

ORDINANCE NO. 24-079

AN ORDINANCE REPEALING ORDINANCE NO. 23-170, PASSED ON AUGUST 28, 2023, AND ORDINANCE NO. 24-007, PASSED ON JANUARY 8, 2024; AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR WETLANDS MITIGATION CREDITS WITH STREAMS + WETLANDS FOUNDATION FOR THE LANDING PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission declared their support for The Landing Park Project by Resolution No. 005-18R, passed on January 22, 2018; and

WHEREAS, the City Commission authorized and directed the City Manager to enter into an agreement for professional design services with Environmental Design Group, LLC, of Akron, Ohio, to complete pathway alignments, final engineering, landscape architectural design, environmental permitting, and acquisition services for certain sections of the Landing Project by Ordinance No. 18-127, passed on June 25, 2018; and

WHEREAS, Environmental Design Group, LLC is in the process of pursuing various environmental permits, surveys, and approvals on behalf of the City in order to complete the next step of the Landing Project, including wetland delineation; and

WHEREAS, the wetland delineation was originally completed in 2018 and was updated in 2022, and there are a total of 51 acres of wetlands on the Landing site with 1.2 acres being permanently impacted, but there are no mitigation banks within the Sandusky River Watershed that would accommodate Category 3 coastal wetlands of these types; and

WHEREAS, the City Commission authorized the City Manager to enter into agreements for wetlands mitigation credits for the Landing Project with Streams + Wetlands Foundation for the Pearson Metroparks Mitigation Bank by Ordinance No. 23-169 and for the Grafton Swamp Wetlands Mitigation Bank as part of the Black-Rocky Umbrella Mitigation Bank by Ordinance No. 23-170, both passed on August 28, 2023; and

WHEREAS, the City Commission authorized the City Manager to enter into a First Amendment to the Agreement for wetlands mitigation credits for the Landing Project with Streams + Wetlands Foundation through the Grafton Swamp Wetlands mitigation Bank as part of the Black-Rocky Umbrella Mitigation Bank by Ordinance No. 24-007, passed on January 8, 2024, to reduce the credits that were no longer needed; and

WHEREAS, although the United States Army Corps of Engineers (USACE) approved the use of purchased credits from the Black-Rocky Umbrella Mitigation Bank Instrument (UMBI), the Ohio Environmental protection Agency (OEPA) would not allow this site as a comparable location since it was multiple watersheds away and therefore Ordinance Nos. 23-070 and 24-007 are being repealed; and

WHEREAS, the OEPA and USACE agree that one (1) non-forested and 0.4 forested wetlands credits from The Nature Conservancy through the Ohio Stream

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and Wetland In-Lieu Fee Mitigation Program will fulfill the needs of the project;
and

WHEREAS, the total cost of the wetland mitigation credits is not to exceed \$95,200.00 and will be paid with Capital Projects Funds; 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 obtain permits and finalize design; 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 Public Works, 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. This City Commission hereby repeals Ordinance No. 23-170, passed on August 28, 2023, and Ordinance No. 24-007, passed on January 8, 2024.

Section 2. The City Manager is authorized and directed to enter into an agreement with The Nature Conservancy, for the purchase of wetland mitigation credits, in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** Ninety-Five Thousand Two Hundred and 00/100 Dollars (\$95,200.00).

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 Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the

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law.

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.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: April 9, 2024

**Ohio Stream and Wetland In-Lieu Fee Mitigation Program
Mitigation Credit Purchase Agreement**



The Nature Conservancy (TNC) operates the Ohio Stream and Wetland In-Lieu Fee Mitigation Program (the "Program") which is an In-Lieu Fee Mitigation Program approved to sell stream and wetland credits throughout the state of Ohio. The City of Sandusky (Purchaser) desires to purchase credits from the Program for The Landing Project (Corps ID No. LRB 2018 01159). In so doing, Purchaser hereby agrees to the following terms and conditions:

