

ORDINANCE NO. 2021 - 07

An Ordinance Levying 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 Approving an Energy Project Cooperative Agreement, Special Assessment Agreement, and Related Agreements to be Entered into for the Financing of those Improvements.

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 on certain real property located within the Village, 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, This Council duly passed Ordinance No. 2021 - 06 on June 17, 2021 and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Council Clerk pursuant to the Resolution of Necessity; and

WHEREAS, the actual costs of the Project have been ascertained and have been certified to the Village by the Owner in the Petition and the Supplemental Plan; and

WHEREAS, in order to provide for the financing of the Project, the Owner has requested that the Village enter into a Cooperative Agreement with the Owner, the District, and the Warren County Port Authority, substantially in the form now on file with the Council (as it may be amended from time to time, the "Cooperative Agreement"), together with such other documents, instruments, and agreements as may be reasonably necessary, not materially adverse to the Village, and not inconsistent with this Ordinance in connection with the Cooperative Agreement and to provide for the financing of the Project; and

WHEREAS, 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.

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

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. Special Assessments. 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

\$1,420,915.00, 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 with the Council Clerk, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the Village.

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

All Special Assessments shall be certified by the Village Fiscal Officer to the County Auditor of Preble County, Ohio 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 to and incorporated into this Ordinance as Exhibit A.

Section 3. Amount of Special Assessments. 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. 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 Village Fiscal Officer to the County Auditor of Preble 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. Cooperative Agreement and Other Documents. This Council hereby approves the Cooperative Agreement, substantially in the form now on file with this Council, together with such changes to it as may be approved by the Village Manager, not materially adverse to the Village, and not inconsistent with this Ordinance, all of which shall be conclusively evidenced by the Village Manager's signature on the Cooperative Agreement. The Village Manager is hereby authorized, for and on behalf of and in the name of the Village to execute and deliver the Cooperative Agreement. The Village is hereby authorized to take all action necessary to perform its duties and obligations and enforce its rights under the Cooperative Agreement. The

Village Manager is further authorized to execute and deliver, for and on behalf of and in the name of the Village, any further documents, instruments, or agreements as may be reasonably necessary in connection with the Cooperative Agreement and to carry out the purposes of this Ordinance, that are not materially adverse to the Village, and that are not inconsistent with this Ordinance, all of which shall be conclusively evidenced by the Village Manager's execution and delivery of such documents, instruments, or agreements. The Village is hereby authorized to take all action necessary to perform any duties and obligations and to enforce its rights under any such additional documents, instruments, or agreements.

Section 6. Appropriation of Special Assessments. The Special Assessments will be used by the Village to provide the Authorized Improvements as provided under the Cooperative Agreement, and the Special Assessments are hereby appropriated for such purposes.

Section 7. Special Assessments File. The Village Fiscal Officer shall keep the Special Assessments on file in the offices of the Village Fiscal Officer.

Section 8. Certification to County Auditor. That in compliance with Ohio Revised Code Section 319.61, the Village Fiscal Officer is directed to deliver a certified copy of this Ordinance to the County Auditor of Preble County, Ohio within 20 days after its passage.

Section 9. Compliance with Open Meetings Requirements. That 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 10. 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: 06-17-2021

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 in my office this 17<sup>th</sup> day of June, 2021.



Elizabeth A. Wagoner  
Elizabeth A. Wagoner, Clerk of Council  
D1501

**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.

\*\*\*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.