

RECEIVED
JUN 12 2023
HENRY COUNTY AUDITOR

ORDINANCE NO. 023-23

AN ORDINANCE AUTHORIZING THE CITY OF NAPOLEON, OHIO TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF NAPOLEON, OHIO IN COOPERATION WITH THE NORTHWEST OHIO ADVANCED ENERGY IMPROVEMENT DISTRICT; AND DECLARING AN EMERGENCY

WHEREAS, the Council (“Council”) of the City of Napoleon, Ohio (the “City”) duly adopted Resolution No. 011-23 on April 17, 2023, (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, and improving a special energy improvement project (the “Project,” as more fully described in the Petition referenced in this Ordinance) located on real property owned by Oakwood Partners, LLC (together with its affiliates or controlled entities, the “Owner”) at 1851 Oakwood Ave. within the City (the “Property,” as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Owner’s *Petition for Special Assessments For Special Energy Improvement Projects* (the “Petition”), including by levying and collecting special assessments to be assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which is estimated to be \$1,180,723.93, 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 Northwest Ohio Advanced Energy Improvement District (the “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 Sections 727.15 and 727.18 of the Ohio Revised Code; and; **Now Therefore,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. Definitions. 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. Determination to Proceed. This Council declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, construction, 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, profiles, and estimates of cost previously approved and now on file with the fiscal officer and the Clerk of Council.

Section 3. Special Assessments. That, the Special Assessments to pay costs of the Project, which are estimated to be \$1,180,723.93 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 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 Project for which the Special Assessments are made at an interest rate which shall be determined by the District or the Toledo-Lucas County Port Authority 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, the Toledo-Lucas County Port Authority, 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 Property 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 Property commencing in tax year 2023 for collection in 2024 and shall continue through tax year 2037 for collection in 2038. In addition to the Special Assessments, the County Auditor of Henry 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 Auditor of Henry County, Ohio.

Section 4. Amount of Assessments. 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 fiscal officer, in accordance with the Resolution of Necessity, are adopted.

Section 5. Certification to County Auditor. 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 Auditor of Henry County, Ohio within fifteen (15) days after the date of its passage.

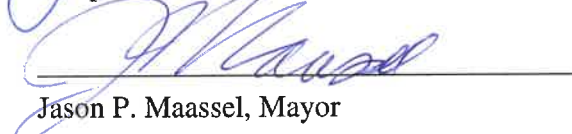
Section 6. Contracts. That, all contracts for the construction of the Project will be let in accordance with the Petition, the Program Plan, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

Section 7. Compliance with Open Meetings Requirements. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

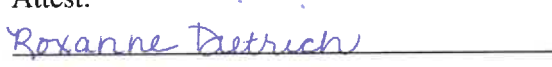
Section 8. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 9. Effective Date. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for commencement of the project in a timely manner; therefore, provided the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for the access of funding that is available for a limited time, and for further reasons as stated in the Preamble hereof.

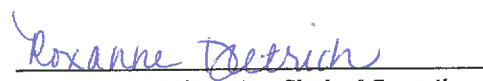
Passed: June 5, 2023 
Joseph D. Bialorucki, Council President

Approved: June 5, 2023 
Jason P. Maassel, Mayor

VOTE ON PASSAGE 6 Yea 0 Nay 0 Abstain

Attest:

Roxanne Dietrich, acting Clerk of Council

I, Roxanne Dietrich, acting Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 023-23 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 11th day of June, 2023; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.



Roxanne Dietrich, acting Clerk of Council

**RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION DETERMINING TO
PROCEED WITH ACQUISITION, CONSTRUCTION,
AND IMPROVEMENT OF CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF NAPOLEON, OHIO
IN COOPERATION WITH THE NORTHWEST OHIO ADVANCED ENERGY
IMPROVEMENT DISTRICT**

I, Elizabeth Fruchey, the duly elected, qualified, and acting Auditor in and for Henry County, Ohio hereby certify that a certified copy of Ordinance No. 023-23 duly adopted by the Council of the City of Napoleon, Ohio on June 05, 2023, determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Napoleon, Ohio in cooperation with the Northwest Ohio Advanced Energy Improvement District, was filed in this office on June 12, 2023.

WITNESS my hand and official seal at Napoleon, Ohio on June 12, 2023, 2023.

[SEAL]



Auditor
Henry County, Ohio

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. 023-23 duly adopted by the Council of the City of Napoleon, Ohio on June 5, 2023, and that a true copy of such Ordinance was certified to the County Auditor of Henry County, Ohio within fifteen (15) days after its passage.

Roxanne Detsich
Acting Clerk of Council
City of Napoleon, Ohio

Sally Heaston, being first duly sworn, says that she is the Publisher of The Northwest Signal a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, publishing on the 10th day of June, 2023.

Sally Heaston

Sally Heaston

Subscribed and sworn to before me this 11th day of June, 2023.

Ramona L. Engelberth

Notary Public

Ramona L. Engelberth



Ramona L. Engelberth
Notary Public, State of Ohio
My Commission Expires:
11-JUL-2027

PUBLISHERS FEE: \$238.50

NOTARY FEE: \$4.00

**Summary of Ordinance No.(s) 023-23, 027-23 and
Resolution No.(s) 021-23, 025-23**

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4.1, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

NOTICE

A copy of the complete text of the above named Ordinance(s) and Resolution(s) are on file in the office of the City Finance Director and may be viewed or obtained during business hours of 7:30 AM to 4:00 PM, Monday through Friday, at the office of the Finance Director, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of the above named Ordinances and Resolutions, or any item mentioned in this notice, may be obtained from the City Finance Director upon the payment of a reasonable fee therefore.

Ordinance No. 023-23

An Ordinance authorizing the City of Napoleon, Ohio to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Napoleon, Ohio in cooperation with the Northwest Ohio Advanced Energy Improvement District; and declaring an Emergency

In this legislation, the City of Napoleon authorized proceeding with the acquisition, construction, and improvement of certain public improvements in the City, in cooperation with the Northwest Ohio Advanced Energy Improvement District.

Ordinance No. 027-23

An Ordinance authorizing the City of Napoleon, Ohio to levy special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Napoleon, Ohio in cooperation with the Northwest Ohio Advanced Energy Improvement District; and declaring an Emergency

In this legislation, the City of Napoleon authorized levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City, in cooperation with the Northwest Ohio Advanced Energy Improvement District.

Resolution No. 021-23

A Resolution authorizing the expenditure of funds in excess of fifty thousand dollars (\$50,000) for the purpose of purchasing a vehicle for the City of Napoleon Electric Department, and to award said purchase to Utility Truck Equipment; and declaring an Emergency

In this legislation, the City of Napoleon authorized the expenditure of funds in excess of \$50,000 for the purchase of a vehicle for the City Electric Department from Utility Truck Equipment.

Resolution No. 025-23

A Resolution authorizing the expenditure of funds in excess of fifty thousand dollars (\$50,000) for a project known as the Palmer Ditch Pumping Station Project, which was not included in the 2023 Master Bid List, Resolution No. 068-22, and authorizing competitive bidding in regard thereto; and declaring an Emergency

In this legislation, the City of Napoleon authorized the expenditure of funds in excess of \$50,000 for the Palmer Ditch Pumping Station Project, also authorizing competitive bidding.

The above summaries are approved as to form and correctness by
Billiv D. Harmon, City Law Director