1. **PURCHASE PRICE:** Purchaser shall, subject to the terms and conditions hereinafter provided, pay to TNC the price per credit set forth in the "Letter of Credit Availability and Reservation" (the "Reservation Letter"). If a Reservation Letter was not received by Purchaser within the last one hundred (100) days, the Purchaser shall contact TNC for confirmation of the Purchase Price. The Purchase Price shall be paid in the following manner:
 - A. Upon signing and delivery of this Form and Agreement, together with the attached completed and signed Disclosure form evidencing no conflicts of interest, Purchaser will submit payment in full of the Purchase Price to TNC.
 - B. Payment should be in immediately available funds in the form of a cashier's check or certified check payable to the 'Ohio Water Development Authority'. If payment is by check not in the form of a cashier's check or certified check, payment shall not be deemed to have been made until the check has cleared.
2. **CREDIT SALE COMPLETION REQUIREMENTS:** The sale of credits identified in the Final Credit Request Form shall be deemed to have occurred upon the completion of ALL of the following requirements: (i) payment in full of the Purchase Price by Purchaser in accordance with the above terms, and (ii) issuance of a Payment Voucher by TNC to Purchaser. Payments for the purchase of credits from the Program are not tax deductible contributions.
3. **NO ENDORSEMENT:** TNC plays no role in the Corps' or OEPA's decision to approve or deny a permit or whether mitigation is a necessary condition of any such permit or whether the permitted activity complies with laws, rules or regulations. Further, provision of any credits by TNC under this Program shall in no event be construed as an endorsement or support for the permitted activity.
4. **NON-REFUNDABLE:** The purchase of mitigation credits is non-refundable.
5. **NO USE OF TNC NAME/LOGO:** Purchaser may not use TNC's name or logo in any way without prior written consent from TNC, except to the extent necessary to comply with legal or contractual requirements to specify the source of the purchase of credits.
6. **CONFLICT OF INTEREST DETERMINATION.** Purchaser represents that to the best of its knowledge the information it has provided on TNC's Disclosure Form attached hereto is true and correct, and that Purchaser does not have any conflicts of interest with TNC. Purchaser shall promptly notify TNC writing if there is any change in that information prior to completion of the sale. If a conflict of interest is determined by TNC or arises, then, at TNC's election, any credit reservation or pending credit sale may be terminated without further recourse to the parties.

The Nature Conservancy

By: _____ Date: _____
Bill Stanley, Ohio State Director

The Nature Conservancy
Ohio Stream and Wetland In-Lieu Fee Mitigation Program



Final Credit Request Form

Contact information	Purchaser's Name		City of Sandusky (Attn: Aaron Klein)				
	Address		240 Columbus Ave, Sandusky, OH 44870				
	Consultant's Name		Environmental Design Group				
	Consultant Project Lead		Brian Loushin				
	Address		7965 N High St, suite 050, Columbus, OH 43235				
	Phone Number		614-812-4255				
	Email		bloushin@envdesigngroup.com				
Project Information	Project Name		The Landing				
	Corps ID No. (if applicable)		LRB 2018 01159				
	Water Quality Certification No. (if applicable)		OEPA ID #238749A1				
	Latitude/Longitude		41.4363°, -82.6546°				
	8-digit HUC		04100011				
Impacts	Stream (linear feet)		Ephemeral	Intermittent	Perennial	Total	
			0	0	0	0	
	404 Wetlands (acres)		Category 1	Category 2	Category 3	Total	
			Forested	0	0	0.393	0.393
		Nonforested	0	0	0.966	0.966	
	Isolated Wetlands (acres)		Forested	0	0	0	0
			Nonforested	0	0	0	0
Mitigation Credits Required	Stream Credits						
	Wetland Credits/Type		1.0 acre emergent credits 0.4 acre forested credits				
	Total Purchase Amount (\$)		\$95,200				

By Purchaser's signature, Purchaser agrees to all the terms and provisions of the Purchase Agreement on the back of this form.

[PURCHASER]		[PURCHASER'S CONSULTING FIRM]	
Signature:		Signature:	
Print:	Date:	Print:	Date:

Please send form and payment to: the Ohio Water Development Authority, Attn: Meg Cline; P.O. Box 73514, Cleveland, OH 44193; and email scanned copies to kevin.mcconnell@tnc.org