

ORDINANCE NO. 2023-07

An Ordinance Renewing the Levying of Special Assessments for the Purpose of Acquiring, Constructing, Equipping, Improving, and Installing Certain Public Improvements in the Village of Lewisburg, Ohio in Cooperation with the Lewisburg Energy Special Improvement District; and Determining to Directly Bill Certain Installments of Those Special Assessments and to Re-Certify Any Unpaid Directly Billed Assignments and the Remaining Installments of Those Special Assessments to the Preble County Auditor for Collection.

WHEREAS, this Council of the Village of Lewisburg, Ohio (the "Village"), duly adopted Resolution No. 2021-10 on June 17, 2021 (the "Resolution of Necessity"), and declared the necessity of acquiring, constructing, equipping, improving and installing energy efficiency improvements, including, without limitation, LED lighting, HVAC systems, process heating boilers/CHP, and related improvements (the "Project"), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, the amount of Special Assessments (as defined and set forth in the Resolution of Necessity) sufficient to pay the costs of the Project was estimated to be \$1,420,915.00, which included other related costs of financing the Project including, 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, including Village and District administrative and legal fees and expenses, and ongoing trustee fees and District administrative fees and expenses; and

WHEREAS, this Council duly adopted Ordinance No. 2021-06 on June 17, 2021 (the "Ordinance to Proceed") and determined to proceed with the Project and adopted the estimated Special Assessments filed with the Council Clerk; and

WHEREAS, this Council duly adopted Ordinance No. 2021-07 on June 17, 2021 (the "Ordinance Levying Assessments") and levied the Special Assessments in semi-annual installments to be collected commencing in tax year 2022 for collection in 2023 and continuing through tax year 2040 for collection in 2041; and

WHEREAS, this Council initially determined in the Ordinance Levying Assessments that the Village Fiscal Officer would certify all of the installments of the Special Assessments to the County Auditor of Preble County, Ohio (the "County Auditor") for collection as set forth in Ohio Revised Code Section 727.33; and

WHEREAS, this Council has determined that the installments of the Special Assessments to be billed and collected with respect to tax year 2022, collection year 2023, shall initially be billed and collected by or on behalf of the Village Fiscal Officer as set forth in Ohio Revised Code Section 727.331, and, if such installments are unpaid to

the Village Fiscal Officer, shall be certified to the County Auditor for collection with respect to tax year 2023, collection year 2024, in addition to any installments previously certified for collection at that time; and

WHEREAS, under the Cooperative Agreement dated as of July 1, 2021 (the “Cooperative Agreement”) by and between the Village, the District, the Warren County Port Authority (the “Investor”), Big Belly Building, LLC (the “Owner”), and The Huntington National Bank (the “Disbursing Agent”), the Village has assigned the Special Assessments and agreed to transfer the Special Assessments to the Disbursing Agent, as provided in the Cooperative Agreement; and

WHEREAS, in order to cause the efficient billing and collection of the installments of the Special Assessments to be collected with respect to tax year 2022, collection year 2023, this Council has determined to authorize and direct the Village to cooperate with the Disbursing Agent to prepare, send, and provide for the collection of special assessment bills with respect to such installments; and

WHEREAS, any unpaid installments of the Special Assessments billed by the Village and the Disbursing Agent, together with all remaining installments of the Special Assessments, beginning with the installments levied for tax year 2023, shall continue to be collected by the County Auditor, as set forth under Ohio Revised Code Section 727.33.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Lewisburg Ohio, that:

Section 1. Definitions. Each capitalized term used in this Ordinance where the rules of grammar would otherwise not require and 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. The list of Special Assessments levied and assessed on the Property under the Ordinance Levying Assessments in the total amount sufficient to pay the costs of the Project, which is \$1,420,915.00, is hereby re-approved.

The Special Assessments continue to be assessed against the Property. The Special Assessments were originally assessed against the Property commencing in tax year 2022 for collection in 2023 and shall continue through tax year 2040 for collection in 2041. The remaining unpaid semi-annual installments of the Special Assessments shall continue to be collected in each calendar year equal to a maximum semi-annual amount of Special Assessments as shown in Exhibit A, attached to and incorporated into this Ordinance.

The installments of the Special Assessments originally levied with respect to tax year 2022, collection year 2023 (the “2023 Installments”), shall initially be collected by the Village Fiscal Officer, as set forth in Ohio Revised Code Section 727.331. The Village Fiscal Officer is hereby authorized and directed to cooperate with the Disbursing Agent

to cause the 2023 Installments to be billed and collected, and, upon their collection, to be paid and applied as set forth in the Ordinance Levying Assessments and in the Cooperative Agreement. If all or any part of the installments levied with respect to tax year 2022, collection year 2023, are not timely paid to the Village, the Village shall certify any unpaid amounts to the County Auditor pursuant to Ohio Revised Code Section 727.33 for collection with respect to tax year 2023, collection year 2024, in addition to those installments initially levied and certified for collection at that time.

