

ORDINANCE NO. 23 -

**AN ORDINANCE ESTABLISHING CITY OF NAPERVILLE
SPECIAL SERVICE AREA NO. 35 FOR STREETScape IMPROVEMENTS
ON WASHINGTON STREET FROM CHICAGO AVENUE TO BENTON AVENUE IN
DOWNTOWN NAPERVILLE**

RECITALS

A. **WHEREAS**, on January 17, 2023 the City Council of the City of Naperville passed Ordinance 23-002, “An Ordinance Proposing and Setting a Public Hearing for the Establishment of Special Service Area No. 35 for Streetscape Improvements on Washington Street from Benton Avenue to Chicago Avenue in downtown Naperville”; and

B. **WHEREAS**, as described in Ordinance 23-002, Special Service Area No. 35 is to consist of the real property depicted on the map attached to this Ordinance as **Exhibit A** and described on **Exhibit B** by legal description, permanent tax index numbers, and common addresses; and

C. **WHEREAS**, the purpose of Special Service Area No. 35 is to levy a special ad valorem tax against the property included in Special Service Area No. 35 for a period not to exceed fifteen (15) years and not to exceed the rate or amount necessary to produce total revenues of four million, five hundred and fifty thousand dollars (\$4,500,000.00); in order to provide special services related to the Special Service Area Improvements for Streetscape Improvements described in Ordinance No. 23-002, including the design, construction, construction management, engineering, legal fees, capitalized interest, and other costs uniquely attributable to said Special Service Area, including but not limited to design and new construction of wider sidewalks, carriage walks, benches, built-in seating, raised

planters, curb and railing, pavers, and decorative lighting, as generally depicted on **Exhibit C** of Ordinance No. 23-002, and to pay for legal fees and costs for mailing, publication, recording, and other necessary and incidental expenses incurred in establishing the Special Service Area (cumulatively referenced herein as “**SSA 35 Costs**”); and

D. **WHEREAS**, pursuant to Ordinance 23-002, a public hearing was opened, conducted and adjourned by the Naperville City Council on Tuesday, March 21, 2023 for the purpose of considering the establishment of Special Service Area No. 35; and

E. **WHEREAS**, as proposed in Ordinance 23-002, the special ad valorem tax for the property included in Special Service Area No. 35 will not exceed \$4.00 per annum per one hundred dollars (\$100.00) of assessed value as equalized against the property within Special Service Area No. 35, with a levy in an amount not to exceed three hundred thousand dollars (\$300,000) in the initial year for which taxes will be levied; and

F. **WHEREAS**, only one petition, attached to this Ordinance as **Exhibit D**, objecting to the formation of Special Service Area No. 35, as provided for by Section 27-55 of the Special Service Tax Law, was filed with the City within sixty (60) days of the adjournment of the public hearing on proposed Special Service Area No. 35 on March 21, 2023; and

G. **WHEREAS**, special service areas may be established as long as less than fifty percent of the property owners do not object to the establishment; and

H. **WHEREAS**, less than fifty percent of the property owners have objected to the establishment of Special Service Area No. 35; and

I. **WHEREAS**, the City Council has determined that there is a need to provide special services within Special Service Area No. 35 as described and referenced herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION 1: The foregoing Recitals are a material part of this Ordinance and are incorporated in this Section 1 as though fully set forth herein.

SECTION 2: The City of Naperville has the authority pursuant to Article VII, Section 6(l) of the 1970 Constitution of the State of Illinois, and the Special Service Area Tax Law, 35 ILCS 200/27-5 *et seq.*, to provide special services to contiguous areas within its corporate boundaries, and to provide the manner of levying and imposing additional taxes to pay for the cost of such special services.

SECTION 3: The City Council of the City of Naperville makes the following findings of fact:

- (a) Ordinance No. 23-002, An Ordinance Proposing and Setting a Public Hearing for the Establishment of Special Service Area No. 35 for Streetscape Improvements on Washington Street between Benton Avenue and Chicago Avenue in Downtown Naperville, was duly passed by the Naperville City Council on January 17, 2023.
- (b) A public hearing to consider establishment of Special Service Area No. 35 was conducted by the Naperville City Council on March 21, 2023, not less than sixty (60) days after the adoption of the ordinance proposing the establishment of Special Service Area No. 35. All interested persons were given an opportunity to be heard on the question of the proposed establishment of Special Service Area No. 35.
- (c) Notice of the public hearing regarding the proposed establishment of Special Service Area No. 35 was given by publication on February 22, 2023 in the Chicago Tribune, a newspaper of general circulation in the City of Naperville, at least fifteen (15) days prior to the hearing. Notice of the public hearing was also addressed and mailed to the person, persons, or entity in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within Special Service Area No. 35. The notice was given by depositing the notice in the United States mail not less than ten (10) days prior to the time for the public hearing. In the event taxes for the last preceding year were not paid, the notice was sent to the person last listed on the tax rolls prior to that year. An Affidavit of

Compliance with Notice Requirements for Special Service Area No. 35 (“Affidavit”) is attached hereto and made part hereof as **Exhibit E**. Attachment #1 to the Affidavit is the notice of public hearing published in the Chicago Tribune on February 22, 2023. Attachment #2 to the Affidavit reflects the notice mailed to the person, persons, or entities to whom individual notice was mailed.

- (d) The public hearing on the establishment of Special Service Area No. 35 was conducted and adjourned on March 21, 2023.
- (e) Only one petition objecting to the formation of Special Service Area No. 35, as provided for by Section 27-55 of the Special Service Tax Law, was filed with the City Clerk within sixty (60) days of the adjournment of the public hearing on the proposed Special Service Area on March 21, 2023.
- (f) After considering the evidence presented at the public hearing and other relevant information, the City Council finds that it is in the public interest and in the interest of the City of Naperville that Special Service Area No. 35 be established.
- (g) Special Service Area No. 35 is compact and contiguous, no part of the Special Service Area lies within any incorporated municipality other than the City of Naperville or within an unincorporated area, and the area meets the requirements of the Special Service Area Tax Law.
- (h) Special Service Area No. 35 will benefit specially from the services to be provided and the proposed services are in addition to municipal services provided to the City of Naperville as a whole.

SECTION 4: A Special Service Area to be known and designated as “City of Naperville Special Service Area No. 35” is hereby established and shall consist of the real property depicted on the map attached to this Ordinance as **Exhibit A** and legally described on **Exhibit B**.

SECTION 5: Special Service Area No. 35 is hereby established to provide special municipal services, in addition to services provided to the City generally, relating to Streetscape Improvements on Washington Street between Benton Avenue and Chicago Avenue in downtown Naperville as described and referenced herein.

SECTION 6: A special tax shall be levied against the property included in Special Service Area No. 35 for a period not to exceed fifteen (15) years at a rate not to exceed four dollars (\$4.00) per annum per one hundred dollars (\$100) of assessed value of the property located in Special Service Area No. 35, as equalized, and not to exceed three hundred thousand dollars (\$300,000) in the initial year for which taxes will be levied. The proceeds of the Special Service Area tax shall be used to pay for the special services described and referenced herein.

SECTION 7: The City Clerk is hereby authorized and directed to record a certified copy of this Ordinance, including an accurate map of Special Service Area No. 35 and the other exhibits attached hereto, with the Office of the DuPage County Recorder within sixty (60) days of adoption of this Ordinance, and to file a certified copy of this Ordinance, including an accurate map of Special Service Area No. 35 and the other exhibits attached hereto, with the Office of the DuPage County Clerk.

SECTION 8: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

SECTION 9: This Ordinance shall be in full force and effect upon its passage and approval according to law.

PASSED this ___ day of _____, 2023

AYES:

NAYS:

ABSENT:

APPROVED this ___ day of _____, 2023

Scott A. Wehrli
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk