

RESOLUTION NO. 2022- 112

**A RESOLUTION APPROVING THE PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS UNDER OHIO REVISED CODE CHAPTER 1710 AND APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE TOWNSHIP OF SYCAMORE, HAMILTON COUNTY, OHIO, IN COOPERATION WITH THE SUBURBAN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY**

WHEREAS, as set forth in Chapter 1710 of the Ohio Revised Code, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (each, an “ESID”) upon a petition to a municipal corporation or township, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and

WHEREAS, MAP Kenwood, LLC, Lake Boone Three, LLC, Artemis Financial, LLC, and BCKMA Partners, LLC, with title held by Kenwood Place Trust U/A dated as of November 4, 2022, John I. Silverman, Trustee, (collectively, the “Petitioner”) has identified certain real property owned by the Owner and located within Sycamore Township, Hamilton County, Ohio (the “Township”) at Hamilton County Auditor Parcel Numbers 600-0210-0861-00 and 600-0210-0846-00, (the “Project Site,” as further described in Exhibit A to the Petition), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, the Suburban Communities Energy Special Improve District (the “District”) was created under Ohio Revised Code Chapters 1702 and 1710 as an energy special improvement district and established pursuant to Resolution No. 2017-18 of the Board of Township Trustees of the Township (the “Board of Trustees”) approved on March 2, 2017 (the “Creation Resolution”); and

WHEREAS, pursuant to the Creation Resolution, the Suburban Communities Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the “Program Plan”) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F), which plan allows for additional properties within the Township or the boundaries of any other municipal corporation or township that may duly become a participating political subdivision of the District; and

**WHEREAS**, the Owner has determined to submit to the Board of Trustees a *Petition for Special Assessments for Special Energy Improvement Projects* (the "Petition"), together with a *Supplement to Plan for 7727 Kenwood Road Project* (the "Supplemental Plan"), all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Fiscal Officer; and

**WHEREAS**, the Petition, which is on file with the Board of Trustees, has been signed by the Owner, as the owner of 100% of the real property affected by the Petition (as further described in Exhibit A to the Petition, the "Property"), and proposes the necessity of acquiring, constructing, and improving the Project and financing the Project through the cooperation of the District; and

**WHEREAS**, the Petition and Supplemental Plan request that the Project Site be added to the District and that the Township levy special assessments on the Project Site to pay the costs of a special energy improvement project to be provided on the Project Site, all as described more particularly in the Petition and the Supplemental Plan (the "Project"); and

**WHEREAS**, the Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Petition identifies the amount and length of the special assessments to be imposed with respect to the Project; and

**WHEREAS**, by the Petition, the Owner requests that the Project be paid for by special assessments assessed upon the Project Site (the "Special Assessments") in a maximum amount sufficient to pay the costs of the Project, which is estimated to be \$2,862,609.68, including other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses, and requests that the Project be undertaken cooperatively by the Township, the District, and such other parties as the Township may deem necessary or appropriate; and

**WHEREAS**, Ohio Revised Code Section 1710.02(F) provides that a political subdivision which has approved a petition for special assessments for public improvements in an energy special improvement district and a plan pursuant to Ohio Revised Code Sections 1710.02(F) and 1710.06 shall levy the requested special assessments pursuant to Ohio Revised Code Chapter 727; and

**WHEREAS**, in furtherance of the future addition of any real property in any municipal corporation or township contiguous to the municipal corporations or townships in which a portion of the territory of the District is located, it is necessary, and this Council has determined, to approve the addition of such real property to the territory of the District, all in accordance with Ohio Revised Code Chapter 1710; and

**WHEREAS**, this Board of Trustees, as mandated by Ohio Revised Code Chapter 1710, must approve or disapprove the Petition within 60 days of the submission of the Petition; and

**WHEREAS**, this Board of Trustees has determined to approve the Petition, the Program Plan, and the Supplemental Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Township Trustees of Sycamore Township, State of Ohio:

**SECTION 1.** Each capitalized term used in this Resolution where the rules of grammar would otherwise not require and not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Petition.

**SECTION 2.** This Board of Trustees approves the Petition, the Program Plan, and the Supplemental Plan now on file with the Fiscal Officer and declares necessary, and a vital and essential public purpose of Sycamore Township, to improve the Property, which is located at 7727 Kenwood Road, within Sycamore Township, Hamilton County Ohio, by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition, and providing for the payment of the costs of the project, 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 Authorized Improvements 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; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Authorized Improvements 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, including any credit enhancement fees, trustee fees, and District administrative fees and expenses; together with all other necessary expenditures, all as more fully described in the Petition and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Township Fiscal Officer and open to the inspection of all persons interested.

**SECTION 3.** This Board of Trustees determines that the Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Project's elements in the most

practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner; and that the Project's elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project's elements shall be treated as a joint improvement to be undertaken cooperatively by Sycamore Township and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

**SECTION 4.**

The plans and specifications and total cost of the Project now on file in the office of the Township Fiscal Officer are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project.

**SECTION 5.**

This Board of Trustees has previously determined and by this Resolution ratifies and declares that the Project is an essential and vital public, governmental purpose of Sycamore Township as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of Sycamore Township, it is necessary and proper to provide, in cooperation with the District, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Petition. This Board of Trustees determines and declares that the Project is conducive to the public peace, health, safety, and welfare of Sycamore Township and the inhabitants of Sycamore Township.

**SECTION 6.**

Pursuant to, and subject to, the provisions of a valid Petition signed by the owners of 100% of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The provisions of the Petition are ratified, adopted, approved and incorporated into this Resolution as if set forth in full in this Resolution. The portion of the costs of the Project allocable to Sycamore Township will be 0%. Sycamore Township does not intend to issue securities in anticipation of the levy of the Special Assessments.

**SECTION 7.**

The method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Property as set forth in the Petition.

**SECTION 8.**

The lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit "A" to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

**SECTION 9.**

The Special Assessments shall be levied and paid in 58 semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition, and the Owner has waived its

option to pay the Special Assessment in cash within 30 days after the passage of the assessing Resolution. The period over which the services and improvements provided pursuant to the Plan are useful is determined to exceed 30 years.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$2,862,609.68. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by Sycamore Township. In addition to the Special Assessments, the Auditor of Hamilton County, Ohio (the "County Auditor") may impose a special assessment collection fee with respect to each semi-annual payment, which amount will be added to the Special Assessments by the County Auditor.

**SECTION 10.**

The Township Fiscal Officer or the Township Fiscal Officer's designee is authorized and directed to prepare and file in the office of the Board of Trustees the estimated Special Assessments for the cost of the Project in accordance with the method of assessment set forth in the Petition and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

**SECTION 11.**

That pursuant to the Petition, the Owner has waived notice of the adoption of this Resolution and the filing of the estimated Special Assessments, as provided in Ohio Revised Code Section 727.13, and Sycamore Township hereby accepts that waiver.

**SECTION 12.**

The Township Fiscal Officer or the Township Fiscal Officer's designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

**SECTION 13.**

The Special Assessments will be used by Sycamore Township to provide the Authorized Improvements in cooperation with the District in any manner, including assigning the Special Assessments actually received by Sycamore Township to the District or to another party Sycamore Township deems appropriate, and the Special Assessments are appropriated for such purposes.

**SECTION 14.**

This Board of Trustees accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not

limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727 and Ohio Revised Code Chapter 1710 and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner of the following rights:

- (i) The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- (vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
- (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
- (viii) The right to notice of the passage of the assessing Resolution under Ohio Revised Code Section 727.26; and
- (ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

**SECTION 15.**

Sycamore Township is authorized to enter into agreements by and among Sycamore Township, the District, and such other parties as Sycamore Township may deem necessary or appropriate in order to provide the Authorized Improvements, and that the Board of Trustees, the Township Administrator, the Township Fiscal Officer, or any of them individually, is authorized to execute, on Sycamore Township's behalf, such agreements.

**SECTION 16.**

It is found and determined that all formal actions of this Board of Trustees concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board of Trustees, and that all deliberations of this Board of Trustees that resulted in such

formal action were in meetings open to the public in compliance with the law.

**SECTION 17.**

The Board of Trustees upon at least a majority vote do hereby dispense with any requirement that this Resolution be read on two separate days, and hereby authorize the adoption of this Resolution upon its first reading.

**SECTION 18.**

This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of Sycamore Township and for the further reason that this Resolution is required to be immediately effective in order to allow the District to take advantage of financing available to it for a limited time. Therefore, this Resolution shall be in full force and effect immediately upon its adoption and certification.

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**VOTE RECORD:**

Mr. James Aye

Ms. Schwegmann Aye

Mr. Weidman Aye

Passed at a meeting of the Board of Township Trustees of Sycamore Township this 15<sup>th</sup> day of November, 2022.

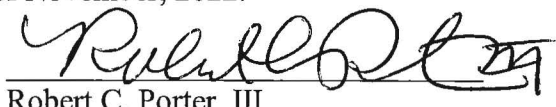
  
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Thomas J. Weidman, Chairman

  
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Tracy Schwegmann, Vice Chairman


  
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Thomas C. James, Trustee

**AUTHENTICATION**

This is to certify that this resolution was duly passed and filed with the Township Fiscal Officer of Sycamore Township this 15<sup>th</sup> day of November, 2022.

  
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Robert C. Porter, III  
Fiscal Officer

**APPROVED ASS TO FORM:**

  
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Lawrence Barbieri, Interim Law Director



**CERTIFICATION**

I, Robert C. Porter, III, Fiscal Officer of Sycamore Township, hereby certify, as official custodian of the records of Sycamore Township, Hamilton County, Ohio, that the foregoing is taken and copied from the Record of Proceedings of Sycamore Township and that the same is a true and accurate copy of the original on file in the township hall at 8540 Kenwood Road, Sycamore Township, Ohio 45236.



Robert C. Porter, III  
Fiscal Officer

Date: Nov. 15, 2022