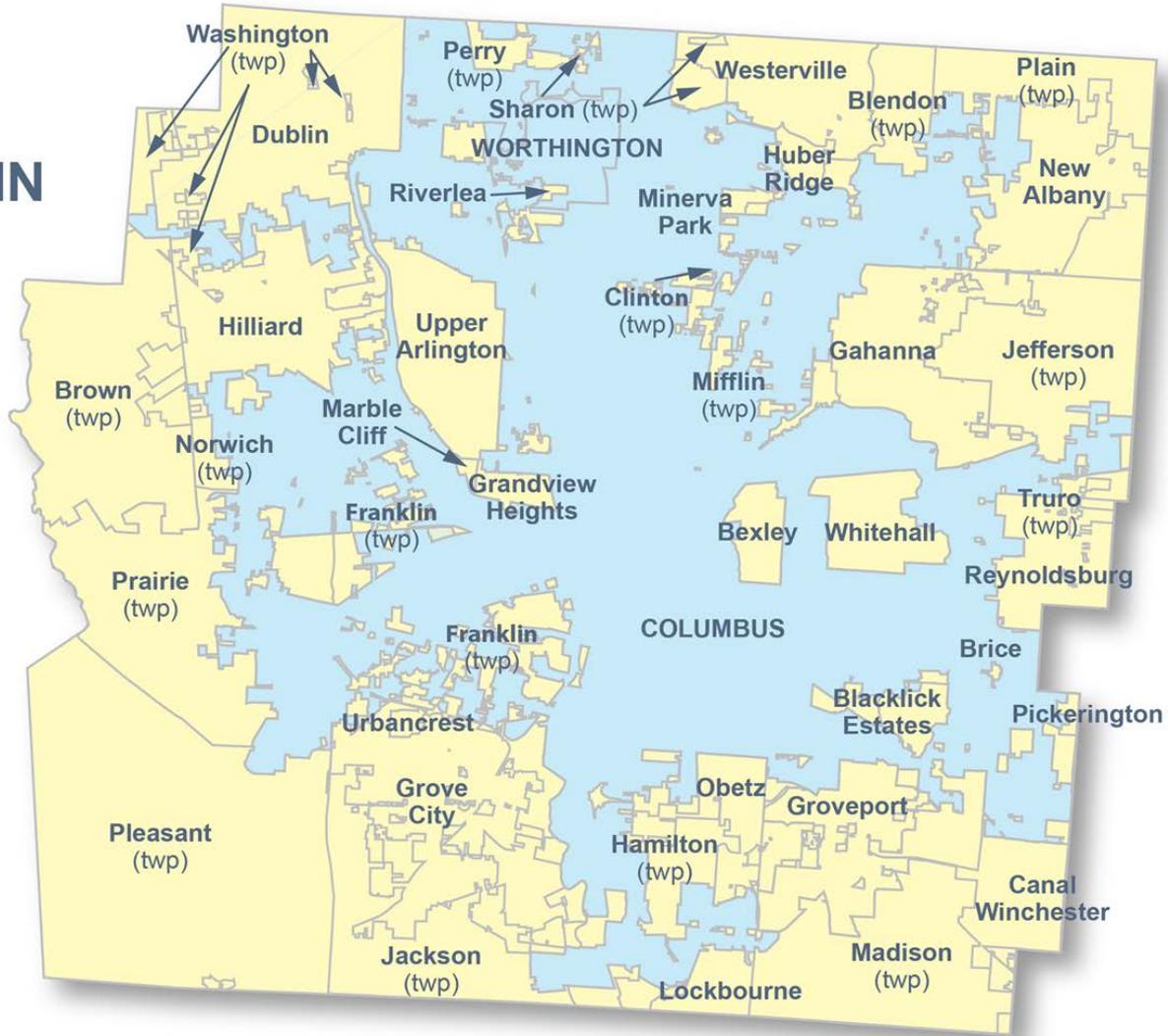
ESIDs - Applicable Law

Ohio Revised Code
Section 1710.02(A) cont.

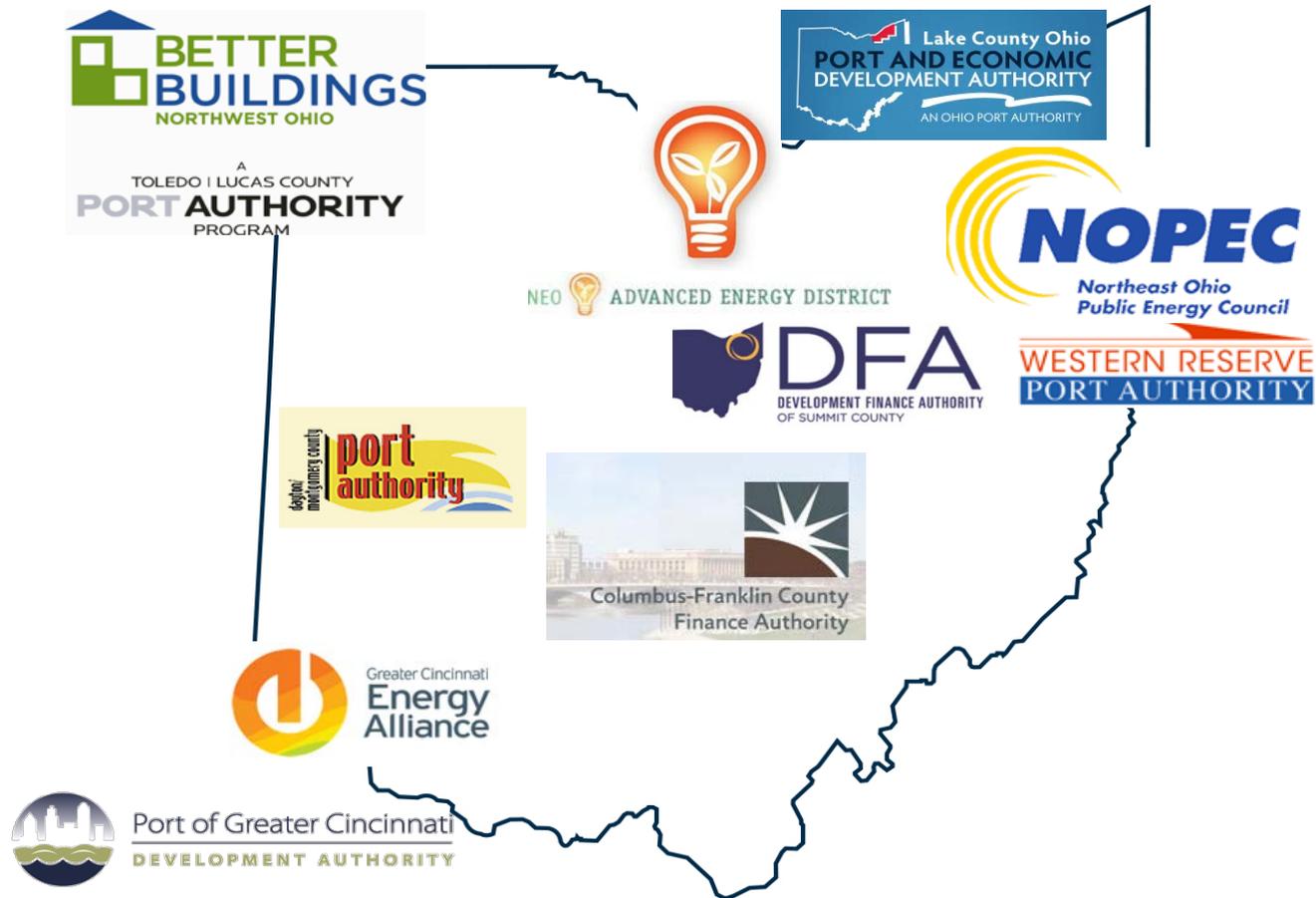
“...territory in a special improvement district may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the special improvement district.”



FRANKLIN



Ohio PACE Programs



PACE Financing Case Studies

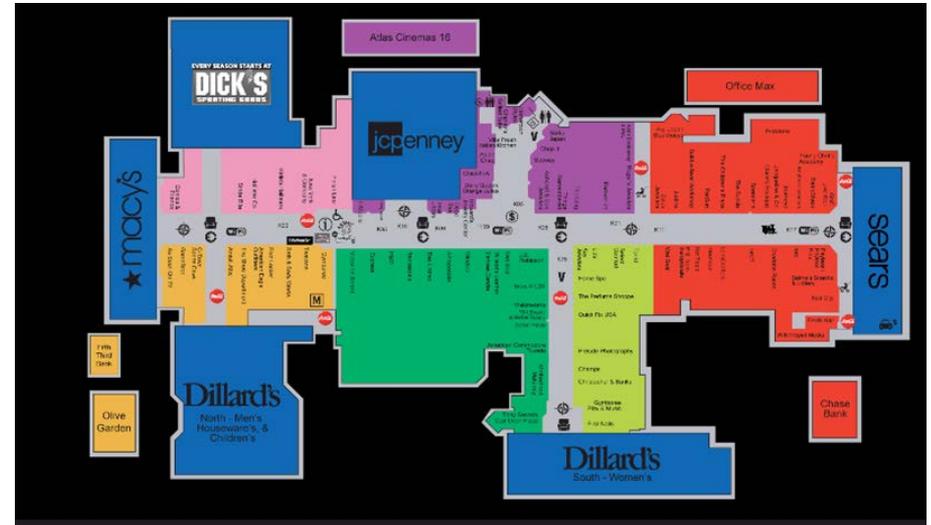


PACE Financing Case Studies

- PACE can be a tool added to other tools used in a project financing, such as TIF, HTC and Bonds
- PACE can be utilized on a single parcel or a single campus; PACE need not be city-wide or district-wide.
- PACE could be a project financing tool for any large user of power with deferred maintenance such as:
 - Commercial properties
 - Manufacturers
 - Colleges and universities
 - Hospitals
 - Municipal, county or township properties

Case Study: Great Lakes Mall

- \$3,375,000
- Port Authority + ESID + City
- Owner of Great Lakes Mall requested special assessments on main mall parcel
- Energy efficient roofing and 10 HVAC systems
- Mall tenants with triple-net leases obligated to pay proportionate share of tax bill and operating expenses
- Transaction was win-win:
 - Mall owner gets cost recovery for capital improvements
 - Mall tenants have lower costs (energy savings vs. tax bill)



Case Study: PNC Tower

Port Authority + ESID + City + County + State

- \$2,785,000 Bonds
- \$400,000 Loan
- \$920,000 Loan Loss Reserve Grant

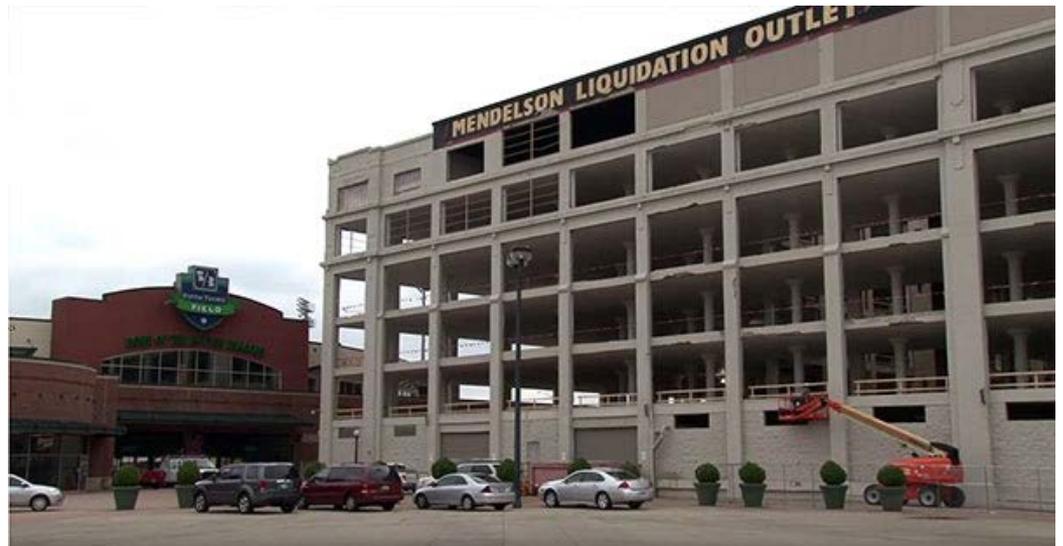


Case Study: PNC Tower

- Owner of PNC Tower desired energy upgrades to enhance building
- Energy efficient roofing
- Air controls
- Lighting controls
- Existing tenants with triple-net leases obligated to pay proportionate share of tax bill and operating expenses

Case Study: Delco Lofts Project

- Urban redevelopment project in Dayton
- Historic industrial manufacturing building
- Redeveloped by Crawford Hoying Development Partners
- 134 market rate apartments, parking, amenities, and first-floor retail



Case Study: Delco Lofts Project

- \$17.6M Senior/Bridge Financing
- \$4.4M of Federal Historic Tax Credits (+/- 90% face value)
- \$5M in State Historic Tax Credits (+/-75% face value)
- \$3.8M Dayton Port Bonds
- PACE Financing
 - LED Lighting
 - Windows
 - HVAC
 - Insulation
 - Thermostats/Controls
- \$650,000 Dayton Port Sales Tax Savings



Case Study: Timberline

- \$926,000, part of overall \$4.5 million financing
- ESID + City + Owner's Lender
- Energy efficient roofing and HVAC systems
- Special assessments pledged as additional security for loan; if owner makes all loan payments, no special assessments are due
- Transaction benefits everyone:
 - Energy savings allow cost recovery for capital improvements
 - Lender gets additional security for PACE portion of the overall financing
 - Owner gets lower interest rate due to additional security



Case Study: City of Sharonville

- Adjoining parcels, each with an office building
- Energy management control systems, CO2 sensors, and LED lighting
- About \$240,000 total in energy improvements between the two buildings



Case Study: Kids First Sports Center

- 108,000-square-foot youth sports facility financed through PACE
- \$650,000 energy improvement project:
 - Installation of rooftop solar panels
 - Replacement of fluorescent lighting with LED lighting
 - Installation of new insulation panels in gymnasium
- Provides 100% of the energy project's cost and is repaid for up to 25 years with a voluntary special assessment added to the property's tax bill
- Financing by private lender focused on PACE financing



PACE Project Candidates

- Complicated projects
- Urban projects
- Retrofit projects
- New construction
- PACE can help replace equity requirements!



