

EMERGENCY ORDINANCE NO. 2018-33

AN ORDINANCE AUTHORIZING THE CITY TO PARTICIPATE IN COOPERATION WITH, AND REQUESTING THE WARREN COUNTY PORT AUTHORITY'S PARTICIPATION IN, THE REFUNDING OF PORT AUTHORITY SPECIAL OBLIGATION DEVELOPMENT REVENUE BONDS ISSUED TO FINANCE PUBLIC IMPROVEMENTS FOR THE CHELSEA MALL PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Monroe, Counties of Butler and Warren, Ohio, (the "City") has, with the consent of the Monroe Local School District, declared certain improvements in the City to be exempt from taxation pursuant to section 5709.40 of the Ohio Revised Code (Ordinance No. 2004-26); and

WHEREAS, the City previously declared certain public infrastructure improvements ("Public Improvements") related to the Chelsea Mall Project, as defined in Ordinance No. 2004-26, to which Ordinance No. 2004-26 relates, were a public purpose necessary for the development of the Chelsea Mall Project and further declared improvements to parcels of real property constituting the Chelsea Mall Project ("Improvements") to be a public purpose and exempted 100% of the increased value of such parcels from real property taxation for a period of up to thirty years; and

WHEREAS, the City entered into a Tax Increment Service and Cooperative Agreement ("Cooperative Agreement") for the subject property by and among the City, the Warren County Port Authority (the "Port Authority") and Chelsea Monroe Holdings, LLC (the "Developer"), which Cooperative Agreement required the City to construct the Public Improvements, the Developer to pay service payments in lieu of taxes and certain special assessments, and the Port Authority to issue bonds to finance the Public Improvements; and

WHEREAS, on May 27, 2009, the Port Authority issued its \$5,600,000 Special Obligation Development Bonds, Series 2009 (the "2009 Bonds"), payable from service payments in lieu of taxes, special assessments, and non-tax revenues to finance the costs of the Public Improvements, which have been completed in accordance with the Cooperative Agreement; and

WHEREAS, the City has levied special assessments upon the Improvements to pay the cost of the Public Improvements pursuant to a petition dated April 13, 2009, signed by the Developer, who was the owner of the Improvements upon which the special assessments were levied, Chapter 727 of the Ohio Revised Code, Resolution 27-2009, and Ordinances 2009-62 and 2009-13, all adopted by the Council of the City on April 28, 2009; and

WHEREAS, the Developer has completed the construction of the Improvements, and the Ohio Tax Commissioner has approved the tax increment real property tax exemption for the Improvements; and

WHEREAS, on December 22, 2017, the Port Authority issued its \$3,600,000 Special Obligation Development Revenue Bonds, Series 2017 (the "2017 Bonds"), payable from service payments in lieu of taxes, special assessments, and non-tax revenues to finance the costs of the Public Improvements, for the purposes of advance refunding a portion of the then-outstanding 2009 Bonds; and

WHEREAS, in order to obtain greater security with respect to the outstanding debt applicable to the Public Improvements, the Port Authority has proposed the issuance of special obligation development revenue bonds to be placed in the Ohio Communities Accelerator Bond fund managed by the Port

Authority, the proceeds of which funds will be used to currently refund the outstanding 2017 Bonds;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: That Council hereby requests that the Port Authority, in cooperation with the City, issue port authority revenue refunding bonds, payable solely from service payments in lieu of taxes, special assessments and non-tax revenues, to currently refund the 2017 Bonds.

That this Council hereby approves and authorizes the City Manager and/or Finance Director to enter into and execute and any all agreements and documents deemed necessary by legal counsel to the City and/or bond counsel for the refunding bonds to permit the refunding bonds to be issued in a timely manner.

That the City Manager, the Finance Director and all other city officials are hereby authorized and directed to execute any documents, financing statements or closing certificates deemed necessary or advisable, including such terms and conditions as are requested or approved by such official signing the same.

SECTION 2: That all authority granted under the Ordinance Nos. 2004-26, 2009-12, 2009-13 and 2009-09 (the "Prior Authorizing Ordinances") remains in full force and effect as supplemented hereby and is hereby ratified and confirmed, and all actions taken on behalf of the City thereunder prior to the enactment of this ordinance are hereby ratified and confirmed.

SECTION 3: That the obligations of the City under the Prior Authorizing Ordinances and this ordinance do not and shall not represent or constitute a debt or pledge of the full faith and credit or the taxing power of the City and no member of this Council, nor any other officer, official, employee, agent, or legal representative of the City, shall be liable personally for any obligations under the Prior Authorizing Ordinances, this ordinance, the Cooperative Agreement or any other instrument, agreement or document authorized, executed and delivered by the City under the Prior Authorizing Ordinances or this ordinance.

SECTION 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and further for the reason that Council desires to provide for the orderly refinancing of the public infrastructure improvements in the City as herein provided, including obtaining a favorable rate of interest and achieving interest cost savings. Therefore, this measure shall take effect and be in full force from and after its passage.

PASSED: November 27, 2018

ATTEST:


Clerk of Council

APPROVED:


Mayor

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.


Clerk of Council
City of Monroe, Ohio

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Open Meeting Law, Section 121.22 of the Ohio Revised Code.