

ORDINANCE 2023 – 59

DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF MASON, OHIO IN COOPERATION WITH THE I-75 ENERGY SPECIAL IMPROVEMENT DISTRICT.

WHEREAS, the City Council (the “Council”) of the City of Mason, Ohio (the “City”) duly adopted Resolution No. 2023 – 19 on June 12, 2023, (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, and improving the special energy improvement Project defined in the Resolution of Necessity as the Project, located on real property owned by The C.M. Paula Company (together with its successors and assigns as owner of the Property, as defined below, the “Owner”) within the City and having Warren County Auditor Parcel ID Number 1505477012 (the “Property”, as more fully described in Exhibit A to the Project Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Project Petition and Supplemental Plan (each as defined in the Resolution of Necessity), including by levying and collecting the Special Assessments (as defined in the Resolution of Necessity) to be assessed upon the Property in a maximum amount sufficient to pay the costs of the Project, which is estimated to be Two Million One Hundred Forty Three Thousand Nine Hundred and Seventy Nine Dollars and Zero Cents (\$2,143,979.00) together with other related costs of financing the Project, which 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 I-75 Energy Special Improvement District (the “ESID”) 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 ESID; 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 affected property owners and no claims for damages have been filed with this Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mason, Ohio, six members elected thereto concurring:

Section 1. 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. That this Council declares that its intention is to proceed with the acquisition, construction, and improvement of the Project described in the Project 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 Director of the Department of Finance and the Clerk of Council.

Section 3. That the Special Assessments to pay costs of the Project, which are estimated to be a maximum amount of Two Million One Hundred Forty Three Thousand Nine Hundred and Seventy Nine Dollars and Zero Cents (\$2,143,979.00), together with other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner and its affiliates or otherwise to pay costs of the Authorized Improvements 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 ESID administrative fees and expenses, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Project Petition and the Resolution of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of the principal of and an assumed maximum rate of interest on obligations issued to pay the costs of the Project and the scheduled amounts payable as the ESID administrative fee. If the rate of interest is less than the assumed maximum rate of interest such that the aggregate amount of Special Assessments necessary to repay the financing for the Project is less than the aggregate amount of Two Million One Hundred Forty Three Thousand Nine Hundred and Seventy Nine Dollars and Zero Cents (\$2,143,979.00), the Owner and the provider of the financing shall certify a final schedule of Special Assessments to the City, which final schedule shall be certified to the County Auditor of Warren County, Ohio for collection.

The Special Assessments shall be assessed against the Property commencing in tax year 2023 for collection in calendar year 2024 and shall continue through tax year 2051 for collection in calendar year 2052. In addition to the Special Assessments, the Auditor of Warren 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 Auditor of Warren County, Ohio.

Section 4. 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 Finance Director, in accordance with the Resolution of Necessity, are adopted.

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

Section 6. That all contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code, the Project Petition, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

Section 7. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of 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 8. Pursuant to Section 4.08 of the Charter of the City, each ordinance or resolution such as this Ordinance providing for improvements petitioned by the owners of the requisite majority of the front footage or of the area of the property benefitted and to be especially assessed therefor, shall take effect immediately.

[SIGNATURE PAGE FOLLOWS]

Passed this 12th day of June, 2023.

Mayor

Attest:

Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council of the City of Mason, Ohio hereby certifies this to be a true and exact copy of Ordinance No. 2023-[____], adopted by the City Council of the City of Mason on June 12, 2023.

Clerk of Council

RECEIPT OF WARREN COUNTY AUDITOR FOR
LEGISLATION DETERMINING TO
PROCEED WITH ACQUISITION, CONSTRUCTION,
AND IMPROVEMENT OF CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF MASON
IN COOPERATION WITH THE I-75 ENERGY SPECIAL IMPROVEMENT DISTRICT

I, Matt Nolan, the duly elected, qualified, and acting Auditor in and for Warren County, Ohio hereby certify that a certified copy of Ordinance No. 2023-[____] duly adopted by the City Council of the City of Mason, Ohio on June 12, 2023 and made effective as of June 12, 2023, determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Mason in cooperation with the I-75 Energy Special Improvement District, was filed in this office on June [____], 2023.

WITNESS my hand and official seal at Lebanon, Ohio on June [____], 2023.

[SEAL]

Auditor
Warren County, Ohio