Questions & Discussion

Caleb Bell

Partner, Bricker & Eckler LLP



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Columbus, Ohio 43215

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614.227.2384

Margaret Comey

Senior Counsel, Locke Lord LLP



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Cincinnati, Ohio 45230

Margaret.comey@lockelord.com

513.688.8433



Memo

To: Council President Kilbane and All Members of Council
From: Mary Kay Costello, Director of Public Service and Development
Date: August 11, 2020
Re: Ordinances for Brookpark Project (Former NASA Site)

Legislation (one resolution and two ordinances) is being proposed in support of Ceres Enterprises and 21000 Brookpark Partners LLC efforts to make improvements to the Brookpark Road (former NASA site) which are eligible for Property Assessed Clean Energy (PACE) financing. This financing requires support from an Advanced Energy District to verify eligibility, engineers / prequalified installers' determination of technical feasibility and determination of financial / economic feasibility – all of which have been achieved. The First Suburbs Consortium's recommended Advanced Energy District has assisted the developers' and Bricker & Eckler LLP finance and energy professionals have assisted with the financing and energy saving requirements.

If legislation is passed, the financed funds become a 'special assessment' which are levied upon the property and transfers with the property. Total financing for improvements at the "K" and "L" buildings is proposed at \$15,645,675.00 which will result in (bi-annual payments) totaling \$332,913.50 per annum until 2046 being assessed upon the property. The financing will provide energy efficient roofing, windows, walls, sky-lights, lighting, boiler and air systems, heat pumps and plumbing and new elevators. These projects have been vetted through the finance and energy savings professionals at Bricker & Eckler and will yield improvements and offer future savings through energy efficiencies. (Savings realized are projected to be: 30% water use reduction, 37% savings by installing new elevators and 54% improvement over code requirements for roof energy efficiencies, 75% to 87% efficiencies in lighting and 43% improvement for boiler and air systems over code requirements.)

This project requires:

- One (1) Resolution of Necessity - describes the improvements in 2 buildings (K and L) and constructs the proposed improvements as one special energy improvement project to establish eligibility for special assessment financing.
- One (1) Ordinance to Proceed – which adopts the aforementioned Resolution of Necessity and allows information to be forwarded to the Fiscal Officer in Cuyahoga County for the financing to be assessed to the property.
- One (1) Ordinance authorizing the Mayor to sign documents on behalf of the City to execute necessary Energy Project Cooperative Agreements and Special Assessment Agreements and to authorize the Fiscal Officer of Cuyahoga County to enact the special assessments.

The corresponding Resolution and Ordinances are not presented as emergency legislation

because under Article IV, Section 12(a) of the Charter an ordinance or resolution providing for the appropriation of money for improvements petition for by the owners benefited and specially assessed shall take effect upon its approval. The City is requesting a suspension of rules for all three pieces of legislation and ask that legislation be considered for passage, after two reads, at the September 8th legislative meeting of Fairview Park City Council in order to comply with the financing schedule proposed for the developer by Bricker & Eckler LLP.

If you have any questions, please do not hesitate to contact me. Thank you.

cc: Mayor Cooney
Council Clerk Westbrook
Director of Law Riley
Director of Finance Cingle

All ordinances, resolutions, statements, orders, proclamations and reports required by law or by this Charter or by ordinance to be published or posted, shall be posted at one place, the City Hall, for a period of not less than fifteen (15) days prior to the taking effect thereof. Any emergency ordinance or resolution shall also be published or posted as aforesaid, but said requirements shall not postpone the immediate taking effect thereof as provided in Section 12 of this Article. (Amended 11-6-90; 11-3-09.)

SECTION 12. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.

(a) Each ordinance or resolution providing for the appropriation of money, for an annual tax levy, or for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor, and any emergency ordinance, resolution or other action necessary for the immediate preservation of public peace, health or safety, shall take effect, unless a later date be specified therein, upon its approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be.

No other ordinance, resolution or action of Council shall become effective until forty (40) days after its approval by the Mayor or upon the expiration of the time within which it may be vetoed by the Mayor or upon its passage after veto by the Mayor, as the case may be.

Each emergency ordinance, resolution or other action shall contain a statement of and reasons for the necessity for such emergency action, and shall require the affirmative vote of a majority plus one of the members elected to Council for its enactment.

No action of Council, whether legislative or administrative in nature, (1) authorizing the surrender or joint exercise of any municipal power; (2) granting any franchise; (3) entering into a contract, consent agreement or compact with any other governmental unit, agency or association of any kind, including regional government or agency; (4) rezoning any property; (5) changing the uses permitted in any zoning district or classification; (6) amending or repealing any zoning ordinance; or (7) providing, permitting, authorizing, enlarging or approving any (a) public, low-cost, subsidized and/or scatter-site housing or housing project; (b) government rent or mortgage supplement scheme or plan of any type whatsoever, whether publicly or privately owned or leased; (c) group housing unit having more than three unrelated persons; (d) converting any multi-family dwelling (apartment house) into condominiums; (e) the erection of any dwelling or dwelling unit which does not conform to the then existing zoning or building codes, as the same are applied to all other single or multi-unit dwellings, as the case may be; or (f) establishing or providing for any urban renewal district or project; shall be designated an emergency measure nor enacted under a suspension of the rules.

The reasons for, necessity for, facts supporting the reasons for and/or necessity for and/or the bonafides of any emergency ordinance, resolution or other action of Council shall be subject to Judicial review.

(b) All ordinances, resolutions, proclamations, motions, and Charter provisions, existing prior to the date of adoption hereof inconsistent with this section are hereby repealed and declared null and void.

CITY OF FAIRVIEW PARK
ORDINANCE NO. 20-32
REQUESTED BY: MAYOR PATRICK J. COONEY
SPONSORED BY: COUNCILWOMAN KING

AN ORDINANCE AMENDING SECTION 129.01(a) ENTITLED “COMPOSITION” OF CHAPTER 129 ENTITLED POLICE DEPARTMENT OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRVIEW PARK AND DECLARING AN EMERGENCY

WHEREAS, Section 129.01(a) of the Codified Ordinances of the City of Fairview Park establishes the composition of the Police Department as One Chief, Four Lieutenants, Three Sergeants and not more than 21 patrol or police officers; and

WHEREAS, as part of the restructuring of the Police Department into 12 hour shifts for officers, it has been determined by the Mayor, Police Chief and City Council that it is in the best interest of the City to restructure the composition of the Police Department as hereinafter set forth.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That Section 129.01 (a) entitled “Composition” which reads as follows:

129.01(a) COMPOSITION

- (a) The Police Department shall be composed of a Chief of Police, four Lieutenants of Police, three Sergeants of Police and not more than twenty-one patrol or police officers.

