

REQUESTED BY: CITY MANAGER, SCOTT BAUER

DATE OF FIRST READING: 9-6-22 WAIVE RULES?  YES  NO

FINAL ACTION DATE: 9-20-22 VOTE:  YES  NO

SUSPENSION OF TWO READING RULE:

ADOPTION OF ORDINANCE:

YES	NO		YES	NO
<u>      </u>	<u>  ✓  </u>	DENISE LINGO	<u>      </u>	<u>      </u>
<u>      </u>	<u>      </u>	ROBERT PARSONS	<u>  ✓  </u>	<u>      </u>
<u>      </u>	<u>  ✓  </u>	JOE ROETTING	<u>  ✓  </u>	<u>      </u>
<u>      </u>	<u>      </u>	KISHA DOSA	<u>  ✓  </u>	<u>      </u>
<u>      </u>	<u>  ✓  </u>	CORDEL GEORGE	<u>  ✓  </u>	<u>      </u>
<u>      </u>	<u>  ✓  </u>	DANIEL MUELLER II	<u>  ✓  </u>	<u>      </u>
<u>      </u>	<u>  ✓  </u>	PAUL YOUNG III	<u>  ✓  </u>	<u>      </u>
<u>  0  </u>	<u>  5  </u>	TOTALS	<u>  6  </u>	<u>  0  </u>

Mrs. DOSA Made a motion to adopt this Resolution and

Mr. GEORGE seconded the motion.

ORDINANCE NO. 22-1995

**AN ORDINANCE**

LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF MOUNT HEALTHY, OHIO IN COOPERATION WITH THE WESTERN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY

**WHEREAS**, This Council of the City of Mount Healthy, Ohio (the "City") duly adopted Resolution No. 22-1190 on September 20, 2022, (the "Resolution of Necessity") and declared the necessity of acquiring, constructing, improving and installing special energy improvement projects defined as the Project, as described in the Resolution of Necessity, and as set forth in the Project Petition, requesting those improvements; and,

**WHEREAS**, This Council duly passed Ordinance No. 22-1994 on September 28, 2022, 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 the Council pursuant to the Resolution of Necessity; and,

**WHEREAS**, the City intends to enter into (i) an Energy Project Cooperative Agreement (the “Cooperative Agreement”) with PLG Finance LLC (the “Investor”), the District, and KSDD Properties, LLC (the “Owner”) to provide for, among other things, (i) the making of the Project Advance (as defined in the Cooperative Agreement and referred to herein as the “Project Advance”) to pay costs of the Project, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the Project, and (iii) the delivery of the Special Assessments to the Investor by the City or by the County Auditor of Hamilton County, Ohio (the “County Auditor”) on behalf of the City to pay principal and interest and other costs relating to the Project Advance; and

**WHEREAS**, to provide for the security for the Project Advance and for the administration of payments on the Project Advance and related matters, the City intends to enter into the Special Assessment Agreement with the County Treasurer of Hamilton County, Ohio (the “County Treasurer”), the District, the Owner, and the Investor (the “Special Assessment Agreement”); and

**WHEREAS**, It is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow the Owner to begin work on the special energy improvement project on the Property, and the Western Communities Energy Special Improvement District (“ESID”) to take advantage of financing available to it for a limited time; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOUNT HEALTHY, OHIO:**

**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 the list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, \$1,888,141.00, together 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, which costs were set forth in the Project Petition and previously reported to this Council and are now on file in the offices of the Clerk of the Council, 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 City.

The Special Assessments are assessed against the Property commencing in tax year 2022 for collection in calendar year 2023 and shall continue through tax year 2046 for collection in calendar year 2047. The semi-annual installment 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 to and incorporated into this Ordinance.

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

**Section 3.** That this Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property through the financing of the Project as set forth in the Project Petition and are not in excess of any applicable statutory limitation.

**Section 4.** That 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 the Auditor of Hamilton County, Ohio as provided by the Project 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 Project Petition.

**Section 5.** That the Special Assessments will be used by the City to provide the Authorized Improvements in cooperation with the ESID in any manner, including assigning the Special Assessments actually received by the City to the ESID or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

**Section 6.** That the Clerk of the Council shall keep the Special Assessments on file in the Office of the Clerk of the Council.

**Section 7.** That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Auditor of Hamilton County, Ohio within twenty (20) days after its passage.

**Section 8.** 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 9.** That for the reasons stated in the preamble hereof, this ordinance shall be declared an emergency measure and shall take effect immediately upon its passage.

