

**ORDINANCE NO. 23-247**

**AN ORDINANCE AUTHORIZING AND APPROVING A GRANT IN THE AMOUNT OF \$15,000.00 THROUGH THE ECONOMIC DEVELOPMENT FUND PROGRAM TO WTF-R2 INVESTMENTS LLC (D.B.A. WHAT THE FRIED RICE) IN RELATION TO THE PROPERTY LOCATED AT 186 EAST MARKET STREET; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, Li Yu is the owner of WTF-R2 Investments LLC (d.b.a. What the Fried Rice) and has negotiated a lease for the space located at 186 E. Market Street, on the corner of East Market Street and Wayne Street, to operate a fast-casual Asian cuisine restaurant; and

**WHEREAS**, Li Yu has been in the restaurant industry for over thirty-five (35) years, including twenty (20) years in family business and the last ten (10) years managing his restaurants; and

**WHEREAS**, What the Fried Rice will offer cook-to-order dishes made with fresh ingredients and includes fried rice, noodles, ramen, stir-fries, and a variety of appetizers; and

**WHEREAS**, the City has determined that this project pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City and for the health and safety and welfare of its residents, and are necessary to improve the economic and general welfare of people of the City; and

**WHEREAS**, the Economic Development Incentive Committee met on November 14, 2023, and is recommending to approve a grant to WTF-R2 Investments LLC (d.b.a. What the Fried Rice) in the amount of \$15,000.00 to assist with project costs for the purposes of furthering economic development and revitalization efforts in the City; 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 in order to immediately approve the Grant Agreement to ensure the timely completion of the project; 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, including the Department of Community Development, 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:

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Section 1. This City Commission authorizes and directs the City Manager to enter into a Grant Agreement with WTF-R2 Investments LLC (d.b.a. What the Fried Rice) for financial assistance through the Economic Development Fund Program for the purpose of furthering economic development, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. This City Commission authorizes and approves the grant funding to WTF-R2 Investments LLC (d.b.a. What the Fried Rice) in an amount **not to exceed** Fifteen Thousand and 00/100 Dollars (\$15,000.00) from the Economic Development Capital Projects Funds of the City of Sandusky pursuant to and in accordance with the terms of the Grant Agreement.

Section 3. 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 4. This City 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's Commission and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 5. That for the 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 after its adoption and 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: December 11, 2023

GRANT AGREEMENT

THIS GRANT AGREEMENT (the "**Agreement**") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2023 (the "**Effective Date**"), by and between the CITY OF SANDUSKY, OHIO, an Ohio municipal corporation, and WTF-R2 Investments LLC, an Ohio limited liability company (the "**Company**"). The City and the Company are collectively referred to herein as the "**Parties**".

WITNESSETH:

WHEREAS, pursuant to Ordinance No. [] passed by the City Commission of the City of Sandusky, Ohio (the "**City Commission**") on \_\_\_\_\_, 2023 (the "**Approval**"), the City determined that it is in the best interest of the citizens of the City, in order to encourage economic development and employment within the City, to grant funds to financially support the project at 182 East Market Street, Sandusky, Ohio 44870 (the "**Property**"); and,

WHEREAS, the Company currently operates "What the Fried Rice" in Northwood, OH and is choosing to open its second location in Sandusky, Ohio;

WHEREAS, the Project will consist of renovating the space and purchasing equipment, specifically a Wok system, which is the primary cooking system, to the kitchen space ; and,

WHEREAS, the Project will result in an estimated annual sales revenue of \$550, 000, in the first year and anticipates hiring 8 employees, which will be new employees, with an estimated annual payroll of \$125,000 in the City of Sandusky; and,

WHEREAS, to induce the Project, the City has agreed to provide an economic incentive grant to the Company to assist in the payment of a portion of the costs of the Project as further described in Section 1 hereof; and,

WHEREAS, as authorized in Article VIII, Section 13 of the Ohio Constitution and in accordance with the guidelines established by the City, the City has offered to provide the Company a grant to encourage economic development and employment within the City; and,

WHEREAS, the Company acknowledges the City's commitment to provide financial assistance through this grant and has agreed to enter into this Agreement, which sets forth the Company's obligations concerning the use of the grant proceeds; and,

WHEREAS, the City has determined that this Project pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City and for the health and safety and welfare of its residents, and are necessary to improve the economic and general welfare of people of the City.

NOW THEREFORE, the Parties covenant, agree and obligate themselves as follows:

Section 1. Terms of the Grant. The City shall grant to the Company funds in the amount of Fifteen Thousand Dollars (\$15,000) (the “Grant”) for use by the Company exclusively for the Project. The grant shall be disbursed in one lump sum upon the completion of the Project. This City Grant shall be disbursed from 2023 economic development incentive funding source. This City Grant will not increase if the applicant chooses to make additional improvements not contemplated in the grant application. The City reserves the right to adjust the awarded grant amount, if recommended by the Economic Development Incentive Committee, for substantive changes to the project scope only. Construction must be done in accordance with and to the reasonable satisfaction of the City, which includes, but is not limited to, compliance with all Planning, Zoning and Building code regulations, and other applicable codes and regulations of the City, including obtaining permits. Furthermore, the Company agrees to display a sign during construction and for at least one (1) year upon completion of the Project noting the City’s support.

