

ORDINANCE NO. 17-19
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Mark Engert ON THE 19th
DAY OF August, 2019.

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF CENTERVILLE, OHIO IN COOPERATION WITH THE DAYTON REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT; AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ENERGY PROJECT COOPERATIVE AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT; AND DECLARING AN EMERGENCY

PREAMBLE AND PURPOSE

WHEREAS, Centermain LLC (the "Owner") has submitted its *Petition for Special Assessments for Special Energy Improvement Projects* (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 Centerville, Ohio (the "City"); and

WHEREAS, Council of the City of Centerville, Ohio (the "Council") duly passed Resolution No. 54-19 on August 5, 2019 (the "Resolution of Necessity"), which approved the Petition and added the Owner's property, subject to the Petition, to the Dayton Regional Energy Special Improvement District (the "District") and declared the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, an energy efficient TPO roofing system and insulation, a partial roof decking replacement, and related improvements (the "Project"), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, Council duly adopted Ordinance No. 16-19 on August 19, 2019 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 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 "Energy Project Cooperative Agreement") with the District, the Owner, and Petros PACE Finance Titling Trust (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 Montgomery 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 and the Supplemental Plan for the Project.

NOW, THEREFORE, the Municipality of Centerville hereby ordains:

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 \$1,289,987.52, 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 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 Property. The interest portion of the Special Assessments, which shall accrue at the annual rate of 5.76%, 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 2019 for collection in 2020 and shall continue through tax year 2042 for collection in 2043; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Montgomery County, Ohio determines that collections shall not commence in 2020, 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 Director of Finance to the County Auditor 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: 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 Director of Finance to the County Auditor of Montgomery 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 Director of Finance shall keep the Special Assessments on file in the Office of the Director of Finance.

Section 7: Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file in the office of the Clerk of Council. The City Manager is hereby authorized to 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 Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Resolution and not substantially adverse to the City and that are approved the City Manager 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: Council hereby approves the Special Assessment Agreement a copy of which is on file in the office of the Clerk of Council. The City Manager is hereby authorized to 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 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 City Manager 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 City Manager 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 Council is directed to deliver a certified copy of this Ordinance to the County Auditor of Montgomery County, Ohio within 20 days after its passage.

Section 11: Council hereby finds and determines that all formal actions taken relative to the adoption of this Ordinance were taken in an open meeting of Council, and that all deliberations of 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, included Section 121.22 of the Ohio Revised Code.

Section 12: Under Section 5.05 of the Charter of the City, this Ordinance is an Ordinance for improvements petitioned for by the Owner of the requisite majority (100%) of the property benefited and to be assessed, and declared to be an emergency measure for it is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow the Owner to begin work on the special energy improvement project on the Property, and the ESID to take advantage of financing available to it for a limited time. Therefore, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its adoption.

PASSED THIS 17th day of August, 2019.


Mayor of the City of Centerville, Ohio

ATTEST:


Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 17-19, passed by the Council of the City of Centerville, Ohio on the 19 day of August, 2019 and that a true copy of such Ordinance was certified to the County Auditor of Montgomery County, Ohio within 20 days after its passage.


Clerk of Council
City of Centerville, Ohio

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

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>
Centermain LLC	O68-00137-0043	2.29%	\$615.43
Centermain LLC	O68-51447-0001	10.83%	\$2,910.53
Centermain LLC	O68-51447-0002	86.88%	\$23,348.78

SCHEDULE OF SPECIAL ASSESSMENTS
FOR MONTGOMERY COUNTY PARCEL NOS.:

O68-00137-0043¹

The following schedule of Special Assessment charges shall be certified for collection in 48 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2020 through 2043:

Special Assessment Payment Date ²	Special Assessment Installment Amount ³
February 15, 2020	\$615.43
July 15, 2020	\$615.43
February 15, 2021	\$615.43
July 15, 2021	\$615.43
February 15, 2022	\$615.43
July 15, 2022	\$615.43
February 15, 2023	\$615.43
July 15, 2023	\$615.43
February 15, 2024	\$615.43
July 15, 2024	\$615.43
February 15, 2025	\$615.43
July 15, 2025	\$615.43
February 15, 2026	\$615.43
July 15, 2026	\$615.43
February 15, 2027	\$615.43
July 15, 2027	\$615.43
February 15, 2028	\$615.43
July 15, 2028	\$615.43
February 15, 2029	\$615.43
July 15, 2029	\$615.43
February 15, 2030	\$615.43
July 15, 2030	\$615.43
February 15, 2031	\$615.43
July 15, 2031	\$615.43
February 15, 2032	\$615.43
July 15, 2032	\$615.43
February 15, 2033	\$615.43
July 15, 2033	\$615.43
February 15, 2034	\$615.43

¹ As identified in the records of the County Auditor of Montgomery County, Ohio as of July 25, 2019.