Be and the same is hereby amended to read as follows:

129.01(a) COMPOSITION

- (a) The Police Department shall be composed of a Chief of Police, three Lieutenants of Police, four Sergeants of Police and not more than twenty-one patrol or police officers. (Effective October 5, 2020)

SECTION 2. That Ordinance 06-13 passed on the 17th day of April, 2006 is hereby repealed effective October 5, 2020 as to the changes herein made.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 08.17.20
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
ORDINANCE NO. 20-
REQUESTED BY: MAYOR PATRICK J. COONEY
SPONSORED BY: COUNCILWOMAN KING

AN ORDINANCE MAKING A WRITTEN RETURN TO THE FISCAL OFFICER OF CUYAHOGA COUNTY, OHIO, FOR CHARGES FOR THE SERVICES OF THE CITY OF FAIRVIEW PARK, OHIO, FOR CUTTING WEEDS ON CERTAIN PARCELS OF LAND DESCRIBED HEREIN, AND AUTHORIZING SAID CHARGES TO BE PLACED UPON THE TAX DUPLICATE AND COLLECTED AS OTHER TAXES PURSUANT TO SECTION 731.54 OF THE REVISED CODE OF OHIO, AND DECLARING AN EMERGENCY

WHEREAS, in accordance with and upon written information that noxious weeds were growing on the following parcels of land within the City of Fairview Park:

<u>Location</u>	<u>Permanent Parcel No.</u>
19050 Lorain Rd	323-11-039
21372 Northwood Ave	323-26-009
4283 West 210 Street	323-23-036
4618 West 220 Street	321-24-038
4248 West 224 Street	321-12-075

and that said weeds were about to spread or mature seeds, the Council of the City of Fairview Park, Ohio, has heretofore authorized the Director of Public Service and Development to notify said owners by written notice that said weeds were to be cut within forty-eight (48) hours after receipt thereof; and

WHEREAS, the Director of Public Service and Development caused written notices to be sent to the aforesaid property owners by registered mail, notifying said owners to cut said weeds; and

WHEREAS, said owners failed to comply with said notices within the time allotted herein and the Council of this City authorized the Director of Public Service and Development to cause said weeds to be cut and destroyed; and

WHEREAS, said weeds were cut by said City on the aforesaid parcels of land; and

WHEREAS, the City expended the sum hereinafter set forth necessary labor and equipment or contracted for cutting and destroying said weeds; and

WHEREAS, the City has complied with the requirements of Section 731.51 to 731.53 of the Ohio Revised Code of the State of Ohio.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That the Director of Finance for the City of Fairview Park is hereby authorized to pay the total of the sums of money hereinafter set forth out of funds not otherwise appropriated to cover the cost and expenses of cutting noxious weeds on the parcels and land herein defined.

SECTION 2. That, in accordance with Section 731.54 of the Revised Code of the State of Ohio, the Council of the City of Fairview Park, Ohio hereby makes and this ordinance shall be considered as its written return to the Fiscal Officer of Cuyahoga County, Ohio, of its actions under Section 731.54 to and including Section 731.53 of the Revised Code of the State of Ohio.

SECTION 3. That copies of the statements of charges of the services of the City of Fairview Park, and the amounts paid for performing such labor including overhead, for cutting weeds on the respective parcels of land described herein, are attached hereto, marked Exhibit "A"; and considered a part hereof as if rewritten herein.

SECTION 4. That the description of the premises on which said weeds were cut are as heretofore set forth in the preamble hereof, and the respective charges for said services on the following permanent parcels are as follows:

<u>PERMANENT PARCEL NO.</u>	<u>CHARGES</u>
323-11-039	\$ 100.00
323-26-009	\$ 100.00
323-23-036	\$ 300.00
321-24-038	\$ 100.00
321-12-075	\$ 100.00

SECTION 5. That, in accordance with Section 731.54 of the Revised Code of Ohio, the Fiscal Officer of Cuyahoga County, Ohio be and he is hereby authorized and directed to enter the aforesaid charges upon the tax duplicate of the hereinbefore described parcels of land as liens upon said parcels of land, and such items shall be collected as other taxes and returned to the City of Fairview Park, Ohio with general fund revenue.

SECTION 6. That the Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the Fiscal Officer of Cuyahoga County.

SECTION 7. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 8. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare and for the further reason that it is immediately necessary to certify this amount to the County Fiscal Officer for collection September 14, 2020 for the benefit of the residents of the City of Fairview Park; and provided it receives the affirmative vote a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading:
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrooks, Clerk of Council

EXHIBIT “A”

City of Fairview Park
20777 Lorain Road
Fairview Park, Ohio 44126

September 1, 2020

19050 Lorain Rd
Fairview Park, Ohio 44126

Weed cutting cost on Cuyahoga County Fiscal Officer’s
Permanent Parcel No. 323-11-039 \$100.00
Grass and Weeds Cut – 03 June 2020

21372 Northwood Ave
Fairview Park, Ohio 44126

Weed cutting cost on Cuyahoga County Fiscal Officer’s
Permanent Parcel No. 323-26-009 \$100.00
Grass and Weeds Cut – 02 June 2020

4283 West 210 Street
Fairview Park, Ohio 44126

Weed cutting cost on Cuyahoga County Fiscal Officer’s
Permanent Parcel No. 323-23-036 \$300.00
Grass and Weeds Cut –03 June 2020 and
-26 June 2020

4618 West 220 Street
Fairview Park, Ohio 44126

Weed cutting cost on Cuyahoga County Fiscal Officer’s
Permanent Parcel No. 321-24-038 \$100.00
Grass and Weeds Cut – 05 June 2020

4248 West 224 Street
Fairview Park, Ohio 44126

Weed cutting cost on Cuyahoga County Fiscal Officer’s
Permanent Parcel No. 321-12-075 \$100.00
Grass and Weeds Cut – 08 June 2020



Memo

To: Council President Kilbane and All Members of Council

From: Mayor Patrick J. Cooney

Date: September 1, 2020

Re: Emergency Legislation; Weed Cutting Ordinance

The Administration of the City of Fairview Park is requesting suspension of the rules requiring three readings and passage of the following legislation on first reading, as an emergency at the September 8, 2020 City Council legislative meeting.

Resolution __- 20 would authorize the finance director to assess the costs of weed removal on certain properties in the year 2020. In that the Cuyahoga County Fiscal Office requires all assessments be presented to the county prior to September 14, 2020, the administration requests emergency passage in order to comply with the September 14, 2020 deadline.

cc: Patrick Cooney, Mayor
Liz Westbrooks, City Council Clerk
Tim Riley, Law Director
Greg Cingle, Finance Director

CITY OF FAIRVIEW PARK
RESOLUTION NO. 20-
REQUESTED BY: COUNCILMAN MINEK
SPONSORED BY:

A RESOLUTION TO ALLOW RETIRING POLICE CHIEF ERICH UPPERMAN TO PURCHASE HIS SERVICE WEAPON FROM THE CITY AND DECLARING AN EMERGENCY

WHEREAS, Police Chief Erich Upperman is retiring from the Fairview Park Police Department after 36 years of service,

WHEREAS, Article 39.01 of the Collective Bargaining Agreement between the City of Fairview Park and the Ohio Patrolmen's Benevolent Association provides that employees (patrolmen, sergeants and lieutenants) shall be allowed to purchase their service weapon from the city for One Dollar (\$1.00) upon regular retirement after 25 years of service,

WHEREAS, the City of Fairview Park would like to offer this same opportunity to Chief Erich Upperman.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That Police Chief Erich Upperman shall be allowed to purchase his service weapon from the City of Fairview Park for One Dollar (\$1.00).

