

ORDINANCE NO. 58-23

BY: JAMES W. MORAN

AN EMERGENCY ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF ROCKY RIVER, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT

WHEREAS, the City Council ("Council") of the City of Rocky River, Ohio (the "City") duly adopted Resolution No. 59-23 on July 24th, 2023 (the "Resolution of Necessity"), (i) declaring the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, Energy Star appliances, building skin systems, window systems, roofing systems, elevator systems, lighting systems and controls, HVAC and controls, and related improvements (as more fully described in the Petition referenced in this Ordinance, the "Project") located on real property owned by WillyMayesHayes, LLC and Scott D. Bell and Jeanne A. Bell (collectively, the "Owner") and to be acquired by RR Hilliard Partners II, LLC (the "Developer") within the City (the "Project Site", as more fully described in Exhibit B to the Petition); (ii) providing for the acquisition, installation, equipment, and improvement of the Project by the Developer, as set forth in the Owner and the Developer's Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Improvement Project (the "Petition"), including by levying and collecting special assessments to be assessed upon the Project Site (the "Special Assessments") in an amount sufficient to pay the maximum costs of the Project, which is estimated not to exceed \$14,000,558.04 in the Petition, including other related costs of financing the Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Northeast Ohio Advanced Energy District ("District") administrative fees and expenses; and (iii) determining that the 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 Project have been waived by one hundred percent (100%) of the Owners; and no claims for damages alleged to result from, or objections to, the Project have been filed within the times prescribed by Ohio Revised Code Sections 727.15 and 727.18; and

WHEREAS, it is necessary for the immediate preservation of the public peace, health or safety of the City for this Ordinance to be effective immediately upon its adoption in order to allow the Developer and the District to take advantage of financing for the costs of the Project available only for a limited time.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, 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 Petition and/or 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 Project described in the Petition and the Resolution of Necessity. The Project shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, files, and estimates of cost previously approved and now on file with the Director of Finance and the Clerk of Council.

Section 3. That the maximum Special Assessments to pay costs of the Project, which are estimated to be \$14,000,558.04 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

Amoral H. Plante
Clerk of Council of the City of Rocky River, Ohio
the undersigned clerk of council of the city of Rocky River, State of Ohio, do hereby certify that publication of the foregoing ordinance was duly made by posting a true copy thereof in the lobby of the Rocky River City Hall, in accordance with the charter of Rocky River, commencing on the 24th day of July, 2023.

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 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 an assumed maximum rate of interest on unpaid Special Assessments which shall be treated as part of the cost of the 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 Project; together with all other necessary expenditures, shall be assessed against the Project Site in the manner and in the number of semi-annual installments provided in the 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 Project. The Special Assessments shall be assessed against the Project Site commencing in tax year 2025 for collection in 2026 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 2026, 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.

Section 4. That the estimated Special Assessments for costs of the Project prepared and filed in the office of the Clerk of Council and in the office of the Director of Finance, in accordance with the Resolution of Necessity, are adopted.

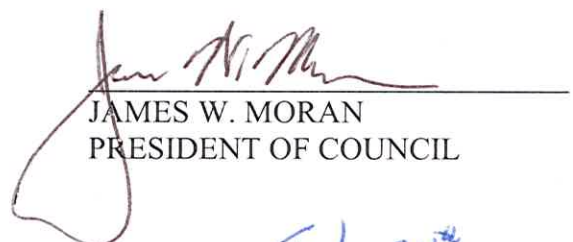
Section 5. That in compliance with Ohio Revised Code Section 319.61, the Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Fiscal Officer of Cuyahoga County, Ohio within 15 days after the date of its passage.

Section 6. That all contracts for the construction of the Project will be let in accordance with the Petition, the Program Plan, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

Section 7. That City Council hereby finds and determines that all formal actions taken relative to the adoption of this Ordinance were taken in an open meeting of City Council, and that all deliberations of City Council and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with all applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 8. That this Ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of public peace, health and safety, and for the further reason that collaborative economic development projects are time-sensitive and provided it receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: July 24th, 2023


JAMES W. MORAN
PRESIDENT OF COUNCIL

PRESENTED
TO MAYOR: July 24th, 2023

APPROVED: July 24th, 2023

ATTEST:

Susan G. Pease
SUSAN G. PEASE
CLERK OF COUNCIL

Pamela E. Bobst
PAMELA E. BOBST
MAYOR

City of Rocky River } ss
County of Cuyahoga }

THE UNDERSIGNED CLERK OF THE COUNCIL OF THE CITY OF ROCKY RIVER, OHIO DOES HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 58-23 ADOPTED BY THE COUNCIL OF SAID CITY ON THE 24th DAY OF July, 2023 THAT THE PUBLICATION OF SUCH ORDINANCE HAS BEEN MADE AND CERTIFIED OF RECORD ACCORDING TO LAW; THAT NO PROCEEDINGS LOOKING TO A REFERENDUM UPON SUCH ORDINANCE HAVE BEEN TAKEN; THAT SUCH ORDINANCE AND THE CERTIFICATE OF PUBLICATION THEREOF, ARE OF RECORD IN ORDINANCE RECORD NO. 58-23

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 24th DAY OF July, 2023.

Susan G. Pease
CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO