

# CITY OF CLAYTON, OHIO

## ORDINANCE NO. O – 03 -23- 04

### **AN ORDINANCE APPROVING CONSTRUCTION OF STREET LIGHTING IMPROVEMENTS IN AND TO ADOPT ASSESSMENTS FOR ANNUAL LIGHTING CHARGES UPON LOTS LOCATED WITHIN HUNTER’S PATH, SECTION ONE, IN THE CITY OF CLAYTON, OHIO**

**WHEREAS**, by Resolution No. R-02-23-17, enacted February 2, 2023, (“Resolution of Necessity”) and in accordance with Ohio Revised Code Section 727.12, Council declared the necessity of constructing street lighting improvements; and

**WHEREAS**, in accordance with Ohio Revised Code Section 727.13, notice of the passage of the Resolution of Necessity and the filing of the estimated assessment under Section 727.12 of the Revised Code was served upon the owners of the lots and/or parcels of land to be assessed for the proposed improvement by certified mail; and

**WHEREAS**, no objections were made or requests for the creation of an Assessment Equalization Board under Ohio Revised Code Section 727.16 nor have claims been received pursuant to Ohio Revised Code Section 727.18 by any owner of a lot or parcel of land asserting that the owner will sustain damages by reason of the proposed improvement; and

**WHEREAS**, Council desires and hereby declares its intent to proceed with approval of the construction of the street lighting improvements in accordance with the provisions of the Resolution of Necessity and impose the required assessments for said improvements.

### **NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the City hereby approves construction of the street lighting improvements in Hunter’s Path, Section One, in accordance with the plans, specifications and assessments, rates and charges provided for in the Resolution of Necessity duly enacted by Council on February 2, 2023, under the authority of Ohio Revised Code Chapter 727.
2. That the assessments prepared and filed in accordance with the Resolution of Necessity passed under Ohio Revised Code Section 727.12 and on file in the Clayton Government Center are hereby ratified, confirmed and adopted.
3. That as no claims for damages were filed in accordance with Ohio Revised Code Section 727.18, pursuant to that Section of the Code, such claims are deemed waived and therefore barred.
4. That this Council hereby declares it necessary for the preservation and promotion of the public health and welfare, for the reasons set forth in the preambles hereof, to enter into an agreement with AES/Miami Valley Lighting LLC for full-service lighting and to assess the

accumulated annual charge estimated to be **\$4,557.60** against the lots in Hunter's Path, Section One.

5. The lots or parcels of land to be assessed for the Hunter's Path, Section One, Street Lighting Improvement Project are: All of the Properties located within Hunter's Path, Section One, located in Section 29, Town 5, Range 5 East, City of Clayton, Montgomery County, Ohio and as further described in the attached Petition (**Exhibit A**) and Lot Map (**Exhibit B**).

6. The Hunter's Path Section One, Street Lighting Improvement Project is estimated to consist of installation and trenching of ten (10) light poles and fixtures at a developers cost of **\$107,900** and total annual lighting charges for said ten (10) poles and fixtures of **\$4,557.60** to be assessed as delineated herein with no portion of the improvement to be paid by the City.

7. The boundaries of the area to be assessed include all properties within Hunter's Path, Section One.

8. The Improvements are more particularly described and set out in the plans, specifications, estimates of cost, rates, charges and tentative assessments which are on file in the Clayton Government Center, 6996 Taywood Road, Englewood, Ohio, 45322 where they may be examined and which plans, specifications, estimates of costs, rates, charges and tentative assessments are hereby approved.

9. That the total annual lighting charge is estimated to be **\$4,557.60** and shall be funded as follows:

- (a) The portion to be specially assessed to property owners on an annual basis totals **\$4,557.60 - \$69.05 per parcel**, as adjusted to reflect increases in future years, in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

10. The City does not intend to issue securities in anticipation of the levy of the assessments. The City does not intend to issue securities in anticipation of the collection of the assessments.

11. That the assessments against each parcel of property subject to assessment shall be prepared and filed in the office of the Clerk of Council and shall be open for inspection during regular business hours.

***12. That Notice of the passage of this Ordinance shall, after the assessment has been made and filed as provided herein be served by the Clerk of Council, or a person designated by the clerk, upon the owners of the lots or parcels of land to be assessed for the Improvements, by Certified Mail, RRR, addressed to such owner at his/her last known address or to the address to which tax bills are sent.***

***13. That a certified copy of this Ordinance shall be filed with the Montgomery County Auditor.***

14. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.

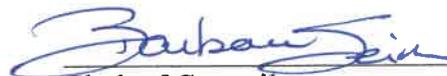
15. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on March 2, 2023 and March 16, 2023.

16. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON MARCH 16, 2023.

AUTHENTICATION:

  
Mayor (Presiding Officer of Council)

  
Clerk of Council

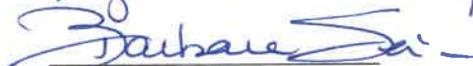
APPROVED AS TO FORM:

  
Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper	Date of publication
<u>Register Herald</u>	<u>March 22, 2023</u>

  
CLERK

Ref.: R.C. 727.12, R.C. 727.18, Clayton Charter Section 4.031 and 4.031(H), Clayton Charter Section 8.02

**LIGHTING ASSESSMENT PETITION**  
**(Hunter's Path, Phase 1)**

**CITY OF CLAYTON, OHIO**

**TO: THE COUNCIL OF THE CITY OF CLAYTON, OHIO**

1. We, the undersigned owners of seventy-five (75%) percent or more of the parcels that abut the street or streets on which lighting improvements are being requested, do hereby petition the Council for the following public improvement:

Installation and maintenance of streetlights for the purpose of making our community more desirable, with such streetlights to be supplied power through a contract that will be funded with monies from the assessment:

**Description:** Please describe, as thoroughly as possible, the street or streets to be included in the assessment area. This should be accomplished by referring to cross streets, subdivision names, and specific address boundaries, so that an accurate accounting of affected parcels or lots can be attained.

The streets included with this project include only the streets found specifically in Phase 1 of Hunter's Path, more specifically Redwood Road Lots 1-8, 15-24, 52-57, 60-66; Willow Road Lots 34-46, 47-51; Fallgold Dr 25-33; Falls Rd 9-14, 58,59

**Number of Affected Parcels:** Please determine the number of affected parcels or lots that abut the street or streets on which light improvements are being requested. Also, provide any additional information that may be needed to properly understand or verify this accounting.

66 parcels

2. We, the undersigned, request that the entire cost of the lighting improvements be assessed equally amongst all abutting property owners as, regardless of the size of the individual lots, each property owner will equally benefit from the safety and aesthetic enhancement provided by the streetlights.

3. We, and each of us, further acknowledge and agree, in consideration of the installation and maintenance of the street light improvement, that no property, other than that which abuts the above-described streets, will receive special benefits from the improvements, and request that all assessments be limited to the parcels or lots that abut the street on which the improvement will be made.

4. In consideration of the improvement, we and each of us, agree to promptly pay all special assessments as they become due and that the determination of the special assessments by the Council against lots and lands owned by each of the undersigned will be final, conclusive and binding upon each of us.

5. We and each of us, consent and request that these special assessments be levied and collected without limitation as to the value of the property assessed, and waive the following:

(a) Any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code, or by any other provision restricting these special assessments to thirty three and one-third percent (33-1/3%) of the actual improved value of the lots and lands as enhanced by the improvements to be made;

(b) Any and all resolutions, ordinances and notices required for the making of the improvement, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated costs and the passage of the assessing ordinance, including but not limited to, the notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code; and

(c) Any and all irregularities and defects in the proceedings.

6. We agree and consent to the submittal of petitions executed in duplicate counterparts all of which shall be considered as a single petition.

7. We, and each of us, further consent and request that all legislation required to be enacted to permit the improvements to commence immediately be enacted at a single Council meeting.

**Collection and Submission of Signatures:** In order for Council to consider this petition, all petitioners must provide their name, address, and signature, along with the parcel number or numbers of their property. Each owner of a particular property must sign in order for that parcel or lot to be included in the 75% calculation. Please number each individual entry.

Name(s)	Address of Property	Lots	Parcel Number(s)	Signature
Hunters Path Project 1, LLC Phase 1				
	Redwood Road 1000-1035	1-8 15-24 52-57 60-66	M60 03207 0107-0114 M60 03207 0121-0130 M60 03207 0158-0163 M60 03207 0166-0172	
	Willow Road 5001-5026	34-46	M60 03207 0140-0152	

47-51 M60 03207 0153-0157

Fallgold Dr 6261, 6263-  
6270

25-33 M60 03207 0131-0139

Falls Rd 3009,3011,3013-  
3020,3022

9-14 M60 03207 0115-0120

58-59 M60 03207 0164-0165

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Miami Valley Lighting  
 1065 Woodman Drive  
 Dayton, OH 45432  
 937.475.8627  
 robyn.livesay@aes.com

