

RECEIVED
JUN 12 2023
HENRY COUNTY AUDITOR

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

WHEREAS, this Council (the "Council") of the City of Napoleon, Ohio (the "City") duly adopted Resolution No. 011-23 on April 17, 2023, (the "Resolution of Necessity") and declared the necessity of acquiring, constructing, improving and installing a special energy improvement project (the "Project"), as described in the Resolution of Necessity and as set forth in the Owner's *Petition for Special Assessments For Special Energy Improvement Projects* (the "Petition") on file with the Clerk of Council; and,

WHEREAS, this Council duly passed Resolution No. 011-23 on April 17, 2023 and Ordinance No. 023-23 on June 5, 2023 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 fiscal officer pursuant to the Resolution of Necessity; 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; and,

WHEREAS, the City intends to enter into a Special Assessment Agreement (the "Special Assessment Agreement") to provide for the security for the Project Advance (as defined in the Special Assessment Agreement) and for administration of payments on the Project Advance and related matters with the District; **Now Therefore**,

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

Section 1. Definitions. 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. Special Assessments. That, the list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, which is \$1,180,723.93, 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 fiscal officer, 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 5.95%, together with amounts used to pay administrative expenses, has been determined by the District and the Toledo-Lucas County Port Authority (the "Authority") to be substantially equivalent to the fair market rate that would have been borne by notes or bonds been issued by the Authority, which

Authority is working cooperatively with the District and the City to facilitate the financing of the costs of the Project.

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. The semi-annual installments 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 fiscal officer 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 and incorporated into this Ordinance as Exhibit A.

Section 3. Amount of Special Assessments. That, 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. Waiver of Cash Settlement. That, Oakwood Partners, LLC (together with its affiliates or controlled entities, 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 fiscal officer to the County Auditor of Henry 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. Appropriation of Special Assessments. That, 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. Special Assessments File. That, the fiscal officer shall keep the Special Assessments on file in the Office of the fiscal officer.

Section 7. Certification to County Auditor. That, 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 Henry County, Ohio within twenty (20) days after its passage.

Section 8. Approving the Special Assessment Agreement. That, this Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk

of Council. The Mayor, or other appropriate officer of the City, or any of them 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 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 other appropriate officer of the City, or any of them 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. Agreements. 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 Law Director, the Auditor, or other appropriate officer of the City, or any of them 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 11. Effective Date. That, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety in that such energy special improvement project must access funding available to it for a limited time.

Section 12. 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 13. 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 14. 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
Joseph D. Bialorucki, Council President

Approved: June 5, 2023

Jason P. Maassel
Jason P. Maassel, Mayor

VOTE ON PASSAGE 6 Yea 0 Nay 0 Abstain

Attest:

Roxanne Dietrich
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. 027-23 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
Roxanne Dietrich, acting Clerk of Council

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 Assessment</u>
Oakwood Partners, LLC	41-120134.0100	100%	\$1,127,895.30

**SCHEDULE OF SPECIAL ASSESSMENTS
FOR HENRY COUNTY PARCEL NOS.:**

41-120134.0100*

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

The energy efficiency savings for the project are expected to be 15% or more annually and consist of the following energy efficiency elements:

1. LED Lighting
2. Insulated loading dock doors
3. Plumbing
4. HVAC
5. Skylights

Total project cost: \$686,978.30

Total cost including financing and other charges: \$810,000.00

Number of semi-annual installments: 29

Total direct payments prior to establishment of assessment to be collected*: \$40,281.97

Total assessment payments to be collected: \$1,127,895.30

Estimated annual assessment payment**: \$80,563.94

Estimated semi-annual special assessments for 14 years**: \$40,281.97

First annual assessment due: January 31, 2024***

Note: Henry County may add a processing charge to the assessment amount.

County Taxable Year	Total Annual Assessment Parcel #41-120134.0100	Year Payments Are Due	1st Half (Due 1/31)	2nd Half (Due 7/31)
	\$ 40,281.97 *	2023		\$ 40,281.97 *
2023	\$ 80,563.94	2024	\$ 40,281.97	\$ 40,281.97
2024	\$ 80,563.94	2025	\$ 40,281.97	\$ 40,281.97
2025	\$ 80,563.94	2026	\$ 40,281.97	\$ 40,281.97
2026	\$ 80,563.94	2027	\$ 40,281.97	\$ 40,281.97
2027	\$ 80,563.94	2028	\$ 40,281.97	\$ 40,281.97
2028	\$ 80,563.94	2029	\$ 40,281.97	\$ 40,281.97
2029	\$ 80,563.94	2030	\$ 40,281.97	\$ 40,281.97
2030	\$ 80,563.94	2031	\$ 40,281.97	\$ 40,281.97
2031	\$ 80,563.94	2032	\$ 40,281.97	\$ 40,281.97
2032	\$ 80,563.94	2033	\$ 40,281.97	\$ 40,281.97
2033	\$ 80,563.94	2034	\$ 40,281.97	\$ 40,281.97
2034	\$ 80,563.94	2035	\$ 40,281.97	\$ 40,281.97
2035	\$ 80,563.94	2036	\$ 40,281.97	\$ 40,281.97
2036	\$ 80,563.94	2037	\$ 40,281.97	\$ 40,281.97
Total Assessment	\$ 1,168,177.13			

** The County Auditor of Henry County, Ohio may impose a special assessment collection fee with respect to each Special Assessment payment. If imposed, this special assessment collection fee will be added by the County Auditor of Henry, Ohio to each Assessment payment.

*** Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the County Auditor of Henry County, Ohio under certain conditions.

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. 027-23 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 twenty (20) days after its passage.


Roxanne Dietrich
Acting Clerk of Council
City of Napoleon, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION LEVYING 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

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. 027-23 duly adopted by the Council of the City of Napoleon, Ohio on June 05, 2023 levying 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, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges shall be certified for collection in 28 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2024 through 2037, 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

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
Bill D. Harmon, City Law Director