

ORDINANCE NO. 22-034

AN ORDINANCE TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPPING, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF SANDUSKY, OHIO IN COOPERATION WITH THE CITY OF SANDUSKY, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT, AND DECLARING IT AN EMERGENCY (333 E WASHINGTON ST. PROJECT); AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission (“Commission”) of the City of Sandusky, Ohio (the “City”) duly adopted Resolution No. 017-22R on February 28, 2022 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, improving, and installing energy efficiency improvements including, without limitation, LED lighting, HVAC system, glazing, plumbing, insulation, external siding, exterior framing, doors, drywall, roofing, masonry, and related improvements (the “Project,” as more fully described in the Petition referenced in this Ordinance) located on real property owned by Name One, Yellowstone LLC, an Ohio limited liability company (the “Owner”) located at 333 East Washington Street, Sandusky, Ohio and identified by the County Auditor of Erie County, Ohio as Parcel Number 56-01157.000 within the City (the “Property”, as more fully described in Exhibit “A” to the Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the *Owner’s Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the “Petition”), including by levying and collecting special assessments to be assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which is estimated to be \$904,903.00, including other related costs of financing the Project, which may 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 City of Sandusky, Ohio Energy Special Improvement District (“District”) 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 District; and

WHEREAS, the claims for damages alleged to result from, and objections to, the Project have been waived by the Owner, as the owner of one hundred percent (100%) of the Property, and no claims for damages alleged to result from, or objections to, the Project have been filed within the times prescribed by Ohio Revised Code Sections 727.15 and 727.18; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter so the Owner may begin work on the special energy improvement project on the Property and the District may take advantage of financing available to it for a limited time; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an

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emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Petition or to it in the Resolution of Necessity.

Section 2. This Commission declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, construction, and improvement of the Project described in the 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 Commission Clerk.

Section 3. The Special Assessments to pay costs of the Project, which are estimated to be \$904,903.00, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the reasonable costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; reasonable expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other reasonable obligations issued or incurred to provide a loan or to secure an advance of funds to the Owner or otherwise 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 or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and reasonable District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Petition and the Resolution of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of any principal repayment and interest and administrative fees payable with respect to the Project. The Special Assessments shall be assessed against the Property commencing in tax year 2023 for collection in 2024 and shall continue through tax year 2051 for collection in 2052; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Erie County, Ohio determines that collections shall not commence in 2024, then the collection schedule may be deferred by one year. In addition to the Special Assessments, the County Auditor of Erie 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 County Auditor of Erie County, Ohio.

Section 4. The estimated Special Assessments for costs of the Project prepared and filed in the office of the Commission Clerk, in accordance with the Resolution of Necessity, are adopted.

Section 5. In compliance with Ohio Revised Code Section 319.61, the Commission Clerk is directed to deliver a certified copy of this Ordinance to the County Auditor of Erie County, Ohio within 15 days after the date of its passage.

Section 6. All contracts for the construction of the Project will be let in accordance with the Petition, the Program Plan, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

Section 7. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 8. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 9. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: February 28, 2022