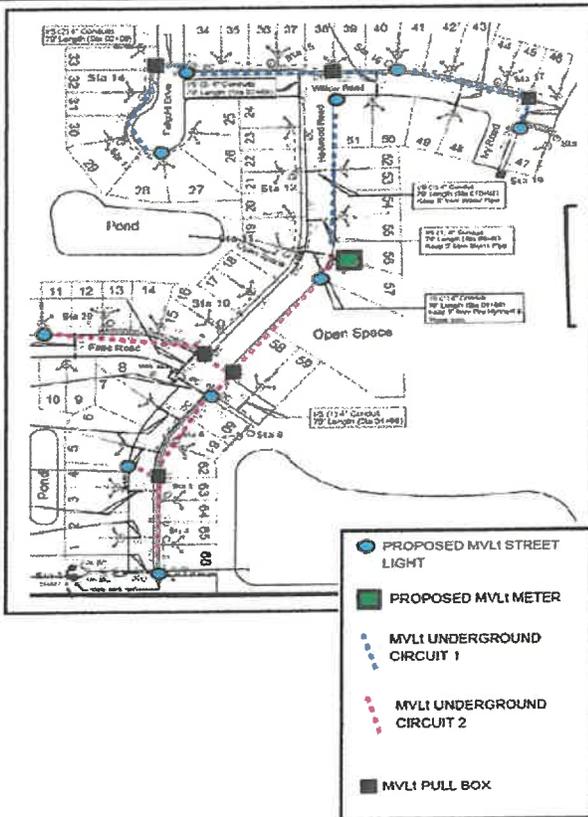
**Street Light Proposal**

Customer Name: City of Clayton  
 Attention: Jack Kuntz (jkuntz@clayton.oh.us)  
 Email Address: Seth Dorman (sdorman@clayton.oh.us)  
 Developer: DDC Management  
 Contact: Mike Lewis  
 Phone: 614.554.8310

Date: 1/10/2023  
 Proposal Expiration: 2/9/2023  
 Proposal No.: 10262471  
 Prepared By: Robyn Livesay

Project Location: **Hunters Path Ph 1**

Qty	Description	Unit Price	Total
10	Install and provide full service to Tier I LED Granville Fixtures (green)	\$1,235	\$12,350
10	Install and provide full service to 12' Hapco Georgetown Poles (green).	\$2,869	\$28,690
1	Meter Installation	\$3,949	\$3,949
<b>Installation Charge (Paid by the Developer)</b>			<b>\$44,989</b>



Option	Description	Cost
Option 1	Underground Options MVLT will install street light wire, conduit and pull boxes.	<b>\$62,911</b>
Option 2	Developer will install street light wire, conduit and pull boxes to MVLT specifications - See attached MVLT Specs	No Additional Charges

Underground charges are the developer's responsibility.

**Developer Proposal Authorization**  
 The Developer agrees to the locations, quantity and installation charges. Sign below next to the underground option of choice and total installation charge responsibility.

Option	Signature	Total Installation Charges
Option 1	 (Developer Authorized Signature)	\$ 107,900
Option 2	_____ (Developer Authorized Signature)	\$ 44,989

Date: 1/17/23

Payment Options	Option 1 MVLT Provides URD	Option 2 Developer Provides URD
Amount due with signed proposal:	\$55,000	\$28,000
Amount Due Prior to Installation:	\$52,900	\$16,989
	<b>\$107,900</b>	<b>\$44,989</b>

Street Light Poles/Fixtures estimated installation time is 24-26 weeks from the date MVLT receives the signed proposal, pending material deliveries.

**City Proposal Authorization**  
 The City agrees to the locations, quantity and full service lighting charges for this project.

Signature: \_\_\_\_\_  
 (City Authorized Signature)

Date: \_\_\_\_\_

	Monthly Full-Service Lighting Charge	Total Monthly Charge	Total Annual Charge
10 Tier I LED Granville (Green)	\$20.89	\$208.90	\$2,506.80
10 12' Decorative Pole (Green)	\$16.23	\$162.30	\$1,947.60
1 Customer Meter Charge (DB)	\$8.60	\$8.60	\$103.20
<b>Total Annual Lighting Charge (Paid by the City on Street Light Bill)</b>			<b>\$4,557.60</b>

\*Return Signed Proposal to Robyn Livesay (robyn.livesay@aes.com)