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 3: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force from immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading:
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrook, Clerk of Council

ARTICLE 39 - MISCELLANEOUS

39.01 Employees shall be allowed to purchase their service weapon from the City for \$1.00 under the following circumstances only: (a) after 25 years of service with the City; (b) upon a regular retirement pursuant to the Police and Fire Pension Fund; or (c) upon a disability retirement that is job related and not pursued to avoid criminal prosecution or job termination.

39.02 The Employer will make available \$500.00 annually for the maintenance of the exercise room on an as-need basis. Any new purchases or maintenance costs which exceed the stated amount may be on an item-by-item basis, based upon discussions with the Employer.

39.03 The parties agree to delineate and establish the formula used for payout of benefits upon retirement, termination, resignation or death of an employee, including holiday pay, vacation pay, sick time payout, uniform allowance, and specialty pays.

39.04 Effective January 1, 2010, the Employer shall not establish or utilize shift minimum manpower formulae that include any employees other than bargaining unit members.

ARTICLE 40 - DURATION

40.01 This Agreement shall become effective at 12:01 a.m. on January 1, 2017, and shall continue in full force and effect, along with any amendments made and annexed hereto, until midnight, December 31, 2019.



Memo

To: Council President Kilbane and All Members of Council

From: Mayor Patrick J. Cooney

Date: August 31, 2020

Re: Emergency Legislation; Chief Upperman

The Administration of the City of Fairview Park is requesting suspension of the rules requiring three readings and passage of the following legislation with two reading, as an emergency at the September 21, 2020 City Council legislative meeting.

Resolution __ - 20 would authorize Chief Erich Upperman to purchase his service weapon for \$1. 00 from the City of Fairview Park as is authorized for all retiring officers. The administration would like to have this resolution in effect prior to Chief Upperman's retirement.

cc: Patrick Cooney, Mayor
Liz Westbrooks, City Council Clerk
Tim Riley, Law Director
Greg Cingle, Finance Director

CITY OF FAIRVIEW PARK
ORDINANCE NO. 20-
REQUESTED BY: MARY KAY COSTELLO, DIRECTOR OF PUBLIC SERVICE &
DEVELOPMENT
SPONSORED BY: COUNCILWOMEN KING AND WERING

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH RJ PLATTEN CONTRACTING CO., 14490 YORK ROAD, NORTH ROYALTON, OHIO 44133, FOR IMPROVEMENTS TO THOMAS LANE PARK AND DECLARING AN EMERGENCY

WHEREAS, the City of Fairview Park (“City”) has been awarded Fifty Thousand Dollars (\$50,000) through Cuyahoga County’s 2020 Community Development Supplemental Grant program for improvements to Thomas Lane Park; and

WHEREAS, such improvements include grading, the installation of a paved pathway, the installation of a decorative fence, landscaping, the planting of trees, and the installation of a light post; and

WHEREAS, the project was contemplated and planned for as part of the City’s 2020 Budget; and

WHEREAS, improvements to Thomas Lane Park will be carried out in accordance with the plans and specifications created by Mackay Engineering & Surveying Co.; and

WHEREAS, the plan for Thomas Lane Park was approved by the Fairview Park Planning & Design Commission on June 17, 2020; and

WHEREAS, the City solicited pricing proposals for said work through a posting in the Plain Dealer and on the City’s website; and

WHEREAS, a total of six (6) pricing proposals were received and RJ Platten Contracting Co. submitted the lowest responsive and responsible proposal.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. That the City hereby thanks Cuyahoga County for its grant award of Fifty Thousand Dollars (\$50,000.00) through the 2020 Community Development Supplemental Grant program, and accepts said grant funds.

SECTION 2. That City Council accepts the pricing proposal by RJ Platten Contracting Co. for improvements to Thomas Lane Park in the amount of Forty Three Thousand Two Hundred Ninety-Nine Dollars and Fifty Cents (\$43,299.50).

SECTION 3. That the Mayor is hereby authorized to enter into a contract with RJ Platten Contracting Co. for improvements to Thomas Lane Park in an amount not to exceed Forty Nine Thousand, Seven Hundred Ninety-Nine Dollars and Fifty Cents (\$49,799.50), which includes the proposal amount of Forty Three Thousand Two Hundred Ninety-Nine Dollars and Fifty Cents (\$43,299.50) and a contingency in the amount of Six Thousand Five Hundred Dollars (\$6,500.00).

SECTION 4. That said project costs shall be paid from the Recreation Fund (Fund 230) and reimbursed in full through the 2020 Community Development Supplemental Grant program award.

SECTION 5. It is found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this council, and that all deliberations of this council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 6. That this ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of the public peace, health, safety and welfare; and for the further reason that the project must be completed before March 15, 2021; and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the mayor, otherwise from and after the earliest period allowed by law.

PASSED:

APPROVED:

1st reading:

2nd reading:

3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
ORDINANCE NO. 20-
REQUESTED BY: MAYOR PATRICK COONEY
SPONSORED BY: COUNCILWOMAN KING

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$18,750,000 FOR THE PURPOSE OF REFUNDING CERTAIN OF THE CITY'S OUTSTANDING VARIOUS PURPOSE REFUNDING BONDS, SERIES 2012, DATED OCTOBER 30, 2012, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 12-10, passed on March 19, 2012, there were issued \$20,590,000 Various Purpose Refunding Bonds, Series 2012, dated October 30, 2012 (the Series 2012 Bonds), for the purpose stated in Section 2, which Series 2012 Bonds are currently outstanding in the aggregate principal amount of \$17,125,000 and will mature on December 1 in the years 2020 through 2030 (collectively, the Outstanding Bonds); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to refund all or a portion of the Outstanding Bonds maturing on December 1 in the years 2023 through 2030 (the Refunded Bonds); and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue the Bonds described in Section 2 to provide funds sufficient for that purpose, including the payment of expenses properly allocable to that refunding and to the issuance of the Bonds; and

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 2 was, at the time of issuance of the City's Various Purpose Improvement and Refunding Bonds, Series 2005, dated July 7, 2005 (the Series 2005 Bonds), at least five years, and the estimated maximum maturity of the Bonds described in Section 2 is not later than December 1, 2035, which was calculated consistently with the provisions of Section 133.20 of the Revised Code and the prior Fiscal Officer's Certificate dated April 18, 2005, related to the Series 2005 Bonds;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, CUYAHOGA COUNTY, OHIO, THAT:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

"Authorized Denominations" means (subject to any limitations in Section 3) the denomination of \$5,000 or any whole multiple thereof.

"Bond proceedings" means, collectively, this Ordinance, the Certificate of Award and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

"Bond Purchase Agreement" means the Bond Purchase Agreement between the City and the Original Purchaser, as it may be modified from the form on file with the Clerk of Council and signed by the Mayor and the Fiscal Officer in accordance with Section 6.

"Bond Register" means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“Bond Registrar” means the bank or trust company appointed pursuant to Section 4 or in the Certificate of Award as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Bond Registrar Agreement and until a successor Bond Registrar shall have become such pursuant to the provisions of the Bond Registrar Agreement and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar.