The Company shall notify the City promptly following the completion of the Project consistent with this Section and provide the City with any documents it reasonably requests related to Project costs and construction. The City shall then promptly review those documents and inspect the site and let the Company know if it has satisfied the conditions set forth in this Section and, if not, describe what is found to be deficient. In order to receive the City Grant, the Project will need to be completed by May 1, 2024. This date may be extended at the discretion of the City Manager.

The City shall pay the Grant by check placed in the U.S. regular mail within fourteen (14) days following confirmation of the satisfactory completion of construction to the notice address provided in Section 6 below.

Section 2. Use of Funds. The Company will use the Grant to complete the Project. The Company shall use the Grant solely in connection with eligible expenses incurred under the Project. By accepting the Grant herein provided, the Company agrees to meet the terms of this Grant Agreement. All improvements to the Premises must be made in accordance with any approvals for the Project and permits and inspections as may be required by the City.

Section 3. City's Obligation to Make Payments Not Debt. Notwithstanding anything to the contrary herein, the obligations of the City pursuant to this Agreement are not a general obligation debt or bonded indebtedness, or a pledge of the general credit or taxes levied by the City, and the Company has no right to have excises or taxes levied by the City, the State or any other political subdivision of the State for the performance of any obligations of the City herein. Consistent with Section 13 of Article VIII, Ohio Constitution, any payments required to be made by the City pursuant to this Agreement are to be payable solely from the City's non-tax revenues. Further, the obligation of the City to make the payments pursuant to this Agreement are in accordance with the City Council’s Approval and subject to certification by the Director of Finance of the City as to the availability of such non-tax revenues.

Section 4. Events of Default. At any time during the Term of this Agreement, and solely at the discretion of the City, should the City determine the Company is not in compliance with the terms of the Grant set forth herein, then the City shall provide Notice of Default to the Company pursuant to Section 5 demanding strict compliance therewith. If the Company fails to take necessary action during the notice period herein to remain in compliance, then the City shall immediately seek any legal or equitable remedy to which it is entitled including the repayment of any Grant amount.

Section 5. Notice of Default. Pursuant to Section 4, should the City determine that the Company is not in compliance with the terms of the Grant, then the City shall provide written notice to the Company, addressed to and sent via the notice provisions of Section 7 below (the “**Notice of Default**”). The Notice of Default shall state clearly the reason(s) for which the City determines the Company to be out of compliance. The Company shall have ten (10) days from the date it received the Notice of Default to cure or otherwise take the necessary corrective action to remain in compliance with the terms of the Grant under this Agreement.

Section 6. Indemnification of the City. The Company shall indemnify, defend, and hold harmless the City from and against all claims, losses, liabilities, damages, costs, and expenses, including reasonable attorneys’ fees, costs and expenses, arising from the City’s remittance of funds under the Grant.

Section 7. Miscellaneous.

(a) Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by a recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this agreement, Notices shall be addressed to:

(i) If to the City:

City Manager  
Attn: Director of Community Development  
City of Sandusky, Ohio  
240 Columbus Avenue  
Sandusky, OH 44870

(ii) If to the Company:

\_\_\_\_\_

Attention: \_\_\_\_\_

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

(b) Extent of Provisions: Personal Liability. All rights, remedies, representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. No representation, warranty, covenant, agreement, obligation, or stipulation contained in this Agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future director, member, officer, agent or employee of the City. No official executing or approving the City's participation in this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

(c) Successors. This Agreement shall be neither binding upon nor inure to the benefit of the Company's successors and assigns unless with the prior written consent of the City.

(d) Assignment or Transfer. This Agreement shall not be assigned or transferred without the express written consent of the City.

(e) Amendments. This Agreement may only be amended by a written instrument executed by both Parties.

(f) Authority to Sign. The Company and City both represent that this Agreement has been approved by formal action of the duly authorized representatives of both Parties.

(g) Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(h) Severability. In case any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

(i) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into, or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein;

(ii) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and

(iii) each section, provision, covenant, agreement, obligation or action, or part thereof shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the fullest extent permitted by law.

(i) Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of the Agreement.

(j) Governing Law and Choice of Forum. This Agreement shall be governed by and constructed in accordance with the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Company, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Erie County, Ohio.

(k) Further Assurances. The Company shall, upon request of the City, duly execute and deliver to the City such further instruments, and do and cause to be done such further acts, as may be necessary or proper in the opinion of the City to carry out the provisions and purposes of this Agreement.

[Signature Page Follows.]

IN WITNESS WHEREOF, the City and the Company have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the Effective Date.

WTF-R2 Investments, LLC

By \_\_\_\_\_  
Li Yu, Owner

CITY OF SANDUSKY, OHIO

By: \_\_\_\_\_  
John Orzech, City Manager

EXHIBIT "A"

The legal form of the within instrument  
Is hereby approved.

\_\_\_\_\_  
Stewart Hastings, Law Director  
City of Sandusky



**CERTIFICATE OF DIRECTOR OF FINANCE**

The undersigned, fiscal officer of the City of Sandusky, Ohio, hereby certifies that the money required to meet the obligations of the City under the foregoing Agreement has been lawfully appropriated by the City Commission of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

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Michelle Reeder, Finance Director

EXHIBIT "A"