

AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF VAN WERT, OHIO IN COOPERATION WITH THE VAN WERT AREA ENERGY SPECIAL IMPROVEMENT DISTRICT; AND DECLARING AN EMERGENCY

WHEREAS, the Council (the “Council”) of the City of Van Wert, Ohio (the “City”) duly adopted Resolution 24-11-065 on November 13, 2024 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, energy efficient window and door replacements, interior envelope improvements, and related improvements (the “Project,” as more fully described in the Petition referenced in this Resolution) located on real property owned by Central Mutual Insurance Company (the “Owner”), located at the commonly used address of 800 S. Washington Street, Van Wert, Ohio with the Van Wert County Auditor parcel number 12-030784.0000 (the “Property”, as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, installation, equipment, and improvement of the Project by the Owner, as set forth in the *Petition For Special Assessments for Special Energy Improvement Projects* (the “Petition”), including by levying and collecting special assessments to be assessed upon the Property (the “Special Assessments”) in a maximum amount sufficient to pay the costs of the Project, which is estimated to be \$39,131,698.56 in the Petition, 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 Van Wert Area Energy Special Improvement District (the “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;

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

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Van Wert, Van Wert County, Ohio, with three-fourths of all elected members concurring, to wit, that:

Section 1. Definitions. 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. Determination to Proceed. This Council declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, installation, equipment, 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 City Auditor and Clerk of Council.

Section 3. Special Assessments. The aggregate maximum Special Assessments to pay costs of the Project, which are estimated not to exceed \$39,131,698.56 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 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; 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 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 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 2026 for collection in 2027 and shall continue through tax year 2049 for collection in 2050; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Van Wert County, Ohio determines that collections shall not commence in 2027, then the collection schedule may be deferred by one year. In addition to the Special Assessments, the County Auditor of Van Wert 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 Van Wert County, Ohio.

Section 4. Amount of Assessments. The estimated Special Assessments for costs of the Project prepared and filed with the City Auditor, in accordance with the Resolution of Necessity, are adopted.

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

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

Section 7. Compliance with Open Meetings Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this legislative resolution were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 8. Effective Date. This Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety in that such energy special improvement project must access funding available to it for a limited time.

Vote on emergency clause: Yeas _____ Nays _____

PASSED: _____, 2024

Thad R. Eikenbary – President of Council

Kenneth W. Markward - Mayor

ATTEST:

Stephanie R. Phillips - Clerk of Council

Approved as to form by:

John E. Hatcher - Law Director

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION DETERMINING TO
PROCEED WITH ACQUISITION, INSTALLATION,
EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF VAN WERT, OHIO
IN COOPERATION WITH THE VAN WERT AREA ENERGY SPECIAL
IMPROVEMENT DISTRICT

I, Jami Bradford, the duly elected, qualified, and acting Auditor in and for Van Wert County, Ohio hereby certify that a certified copy of Ordinance No. _____ duly passed by the Council of the City of Van Wert, Ohio on _____, 2024, determining to proceed with the acquisition, installation, equipping, and improvement of certain public improvements in the City of Van Wert, Ohio in cooperation with the Van Wert Area Energy Special Improvement District, was filed in this office on _____, 2024.

WITNESS my hand and official seal at Van Wert, Ohio on _____, 2024.

[SEAL]

County Auditor
Van Wert County, Ohio