“Bond Registrar Agreement” means the Bond Registrar Agreement between the City and the Bond Registrar, as it may be modified from the form on file with the Clerk of Council and signed by the Mayor and the Fiscal Officer in accordance with Section 4.

“Bonds” means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of book entry interests in Bonds and the principal of and interest on the Bonds may be transferred only through a book entry and (ii) physical Bond certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Bonds deposited and maintained in the custody of the Depository or its agent. The book entry maintained by others than the City is the record that identifies the owners of book entry interests in those Bonds and that principal and interest.

“Certificate of Award” means the certificate authorized by Section 6(a), to be signed by the Fiscal Officer, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, as it may be modified from the form on file with the Clerk of Council and signed by the Mayor and the Fiscal Officer in accordance with Section 6, which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the Bonds in accordance with the Rule.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of book entry interests in Bonds or the principal of and interest on Bonds, and to effect transfers of Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Escrow Agreement” means the Escrow Agreement between the City and the Escrow Trustee, as it may be modified from the form on file with the Clerk of Council and signed by the Mayor and the Fiscal Officer in accordance with Section 8.

“Escrow Fund” means the Escrow Fund established pursuant to Section 9.

“Escrow Trustee” means the bank or trust company appointed pursuant to Section 8 or in the Certificate of Award as the initial escrow trustee with respect to the Refunded Bonds under the Escrow Agreement and until a successor Escrow Trustee shall have become such pursuant to the provisions of the Escrow Agreement and, thereafter, “Escrow Trustee” shall mean the successor Escrow Trustee.

“Fiscal Officer” means the Director of Finance of the City.

“Interest Payment Dates” means, unless otherwise determined by the Fiscal Officer in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing June 1, 2021.

“Original Purchaser” means the original purchaser of the Bonds designated by the Fiscal Officer in the Certificate of Award.

“Participant” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies, and clearing corporations.

“Principal Payment Dates” means unless otherwise determined by the Fiscal Officer in the Certificate of Award, December 1 in the years from and including 2020 to and including 2035, provided that in no case shall the latest Principal Payment Date be later than the maximum maturity of the Bonds referred to in the preambles hereto.

“Rule” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“SEC” means the Securities and Exchange Commission.

“Serial Bonds” means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“Term Bonds” means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose. This Council determines that it is necessary and in the best interest of the City to issue bonds of the City in one lot in the maximum principal amount of \$18,750,000 (the Bonds) for the purpose of refunding certain of the City’s outstanding Various Purpose Refunding Bonds, Series 2012, dated October 30, 2012, which were issued for the purpose of advance refunding at a lower interest cost certain of the City’s then-outstanding Various Purpose Improvement and Refunding Bonds, Series 2005, dated July 7, 2005, which were issued for the purpose of improving the City’s Park and Recreational System by constructing, furnishing and equipping a recreation/community center and renovating and improving related recreational facilities, preparing and improving the sites thereof, providing landscaping, parking and other related site improvements and acquiring and improving certain real property and interests therein in connection therewith, including the payment of expenses related to the refunding of the Refunded Bonds and the issuance of the Bonds.

The aggregate principal amount of Bonds to be issued shall not exceed \$18,750,000 and shall be issued in an amount determined by the Fiscal Officer in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued, taking into account any premium above or discount from the aggregate principal amount of the Bonds at which they are sold to the Original Purchaser, in order to effect the purpose for which the Bonds are to be issued, including the payment

of any expenses properly allocable to the refunding of the Refunded Bonds and the issuance of the Bonds.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in the Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than 60 days prior to the Closing Date.

(a) Interest Rates and Interest Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of 12 30-day months) as shall be determined by the Fiscal Officer in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements (as hereinafter defined and described) on the Principal Payment Dates in principal amounts as shall be determined by the Fiscal Officer, subject to subsection (c) of this Section, in the Certificate of Award, consistent with the Fiscal Officer's determination of the best interest of and financial advantages to the City.

Consistent with the foregoing and in accordance with the Fiscal Officer's determination of the best interest of and financial advantages to the City, the Fiscal Officer shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date, and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (Mandatory Redemption Dates) and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the true interest cost of the Bonds shall not exceed 6%.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15th day preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Fiscal Officer, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those dates, for which provision is made in the Certificate of Award (such dates and amounts being the Mandatory Sinking Fund Redemption Requirements).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that date the principal amount of Term Bonds payable on that date pursuant to Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date as the Term Bonds so delivered. That option shall be exercised by the City on or before the 15th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Fiscal Officer, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Fiscal Officer, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Fiscal Officer, for Term Bonds stated to mature on the same Principal Payment Date as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities, if any, specified in the Certificate of Award shall be subject to redemption by and at the sole option of the City, in whole or in part in whole multiples of \$5,000, on the dates, in the years and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Fiscal Officer in the Certificate of Award; provided that (i) the earliest optional redemption date shall not be more than 10½ years after the Closing Date and (ii) the redemption price for the earliest optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Fiscal Officer to the Bond Registrar, given upon the direction of this Council through a resolution or an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities selected by the City. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds of that maturity to be redeemed, or portions thereof in amounts of \$5,000 or any whole multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (i) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (ii) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15th day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to Section 11, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then

from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the Mayor and the Fiscal Officer, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Fiscal Officer, shall be numbered as determined by the Fiscal Officer in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the provisions of Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award.

The Bank of New York Mellon Trust Company, N.A., is appointed to act as the initial Bond Registrar; provided, however, that the Fiscal Officer is authorized to appoint a different Bond Registrar in the Certificate of Award after determining that such bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose. The Mayor and the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, the Bond Registrar Agreement in substantially the form as is now on file with the Clerk of Council. The Bond Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Registrar Agreement or amendments thereto. The Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Bond Registrar Agreement, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Bond Purchase Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Fiscal Officer on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Registrar. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at the office satisfactory to the Fiscal Officer and the Bond Registrar. Subject to the provisions of Section 6, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond proceedings. Payment of or on account of the debt charges on

any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the principal corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Fiscal Officer determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section.

The Bonds may be issued to a Depository for use in a book entry system and, if and so long as a book entry system is utilized, (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity and registered in the name of the Depository or its nominee, as registered owner, and deposited and maintained in the custody of the Depository or its designated agent which may be the Bond Registrar; (ii) the book entry interest owners of Bonds in book entry form shall not have any right to receive Bonds in the form of physical securities or certificates; (iii) ownership of book entry interests in Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of book entry interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Fiscal Officer may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Fiscal Officer does not or is unable to do so, the Fiscal Officer, after making provision for notification of the book entry interest owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Fiscal Officer is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Award and Sale of the Bonds.

(a) To the Original Purchaser. The Bonds shall be sold at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Fiscal Officer in the Certificate of Award, plus accrued interest on the Bonds from their date to the Closing Date, and shall be awarded by the Fiscal Officer with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance and the Bond Purchase Agreement. The Fiscal Officer is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

(b) Certificate of Award and Bond Purchase Agreement. The Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Fiscal Officer, Director of Law, Clerk of Council and other City officials, as appropriate, each are authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

The Mayor and the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, the Bond Purchase Agreement between the City and the Original Purchaser, in substantially the form as is now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Bonds. The Bond Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Bond Purchase Agreement or amendments thereto.

