

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. _____

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 BRECKSVILLE, 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 5573, duly adopted by the Council of the City of Brecksville, Ohio on December 6, 2022 levying special assessments for the purpose of acquiring, installing, equipping, and improving certain public improvements in the City of Brecksville, 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 30 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2024 through 2038, was filed in this office on 12-14, 2022.

WITNESS my hand and official seal at Cleveland, Ohio on 12-14, 2022.

[SEAL]


Fiscal Officer
Cuyahoga County, Ohio

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COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5573

**AN ORDINANCE AMENDING SECTION 2 AND EXHIBIT A OF
ORDINANCE 5569 LEVYING SPECIAL ASSESSMENTS FOR
THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING,
AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE
CITY OF BRECKSVILLE, OHIO IN COOPERATION WITH THE
NORTHEAST OHIO ADVANCED ENERGY DISTRICT;
AUTHORIZING AN ENERGY PROJECT COOPERATIVE
AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT;
AND DECLARING AN EMERGENCY (7000 FITZWATER ROAD
PROJECT)**

WHEREAS, Fitzwater Place, LLC (the "Owner") has submitted its *Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the "Petition") in order to provide for the completion of a special energy improvement project on real property owned by the Owner in the City of Brecksville, Ohio (the "City"); and

WHEREAS, this City Council of the City (the "Council") duly passed Resolution No. 5354 on November 1, 2022 (the "Resolution of Necessity"), which approved the Petition and added the Owner's property, subject to the Petition, to the Northeast Ohio Advanced Energy District (the "District") and declared the necessity of acquiring, installing, equipping, and improving solar photovoltaic and energy efficiency improvements, including, without limitation, HVAC systems and controls, LED lighting, roof systems, and related improvements (the "Project"), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, this Council duly adopted Ordinance No. 5558 on November 1, 2022 and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Clerk of this Council and the Finance Director pursuant to the Resolution of Necessity; and

WHEREAS, the City intends to enter into an Energy Project Cooperative Agreement (the "Energy Project Cooperative Agreement") with the District, the Owner, and the Northeast Ohio Public Energy Council (the "Investor") to provide for, among other things, (i) the making of the Project Advance (as defined in the Energy Project Cooperative Agreement) to pay costs of the Project, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the Project and the transfer of the Special Assessments by the City to the Investor to pay principal and interest and other costs relating to the Project Advance; and

WHEREAS, to provide for the security for the Project Advance and for the administration of payments on the Project Advance and related matters, the City intends to enter into the Special Assessment Agreement with the County Treasurer of Cuyahoga County, Ohio, the District, the Owner, and the Investor; and

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

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, County of Cuyahoga, State of Ohio, that:

SECTION 1. 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. The list of Special Assessments to be levied and assessed on the Property (as further described on Exhibit A) in an amount sufficient to pay the costs of the Project, which is ~~\$334,501.50~~ **\$354,177.90**,

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including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses, which costs were set forth in the Petition and previously reported to this Council and are now on file in the offices of the Clerk of Council and the Finance Director, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, which shall accrue at the annual rate of 3.5%, together with amounts used to pay administrative expenses, has been determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds been issued by the District.

The Special Assessments are assessed against the Property commencing in tax year 2023 for collection in 2024 and shall continue through tax year 2037 for collection in 2038; 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 2024, 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 Property as set forth in the Petition and the List of Special Assessments attached hereto as Exhibit A and incorporated herein.

SECTION 3. This Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

SECTION 4. The Owner has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Finance Director to the County Fiscal Officer of Cuyahoga County, Ohio as provided by the Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

SECTION 5. The Special Assessments will be used by the City to pay the cost of the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION 6. The Finance Director shall keep the Special Assessments on file in the Office of the Finance Director.

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SECTION 7. This Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file in the office of the Clerk of this Council. The Mayor or their designee shall sign and deliver, in the name and on behalf of the City, the Energy Project Cooperative Agreement, in substantially the form as is now on file with the Clerk of this Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved the Mayor or their designee, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Energy Project Cooperative Agreement or amendments to the Energy Project Cooperative Agreement.

SECTION 8. This Council hereby approves the Special Assessment Agreement a copy of which is on file in the office of the Clerk of this Council. The Mayor or their designee shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the Clerk of this Council. The Special Assessment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor or their designee, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement.

SECTION 9. The City is hereby authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the Mayor or their designee, on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements.

SECTION 10. In compliance with Ohio Revised Code Section 319.61, the Clerk of the 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. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION 12. Pursuant to Section 11 of Article IV of the Charter of the City of Brecksville, Ohio, this Ordinance provides for improvements petitioned for by the owners of a majority of the foot frontage of the property benefited and to be specially assessed therefor and is effective at the earliest possible time allowed therein.