PASSED BY THE COUNCIL. SEPTEMBER 20, 2022


SIGNED BY THE MAYOR. SEPTEMBER 20, 2022

  
\_\_\_\_\_  
MAYOR OF THE CITY OF MOUNT HEALTHY, OHIO

ATTEST:


  
\_\_\_\_\_  
Clerk of the Council

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

CERTIFICATE

The undersigned Clerk of the Council hereby certifies that the foregoing is a true copy of Ordinance No. 22-1995 duly adopted by the Council of the City of Mount Healthy, Ohio on September 6, 2022, and that a true copy thereof was certified to the Auditor of Hamilton County, Ohio. 20

  
Clerk of the Council  
City of Mount Healthy, Ohio

**EXHIBIT A**

**LIST OF SPECIAL ASSESSMENTS AND  
SCHEDULE OF SPECIAL ASSESSMENTS**

**LIST OF SPECIAL ASSESSMENTS**

8046-8050 HAMILTON AVENUE, CINCINNATI, OHIO PROJECT

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
KSDD Properties, LLC	593-0002-0225-00	81.85%	\$1,545,443.50
KSDD Properties, LLC	593-0009-0001-00	7.58%	\$143,121.00
KSDD Properties, LLC	593-0009-0026-00	10.57%	\$199,576.50

\*As identified in the records of the Auditor of Hamilton County, Ohio as of August 30, 2022.

**SCHEDULE OF SPECIAL ASSESSMENTS**

The following schedule of Special Assessment charges shall be levied in fifty (50) semi-annual installments with respect to first-half and second-half real property taxes in calendar years 2023 through 2047:

<b>Special Assessment Date*</b>	<b>Total Special Assessment Amount**</b>	<b>Special Assessment Amount Parcel 593-0002-0225-00</b>	<b>Special Assessment Amount Parcel 593-0009-0001-00</b>	<b>Special Assessment Amount Parcel 593-0009-0026-00</b>
January 31, 2023	\$37,762.82	\$30,908.87	\$2,862.42	\$3,991.53
July 31, 2023	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2024	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2024	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2025	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2025	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2026	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2026	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2027	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2027	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2028	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2028	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2029	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2029	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2030	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2030	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2031	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2031	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2032	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2032	37,762.82	30,908.87	2,862.42	3,991.53

Special Assessment Date*	Total Special Assessment Amount**	Special Assessment Amount Parcel 593-0002-0225-00	Special Assessment Amount Parcel 593-0009-0001-00	Special Assessment Amount Parcel 593-0009-0026-00
January 31, 2033	\$37,762.82	\$30,908.87	\$2,862.42	\$3,991.53
July 31, 2033	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2034	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2034	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2035	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2035	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2036	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2036	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2037	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2037	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2038	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2038	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2039	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2039	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2040	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2040	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2041	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2041	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2042	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2042	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2043	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2043	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2044	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2044	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2045	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2045	37,762.82	30,908.87	2,862.42	3,991.53



Special Assessment Date*	Total Special Assessment Amount**	Special Assessment Amount Parcel 593-0002-0225-00	Special Assessment Amount Parcel 593-0009-0001-00	Special Assessment Amount Parcel 593-0009-0026-00
January 31, 2046	\$37,762.82	\$30,908.87	\$2,862.42	\$3,991.53
July 31, 2046	37,762.82	30,908.87	2,862.42	3,991.53
January 31, 2047	37,762.82	30,908.87	2,862.42	3,991.53
July 31, 2047	37,762.82	30,908.87	2,862.42	3,991.53

\*\* 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 Hamilton County Auditor under certain conditions.

\*\*\* The Auditor of Hamilton 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 the Auditor of Hamilton County, Ohio to each semi-annual Special Assessment payment.

RECEIPT OF COUNTY AUDITOR FOR  
LEGISLATION LEVYING SPECIAL ASSESSMENTS  
FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING,  
AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS  
IN THE CITY OF MOUNT HEALTHY, OHIO IN COOPERATION WITH  
THE WESTERN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT

I, Dusty Rhodes, the duly elected, qualified, and acting Auditor in and for Hamilton County, Ohio hereby certify that a certified copy of Ordinance No. 28-1995, duly adopted by the Council of the City of Mount Healthy, Ohio on September 20<sup>th</sup>, 2022, levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Mount Healthy, Ohio in cooperation with the Western Communities Energy Special Improvement District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges are levied in fifty (50) semi-annual installments with respect to real property taxes due in calendar years 2023 through 2047, was filed in this office on \_\_\_\_\_, 2022.

WITNESS my hand and official seal at Cincinnati, Ohio on \_\_\_\_\_, 2022.

[SEAL]

\_\_\_\_\_  
Auditor  
Hamilton County, Ohio