(c) Primary Offering Disclosure – Official Statement. The Mayor and the Fiscal Officer, on behalf of the City and in their official capacities, are authorized to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, an official statement in connection with the original issuance of the Bonds, (ii) determine, and to certify or otherwise represent, when the official statement is to be “deemed final” (except for permitted omissions) by the City or is a final official statement for purposes of SEC Rule 15c2-12(b)(1), (3) and (4), (iii) use and distribute, or authorize the use and distribution of, that official statement and any supplements thereto in connection with the original issuance of the Bonds and (iv) complete and sign

that official statement as so approved together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of that official statement as they deem necessary or appropriate.

(d) Agreement to Provide Continuing Disclosure. For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The Mayor and the Fiscal Officer are authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in substantially the form as is now on file with the Clerk of Council. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement.

The Fiscal Officer is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Fiscal Officer shall consult with and obtain legal advice from, as appropriate, the Director of Law and/or bond or other qualified independent special counsel selected by the City. The Fiscal Officer, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

(e) Application for Rating or Bond Insurance; Financing Costs. If, in the judgment of the Fiscal Officer, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to the City, the Fiscal Officer is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent paid by the Original Purchaser in accordance with the Bond Purchase Agreement, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Fiscal Officer is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Fiscal Officer determines to be necessary in connection with obtaining that bond insurance.

The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds, to the extent not paid by the Original Purchaser in accordance with the Bond Purchase Agreement, is authorized and approved, and the Fiscal Officer is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 7. Refunding; Call of Refunded Bonds. This Council determines that it is necessary and in the best interest of the City to refund the Refunded Bonds. The Fiscal Officer is authorized and directed to give to The Bank of New York Mellon Trust Company, N.A., as the authenticating agent, bond registrar, transfer agent and paying agent for the Refunded Bonds, written notice of the call for redemption, and the Refunded Bonds shall be redeemed in accordance with the Original Bond Legislation. The City covenants for the benefit of the holders of the Refunded Bonds and of the Bonds, that it will at no time on or after the Closing Date take actions to modify or rescind

that call for prior redemption, and that it will take, and will cause the bond registrar and paying agent for the Refunded Bonds to take, all.

Section 8. Escrow Trustee. The Bank of New York Mellon Trust Company, N.A., is hereby appointed as the initial Escrow Trustee with respect to the refunding of the Refunded Bonds; provided, however, that the Fiscal Officer is authorized to appoint a different Escrow Trustee in the Certificate of Award after determining that such bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose. The Escrow Trustee is authorized and directed to cause notice of the refunding of the Refunded Bonds to be given in accordance with the Escrow Agreement. The Mayor and the Fiscal Officer shall sign and deliver, in the name and on behalf of the City, the Escrow Agreement between the City and the Escrow Trustee, in substantially the form as is now on file with the Clerk of Council. The Escrow Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Escrow Agreement or amendments thereto. The Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement (including the fees and expenses of a mathematical verification agent to be appointed by the Fiscal Officer in the Certificate of Award), except to the extent paid or reimbursed by the Original Purchaser in accordance with the Bond Purchase Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Section 9. Escrow Fund. There is created under the Escrow Agreement a trust fund designated the “City of Fairview Park Series 2012 Bonds Escrow Fund” which shall be held and maintained by the Escrow Trustee in trust for the registered owners of the Refunded Bonds and is pledged for the payment of principal of and interest on the Refunded Bonds, all in accordance with the provisions of the Escrow Agreement. The Fiscal Officer is hereby authorized and directed to pay or cause to be paid to the Escrow Trustee for deposit in the Escrow Fund (i) any available funds on deposit in the Bond Retirement Fund for the payment of debt charges on the Refunded Bonds determined by the Fiscal Officer to be applied for that purpose and (ii) proceeds from the sale of the Bonds, except any accrued interest and any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Bonds as determined by the Fiscal Officer, in the amount required, together with the funds referred to in clause (i), if any, to provide for the defeasance of the Refunded Bonds. Those funds are appropriated and shall be applied to pay principal of and interest on the Refunded Bonds, as provided in the Escrow Agreement.

The funds so deposited in the Escrow Fund shall be (a) held in cash to the extent that they are not needed to make the investments hereinafter described and (b) invested in direct obligations of, or obligations guaranteed as to payment by, the United States of America (within the meaning of Section 133.34(D) of the Revised Code) that mature or are subject to redemption by and at the option of the holder, in amounts sufficient, together with any uninvested cash in the Escrow Fund but without further investment or reinvestment, for the payment of principal of and interest on the Refunded Bonds as provided in the Escrow Agreement.

If U.S. Treasury Securities – State and Local Government Series are to be purchased for the Escrow Fund, the Original Purchaser and the Escrow Trustee are hereby specifically authorized to file, on behalf of the City, subscriptions for the purchase and issuance of those U.S. Treasury Securities – State and Local Government Series. If, in the judgment of the Fiscal Officer, an open-market purchase of obligations described in (b) in the preceding paragraph for the Escrow Fund is in the best interest of and financially advantageous to the City, the Fiscal Officer or any other officer of the City, on behalf of the City and in the Fiscal Officer’s official capacity, may purchase and deliver such obligations, engage the services of a municipal advisor, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and any related

structuring of, the Escrow Fund, execute such instruments as are deemed necessary to engage such services for such purpose, and provide further for the payment of the cost of obtaining such services, except to the extent paid by the Original Purchaser in accordance with the Bond Purchase Agreement, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Section 10. Application of Proceeds. The proceeds from the sale of the Bonds (except any accrued interest and any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Bonds as determined by the Fiscal Officer) shall be paid into the Escrow Fund as provided in Section 9. Any proceeds to be used for the payment of any expenses properly allocable to the refunding of the Refunded Bonds or the issuance of the Bonds, as determined by the Fiscal Officer, shall be paid into the proper fund or funds. Any proceeds representing accrued interest shall be paid into the Bond Retirement Fund. The proceeds from the sale of the Bonds (except any accrued interest) are appropriated and shall be used for the purpose for which the Bonds are being issued.

Section 11. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due. In each year to the extent money from the municipal income tax is available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of the funds so available and appropriated in compliance with the covenant hereinafter set forth. To the extent necessary, the debt charges on the Bonds shall be paid from municipal income taxes lawfully available therefore under the Constitution and laws of the State of Ohio and the City's Charter; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Revised Code, to appropriate annually from such municipal income taxes such amounts, and to continue to levy and collect such municipal income taxes in such amounts, as are necessary to meet such annual debt charges.

Nothing in this paragraph in any way diminishes the irrevocable pledge of the full faith and credit and revenues of the City to the payment of the debt charges on the Bonds.

Section 12. Federal Tax Considerations. The City does not intend or represent that the interest on the Bonds will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, and the City is not and shall not be obligated to take any action to attempt to secure or maintain any such exclusion.

