

**ORDINANCE NO. 22-035**

**AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF SANDUSKY, OHIO IN COOPERATION WITH THE CITY OF SANDUSKY, OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT AND APPROVING PROJECT DOCUMENTS, 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**, Name One, Yellowstone LLC (the “Owner”) has submitted a *Petition For Special Assessments for Special Energy Improvement Projects and Affidavit* (the “Petition”) in order to provide for the completion of a special energy improvement project on certain real property owned by the Owner within the City of Sandusky, Ohio (the “City”) and having tax parcel identification number 56-01157.000 (the “Property”) as identified by the County Auditor of Erie County, Ohio (the “County Auditor”); and

**WHEREAS**, this Commission (the “Commission”) of the City duly adopted Resolution No. 017-22R on February 28, 2022 (the “Resolution of Necessity”) and declared the necessity of acquiring, constructing, improving and installing energy efficiency improvements on certain real property, including, without limitation, LED lighting, HVAC system, glazing, plumbing, insulation, external siding, exterior framing, doors, drywall, roofing, masonry, and related improvements (the “Project”), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

**WHEREAS**, this Commission duly passed Ordinance No. 22-034 on February 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 Commission Clerk pursuant to the Resolution of Necessity; and

**WHEREAS**, the City intends to enter into (i) an Energy Project Cooperative Agreement (the “Cooperative Agreement”) with the City, the District, the Owner, and Greenworks Lending LLC (the “Investor”), 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 transfer of the special assessments levied by this Resolution to the Investor to repay 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 Erie County, Ohio (the “County Treasurer”), the District, the Owner, the Investor, and the City (the “Special Assessment Agreement”); 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 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 Resolution of Necessity.

Section 2. The maximum list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, which is \$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 the Purchaser 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, which costs were set forth in the Petition and previously reported to this Commission and are now on file in the office of the Director of Finance, is adopted and confirmed, and that the maximum Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, has been determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds issued by the District to facilitate the financing of the costs of the Project.

As requested in the Petition, the final aggregate amount of the Special Assessments may be in an amount less than the aggregate amount of \$904,903.00 if the final rate of interest for the financing for the Project is less than the assumed maximum rate of interest. 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 \$904,903.00, 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 for collection.

The Special Assessments are 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 determines that collections shall not commence in 2024, then the collection schedule may be deferred by one year. The semi-annual installments 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 hereto and incorporated into this Ordinance.

All Special Assessments shall be certified by the Director of Finance to the County Auditor pursuant to the Petition and Ohio Revised Code Chapter 727.33 to be placed 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 Petition.

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

Section 3. This Commission finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

Section 4. The Owner and the Purchaser have each waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Director of Finance to the County Auditor as provided by the 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 Petition.

Section 5. The Special Assessments will be used by the City to pay the cost of the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

Section 6. The Director of Finance shall keep the Special Assessments on file in the Office of the Director of Finance.

Section 7. This Commission hereby approves the Cooperative Agreement, a copy of which is attached as Exhibit "B". The City Manager is authorized to sign and deliver, in the name and on behalf of the City, the Cooperative Agreement. The Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the Cooperative Agreement or amendments to the Cooperative Agreement.

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Section 8. This Commission hereby approves the Special Assessment Agreement, a copy of which is attached as Exhibit "C". The City Manager shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement. The Special Assessment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement.

Section 9. The City Manager is hereby authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements.

Section 10. 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 within 20 days after its passage.

Section 11. 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 12. 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 13. 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.



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RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION



ATTEST: 

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CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: February 28, 2022