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

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

July 15, 2034	\$615.43
February 15, 2035	\$615.43
July 15, 2035	\$615.43
February 15, 2036	\$615.43
July 15, 2036	\$615.43
February 15, 2037	\$615.43
July 15, 2037	\$615.43
February 15, 2038	\$615.43
July 15, 2038	\$615.43
February 15, 2039	\$615.43
July 15, 2039	\$615.43
February 15, 2040	\$615.43
July 15, 2040	\$615.43
February 15, 2041	\$615.43
July 15, 2041	\$615.43
February 15, 2042	\$615.43
July 15, 2042	\$615.43
February 15, 2043	\$615.43
July 15, 2043	\$615.43

SCHEDULE OF SPECIAL ASSESSMENTS
FOR MONTGOMERY COUNTY PARCEL NOS.:

O68-51447-0001¹

The following schedule of Special Assessment charges shall be certified for collection in 48 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2020 through 2043:

Special Assessment Payment Date ²	Special Assessment Installment Amount ³
February 15, 2020	\$2,910.53
July 15, 2020	\$2,910.53
February 15, 2021	\$2,910.53
July 15, 2021	\$2,910.53
February 15, 2022	\$2,910.53
July 15, 2022	\$2,910.53
February 15, 2023	\$2,910.53
July 15, 2023	\$2,910.53
February 15, 2024	\$2,910.53
July 15, 2024	\$2,910.53
February 15, 2025	\$2,910.53
July 15, 2025	\$2,910.53
February 15, 2026	\$2,910.53
July 15, 2026	\$2,910.53
February 15, 2027	\$2,910.53
July 15, 2027	\$2,910.53
February 15, 2028	\$2,910.53
July 15, 2028	\$2,910.53
February 15, 2029	\$2,910.53
July 15, 2029	\$2,910.53
February 15, 2030	\$2,910.53
July 15, 2030	\$2,910.53
February 15, 2031	\$2,910.53
July 15, 2031	\$2,910.53
February 15, 2032	\$2,910.53
July 15, 2032	\$2,910.53
February 15, 2033	\$2,910.53
July 15, 2033	\$2,910.53
February 15, 2034	\$2,910.53

¹ As identified in the records of the County Auditor of Montgomery County, Ohio as of July 25, 2019.

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

July 15, 2034	\$2,910.53
February 15, 2035	\$2,910.53
July 15, 2035	\$2,910.53
February 15, 2036	\$2,910.53
July 15, 2036	\$2,910.53
February 15, 2037	\$2,910.53
July 15, 2037	\$2,910.53
February 15, 2038	\$2,910.53
July 15, 2038	\$2,910.53
February 15, 2039	\$2,910.53
July 15, 2039	\$2,910.53
February 15, 2040	\$2,910.53
July 15, 2040	\$2,910.53
February 15, 2041	\$2,910.53
July 15, 2041	\$2,910.53
February 15, 2042	\$2,910.53
July 15, 2042	\$2,910.53
February 15, 2043	\$2,910.53
July 15, 2043	\$2,910.53

SCHEDULE OF SPECIAL ASSESSMENTS
FOR MONTGOMERY COUNTY PARCEL NOS.:

O68-51447-0002¹

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Special Assessment Payment Date ²	Special Assessment Installment Amount ³
February 15, 2020	\$23,348.78
July 15, 2020	\$23,348.78
February 15, 2021	\$23,348.78
July 15, 2021	\$23,348.78
February 15, 2022	\$23,348.78
July 15, 2022	\$23,348.78
February 15, 2023	\$23,348.78
July 15, 2023	\$23,348.78
February 15, 2024	\$23,348.78
July 15, 2024	\$23,348.78
February 15, 2025	\$23,348.78
July 15, 2025	\$23,348.78
February 15, 2026	\$23,348.78
July 15, 2026	\$23,348.78
February 15, 2027	\$23,348.78
July 15, 2027	\$23,348.78
February 15, 2028	\$23,348.78
July 15, 2028	\$23,348.78
February 15, 2029	\$23,348.78
July 15, 2029	\$23,348.78
February 15, 2030	\$23,348.78
July 15, 2030	\$23,348.78
February 15, 2031	\$23,348.78
July 15, 2031	\$23,348.78
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July 15, 2033	\$23,348.78
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July 15, 2036	\$23,348.78
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July 15, 2037	\$23,348.78
February 15, 2038	\$23,348.78
July 15, 2038	\$23,348.78
February 15, 2039	\$23,348.78
July 15, 2039	\$23,348.78
February 15, 2040	\$23,348.78
July 15, 2040	\$23,348.78
February 15, 2041	\$23,348.78
July 15, 2041	\$23,348.78
February 15, 2042	\$23,348.78
July 15, 2042	\$23,348.78
February 15, 2043	\$23,348.78
July 15, 2043	\$23,348.78

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 CENTERVILLE, OHIO IN COOPERATION WITH
THE DAYTON REGIONAL ENERGY
SPECIAL IMPROVEMENT DISTRICT

I, Karl Keith, the duly elected, qualified, and acting Auditor in and for Montgomery County, Ohio hereby certify that a certified copy of Ordinance _____, duly adopted by the Council of the City of Centerville, Ohio on August 19, 2019 levying special assessments for the purpose of acquiring, installing, equipping, and improving certain public improvements in the City of Centerville, Ohio in cooperation with the Dayton Regional Energy Special Improvement District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges shall be certified for collection in 48 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2020 through 2043, was filed in this office on _____, 2019.

WITNESS my hand and official seal at Dayton, Ohio on _____, 2019.

[SEAL]

Auditor
Montgomery County, Ohio