Section 13. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

Section 14. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 11) of the City are pledged

for the timely payment of the debt charges on the Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

Section 15. Retention of Bond and Disclosure Counsel. Retention of Bond and Disclosure Counsel. In connection with the issuance of the Bonds, the legal services of Squire Patton Boggs (US) LLP, as bond counsel and disclosure counsel, are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Fiscal Officer is authorized to provide for the payment of those fees and any reimbursements, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Bond Purchase Agreement, from the proceeds of the Bonds to the extent available and otherwise is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 16. Retention of Municipal Advisor. In connection with the issuance of the Bonds, the municipal advisory services of MAS Financial Advisory Services LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Fiscal Officer is authorized to provide for the payment of those fees and any reimbursements, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Bond Purchase Agreement, from the proceeds of the Bonds to the extent available and otherwise is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 17. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, 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, all in compliance with the law.

Section 18. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds, which is necessary to enable the City to refund the Refunded Bonds upon terms in the best interest of and advantageous to the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED:
APPROVED:

1st reading:
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Patrick J. Cooney, Mayor

Liz L. Westbrooks, Clerk of Council

SUPPLEMENTAL FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF FAIRVIEW PARK, OHIO:

As fiscal officer of the City of Fairview Park, Ohio, and supplementing prior Fiscal Officer's Certificates dated April 18, 2005, and March 5, 2012, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$18,750,000 (the Bonds) for the purpose of refunding certain of the City's outstanding Various Purpose Refunding Bonds, Series 2012, dated October 30, 2012 (the Refunded Bonds), which were issued for the purpose of advance refunding at a lower interest cost certain of the City's then-outstanding Various Purpose Improvement and Refunding Bonds, Series 2005, dated July 7, 2005 (the Series 2005 Bonds), which were issued for the purpose of improving the City's Park and Recreational System by constructing, furnishing and equipping a recreation/community center and renovating and improving related recreational facilities, preparing and improving the sites thereof, providing landscaping, parking and other related site improvements and acquiring and improving certain real property and interests therein in connection therewith, that:

1. The estimated life or period of usefulness of the improvement described above was, at the time of issuance of the Series 2005 Bonds, at least five years.

2. The estimated maximum maturity of the Bonds, calculated in accordance with Sections 133.20 and 133.34(A)(3) of the Revised Code, is not later than December 1, 2035, which was calculated consistently with the provisions of Section 133.20 of the Revised Code and the prior Fiscal Officer's Certificate dated April 18, 2005.

Dated: September 8, 2020

Director of Finance
City of Fairview Park, Ohio

CITY OF FAIRVIEW PARK

RESOLUTION NO. 20-__

REQUESTED BY: GREG CINGLE, FINANCE DIRECTOR

SPONSORED BY: COUNCILWOMAN KING

RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER

(CITY COUNCIL)

Revised Code, Secs. 5705.34-5705.35

The Council of the City of Fairview Park, Cuyahoga County, Ohio, met in session on the day of (Regular Or Special) 2020, at the office of with the following members

- present: BRYAN SIMMERLY, Ward 1
WILLIAM MINEK, Ward 2
MAUREEN FALLON ADLER Ward 3
SARAH WERING, Ward 4
BRIDGET KING, Ward 5
GREGORY BURGER, Council At-Large
MICHAEL KILBANE, Council President

Mr./Mrs. moved the adoption of the following Resolution:

WHEREAS, This Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1st, 2021 ; and

WHEREAS, The Budget Commission of Cuyahoga County, Ohio, has certified its action thereon to this Council together with an estimate by the County Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within the ten mill tax limitation; therefore, be it

RESOLVED, By the Council of the City of Fairview Park, Cuyahoga County, Ohio, that the amounts and rates, as determined

by the Budget Commission in its certification, be and the same are hereby accepted; and be it further

RESOLVED, That there be and is hereby levied on the tax duplicate of said City the rate of each tax necessary to be levied within and without the ten mill limitation as follows:

SCHEDULE A
SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET
COMMISSION AND COUNTY FISCAL OFFICER'S ESTIMATED TAX RATES

FUND	Amount to Be Derived from Levies Outside 10 M. Limitation	Amount Approved by Budget Commission Inside 10 M. Limitation	County Fiscal Officer's Estimate of Tax Rate to be Levied	
			Inside 10 M. Limit	Outside 10 M. Limit
	Column II	Column IV	V	VI
General Fund			3.33	5.00
General Bond Retirement Fund				0.00
Police Pension			0.30	
Park Fund				0.00
Recreation Fund				1.00
Fire Pension Fund			0.30	
Permanent Improv. Fund				0.87
Fire Fund				1.00
TOTAL	\$0	\$0	3.93	7.87

SCHEDULE B

LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES

FUND	Maximum Rate Authorized to Be Levied	Co. Fiscal Officer's Est. of Yield of Levy (Carry to Schedule A, Column II)
GENERAL FUND:		
Current Expense Levy authorized by voters on for not to exceed _____ years.	,20	
Current Expense Levy authorized by voters on for not to exceed _____ years.	,20	
Total General Fund outside 10m. Limitation.		
Park Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Recreation Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Fund: Levy authorized by voters on for not to exceed _____ years.		
Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Fund: Levy authorized by voters on for not to exceed _____ years.	,20	

and be it further
RESOLVED, That the Clerk of this Council be and he is hereby directed to certify a copy of this
 Resolution to the Fiscal Officer of said County.

Mr./Mrs. _____ seconded the Resolution and the roll being called

upon its adoption the vote resulted as follows:

- Mr./Mrs. _____ YES NO
 BRYAN SIMMERLY, Ward 1
- Mr./Mrs. _____ YES NO
 WILLIAM MINEK, Ward 2
- Mr./Mrs. _____ YES NO
 MAUREEN FALLON ADLER, Ward 3
- Mr./Mrs. _____ YES NO
 SARAH WERING, Ward 4
- Mr./Mrs. _____ YES NO
 BRIDGET KING, Ward 5
- Mr./Mrs. _____ YES NO
 GREGORY BURGER, Council At-Large
- Mr./Mrs. _____ YES NO
 MICHAEL KILBANE, Council President
- Mr./Mrs. _____
- Mr./Mrs. _____

Adopted the _____ day of _____, 20_____

Attest: _____

 President of Council

 Clerk of Council

**CERTIFICATE OF COPY
ORIGINAL ON FILE**

The State of Ohio, _____ County, ss.

I, _____, Clerk of the Council of the City

of _____ within and for said County, and in whose custody the Files and Records of said Council are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing is taken and copied from the original _____

now on file, that the foregoing has been compared by me with said original document, and that the same is a true and correct copy thereof.

WITNESS my signature, this _____ day of _____, 20____

Clerk of Council

**PASSED:
APPROVED:**

**1st reading:
2nd reading:
3rd reading:**

No. _____ _____ COUNCIL OF THE CITY OF _____ _____ County, Ohio. _____ RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER (City Council) _____ Adopted _____, 20 ____ _____ Clerk of Council _____ Filed _____, 20 ____ _____ County Fiscal Officer By _____ Deputy



FISCAL DEPARTMENT

August 13, 2020

Dear: Fiscal Officer

Attached is the Tax Rate Resolution for tax year 2020.

Please adopt the tax rates for your subdivision and E-mail a signed Tax Rate Resolution to our office by September 30, 2020.

Feel free to contact the Budget Commission if you have any questions or concerns.

Thank you,

Sincerely,

A handwritten signature in blue ink, appearing to read "Bryan Dunn", is written over a light blue horizontal line.

Bryan Dunn, Administrator

Cuyahoga County Budget Commission