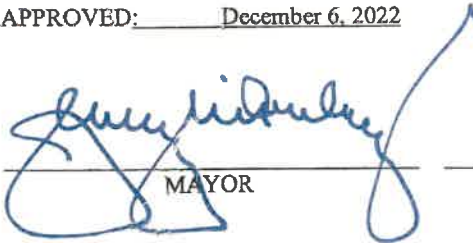
2022-12-06 10:00:00 AM

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PASSED: December 6, 2022

APPROVED: December 6, 2022



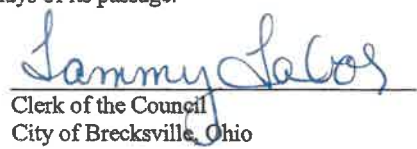
MAYOR



CLERK OF COUNCIL

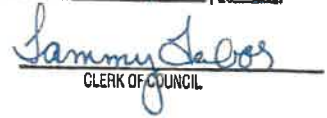
CERTIFICATE

The undersigned Clerk of the Council hereby certifies that the foregoing is a true copy of Ordinance No. 5573 duly adopted by the Council of the City of Brecksville, Ohio on December 6, 2022, and that a true copy thereof was certified to the Fiscal Officer of Cuyahoga County, Ohio within twenty (20) days of its passage.



Clerk of the Council
City of Brecksville, Ohio

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. 5573 duly passed by the Council of the City of Brecksville, Ohio, on 12-6, 2022 and that same was duly posted in accordance with the existing Charter of the City of Brecksville on 12-9, 2022.



CLERK OF COUNCIL

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EXHIBIT A

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

LIST OF SPECIAL ASSESSMENTS

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
Fitzwater Place, LLC	601-08-014	100%	\$334,501.50 \$354,177.90

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SCHEDULE OF SPECIAL ASSESSMENTS FOR CUYAHOGA COUNTY PARCEL NOS.:

601-08-014¹

The following schedule of Special Assessment charges shall be certified for collection in 30 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2023-2024 through 2037-2038:

Special Assessment Payment Date ²	Special Assessment Installment Amount ³	Special Assessment Payment Date ²	Special Assessment Installment Amount ³
2/1/2023	\$11,150.50	2/1/2024	\$11,805.93
7/1/2023	11,150.50	7/1/2024	11,805.93
2/1/2024	11,150.50	2/1/2025	11,805.93
7/1/2024	11,150.50	7/1/2025	11,805.93
2/1/2025	11,150.50	2/1/2026	11,805.93
7/1/2025	11,150.50	7/1/2026	11,805.93
2/1/2026	11,150.50	2/1/2027	11,805.93
7/1/2026	11,150.50	7/1/2027	11,805.93
2/1/2027	11,150.50	2/1/2028	11,805.93
7/1/2027	11,150.50	7/1/2028	11,805.93
2/1/2028	11,150.50	2/1/2029	11,805.93
7/1/2028	11,150.50	7/1/2029	11,805.93
2/1/2029	11,150.50	2/1/2030	11,805.93
7/1/2029	11,150.50	7/1/2030	11,805.93
2/1/2030	11,150.50	2/1/2031	11,805.93
7/1/2030	11,150.50	7/1/2031	11,805.93
2/1/2031	11,150.50	2/1/2032	11,805.93
7/1/2031	11,150.50	7/1/2032	11,805.93
2/1/2032	11,150.50	2/1/2033	11,805.93
7/1/2032	11,150.50	7/1/2033	11,805.93
2/1/2033	11,150.50	2/1/2034	11,805.93
7/1/2033	11,150.50	7/1/2034	11,805.93
2/1/2034	11,150.50	2/1/2035	11,805.93
7/1/2034	11,150.50	7/1/2035	11,805.93
2/1/2035	11,150.50	2/1/2036	11,805.93
7/1/2035	11,150.50	7/1/2036	11,805.93
2/1/2036	11,150.50	2/1/2037	11,805.93
7/1/2036	11,150.50	7/1/2037	11,805.93
2/1/2037	11,150.50	2/1/2038	11,805.93
7/1/2037	11,150.50	7/1/2038	11,805.93

¹ As identified in the records of the County Fiscal Officer of Cuyahoga County, Ohio as of May 16, 2022.

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

³ Pursuant to Ohio Revised Code Section 727.36, the Cuyahoga County Fiscal Officer may charge and collect a fee in addition to the amounts listed in the above schedule.