All unpaid and remaining future installments of the Special Assessments shall be re-certified by the Village Fiscal Officer to the County Auditor pursuant to Ohio Revised Code Chapter 727.33, to remain on the tax list and duplicate and be collected with and in the same manner as real property taxes are collected.

The Special Assessments are allocated among the parcels constituting the Property as set forth in the Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit A.

Section 3. Waiver of Cash Settlement. The Owner, for itself and for all its successors in interest as owners of the Property, 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 Village Fiscal Officer to be collected in installments in semi-annual installments originally commencing in tax year 2022 for collection in 2023 and shall continue through tax year 2040 for collection in 2041, as further set forth on the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit A.

Section 4. Continued Appropriation of Special Assessments. The Special Assessments will continue to be used by the Village to provide the Project as provided under the Cooperative Agreement, and the Special Assessments are and remain appropriated for such purposes.

Section 5. List of Special Assessments. The Village Fiscal Officer shall continue to keep the Special Assessments on file in the Office of the Village Fiscal Officer.

Section 6. Compliance with Open Meetings Requirements. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this legislative Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and 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 7. Effective Date. As provided under Section 4.07 of the Village Charter, this Ordinance is an ordinance for improvements petitioned for by the owners of a majority of the front footage or of the area of the property benefited and to be assessed and shall therefore take effect immediately upon its passage.

Dated: May 18, 2023

Marsha Jones  
Mayor

Attest: Elizabeth A. Wagoner  
Clerk of Council

**CERTIFICATION OF CLERK OF COUNCIL**

I, Elizabeth A. Wagoner, am the duly appointed Clerk of Council of the Village of Lewisburg, Preble County, Ohio, and I hereby certify that the above Ordinance, including any "Exhibits" or other attachments are a true and accurate copy or duplicate original of the original record filed with my office this 18<sup>th</sup> day of May, 2023.

Elizabeth A. Wagoner  
Elizabeth A. Wagoner, 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 Assessments</u>
Big Belly Building, LLC	Parcel ID. No D13001202800012003	100%	\$1,420,915.00

SCHEDULE OF SPECIAL ASSESSMENTS  
FOR PREBLE COUNTY PARCEL NOS.:

D13001202800012003 \*

The following schedule of Special Assessment charges shall be certified for collection in two semi-annual installments to be collected first-half and second-half real property taxes commencing in tax year 2022, calendar year 2023, and continuing through tax year 2040, calendar year 2041:

Special Assessment Payment Date**	Special Assessment Payment Amount***
January 31, 2023	\$37,392.50
July 31, 2023	37,392.50
January 31, 2024	37,392.50
July 31, 2024	37,392.50
January 31, 2025	37,392.50
July 31, 2025	37,392.50
January 31, 2026	37,392.50
July 31, 2026	37,392.50
January 31, 2027	37,392.50
July 31, 2027	37,392.50
January 31, 2028	37,392.50
July 31, 2028	37,392.50
January 31, 2029	37,392.50
July 31, 2029	37,392.50
January 31, 2030	37,392.50
July 31, 2030	37,392.50
January 31, 2031	37,392.50
July 31, 2031	37,392.50
January 31, 2032	37,392.50
July 31, 2032	37,392.50
January 31, 2033	37,392.50
July 31, 2033	37,392.50
January 31, 2034	37,392.50
July 31, 2034	37,392.50
January 31, 2035	37,392.50
July 31, 2035	37,392.50
January 31, 2036	37,392.50
July 31, 2036	37,392.50
January 31, 2037	37,392.50
July 31, 2037	37,392.50
January 31, 2038	37,392.50
July 31, 2038	37,392.50
January 31, 2039	37,392.50
July 31, 2039	37,392.50

January 31, 2040	\$37,392.50
July 31, 2040	37,392.50
January 31, 2041	37,392.50
July 31, 2041	37,392.50

\* As identified in the records of the County Auditor of Preble County, Ohio as of June 7, 2021.

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

\*\*\* For the installments of the Special Assessments to be collected by the County Auditor of Preble County, Ohio, the County Auditor of Preble County, Ohio may impose a special assessment collection fee with respect to each semi-annual Special Assessment payment. If imposed, this special assessment collection fee will be added by County Auditor of Preble County, Ohio to each semi-annual Special Assessment payment.