

ENERGY PROJECT AGREEMENT

WHEREAS, 123 N Erie, LLC, an Ohio limited liability company with an address of 100 S Huron, Unit 4B, Toledo, Ohio 43604 (known herein as “Borrower”), has made application to the Northwest Ohio Advanced Energy Improvement District (“the District”) for financing a certain special energy improvement project (“Energy Project”), more particularly described in Borrower’s application (“Application”); and

WHEREAS, the Energy Project has an overall estimated cost of Two Hundred Thirty-Seven Thousand Two Hundred Dollars (\$237,200.00) (excluding interest and other transactional and carrying costs, all of which shall be included in the Special Assessments described below) as shown in Exhibit B which the District has agreed to finance; and

WHEREAS, Borrower requests that the Energy Project be financed through special assessments (“Special Assessments”) upon the real property upon which the Energy Project will be constructed and exist (“the Property”) as allowed under Ohio Revised Code Chapters 1710 and 727; and

WHEREAS, the District agrees to undertake the financing of the Energy Project through Special Assessments upon the condition that the Borrower agrees to impose the Special Assessments upon the Property and provide full cooperation with and assistance to the District and other entities and institutions involved in the process of approving and imposing the Special Assessments; and

WHEREAS, in order to induce the District to provide financing for the Energy Project, the Borrower agrees to provide all such cooperation and assistance necessary for the imposition of the Special Assessments upon the Property.

NOW THEREFORE, in consideration of the mutual promises set forth herein, effective the 1 day of April 2019, the Borrower and the District do hereby enter into this Energy Project Agreement (“Agreement”) as follows:

1. Consent to Special Assessments. The Borrower consents to the imposition of Special Assessments upon the Property, which is commonly referred to as 123 N Erie, Toledo, Ohio 43604 which consists of the following county auditor parcel(s): 12-15891. A legal description of the Property is attached hereto as Exhibit A and incorporated herein by reference. In the event there are additional or other parcels of property that are not listed but which are benefitted by the Energy Project, the Borrower consents to the imposition of the Special Assessments with respect to those parcels as well. The Borrower acknowledges that the Special Assessments will constitute a lien upon the Property and may be enforced and collected in accordance with law, including the provisions of Chapter 727 of the Ohio Revised Code. The Special Assessments shall be in an amount sufficient to finance all of the cost of the Energy Project, as determined by and in the sole discretion of the District, including but not limited to the cost of: labor, materials, equipment, engineering, design, audits, interest, carrying costs, taxes, filing fees, recording charges and all other costs incident to the Energy Project. Borrower acknowledges that the estimated cost of the

Energy Project is only an estimate and that the actual cost of the Energy Project may be more or less than the estimate and that such estimate does not limit the amount of the Special Assessments; provided, however, that the sum total of all Special Assessments will not exceed the amount listed on Exhibit B. The Borrower agrees that one hundred percent (100%) of the Special Assessments shall be imposed upon the Property and that the Property is being specially benefitted to the full extent of the Special Assessments. The Special Assessments may continue for such period of time as allowed by law and shall continue for the full period of time required to pay the District for all costs, including financing costs, for the Energy Project.

2. Agreement to Cooperate. Borrower agrees to provide full and timely cooperation to the District and the agencies, entities and institutions involved in the special assessment process, including but not limited to: the District, the Toledo-Lucas County Port Authority, the City of Toledo, the Lucas County Auditor, and the Lucas County Treasurer, so that the Special Assessments are imposed upon the Property and enforceable against the Property. The Borrower agrees to apply to the District for approval of its Energy Project and for admission as a member of the District. The Borrower shall cause a representative to appear at any necessary hearings or legal proceedings involving the Special Assessments and cooperate in such hearings or legal proceedings so that the Special Assessments are approved and become binding upon the Property. The Borrower agrees to provide on-going cooperation with the District and all other agencies, entities and institutions involved in the special assessment process during the entire period of time any of the financing for the Energy Project remains outstanding. In the event the Property is located in a political subdivision that is not, as of the date of this Agreement, within the jurisdiction of the District, the Borrower will cooperate with the District in seeking to expand that jurisdiction of the District to include the political subdivision in which the Property is located, including petitioning for such expansion.

3. Execution of Documents; Appointment of Agent. Upon the request of the District, the Borrower shall execute all applications, petitions for special assessments, waivers, acknowledgements, and other instruments, documents and papers ("Documents") necessary or helpful to impose the Special Assessments upon the Property and to acknowledge the validity and binding nature of such Special Assessments. To facilitate that process, the Borrower hereby irrevocably appoints the District's Chairperson, or such other individual as the District may name from time to time, as the Borrower's attorney-in-fact and agent with full and complete authority to execute all such Documents, including but not limited to the petition for Special Assessments, on behalf of the Borrower and to bind the Borrower and the Property to the Special Assessments, including making all waivers of hearings and notices concerning the Special Assessments.

Without limiting the generality of the foregoing grant of authority, the Borrower grants the District full irrevocable power and authority in the place of Borrower and in the name of Borrower or in District's own name, for the purpose of carrying out the terms of this Agreement, to perform, at any time and from time to time, each agreement contained in this Agreement that is on Borrower's part to be complied with, and to take any and all actions and to execute and deliver any and all Documents which may be necessary or desirable to give District the full benefit of this Agreement, in each case as District may from time to time deem advisable, Borrower hereby agreeing that District shall owe no duty whatever to Borrower to perform any such agreement, to take any such action, or to execute or deliver any such Document or, having done so any one or more times, to

thereafter continue doing so. Without limiting the generality of the foregoing, Borrower hereby irrevocably authorizes District, at any time and from time to time, to (a) fill in any blank space contained in this Agreement or another Document, (b) correct patent errors, to complete and correct the description of the Property, and to complete the date herein or therein, (c) file and sign, on Borrower's behalf, at Borrower's expense and without Borrower's signature, such petitions for special assessments, waivers, affidavits, assignments, financing statements, endorsements of specific items of collateral, mortgages, powers of attorney, security agreements, or other Documents as District may from time to time deem advisable for the better evidencing, perfection, protection, or validation of, or realization of the benefits of this Agreement, and (d) to the extent District filed any such petitions for special assessments, waivers, affidavits, assignments, financing statements, endorsements of specific items of collateral, mortgages, powers of attorney, security agreements, or other Documents prior to the date of this Agreement, all such actions and Documents are hereby ratified by Borrower.

4. **Waiver of Certain Rights.** The Borrower acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Chapter 727 of the Ohio Revised Code, the Toledo City Charter and the Toledo Municipal Code (collectively, "Assessment Rights"). The Borrower hereby irrevocably waives all Assessment Rights and consents to the imposition of the Special Assessments immediately or at such time as the District determines to be appropriate, and the Borrower expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessment upon the Property. The Borrower further waives: any and all questions as to the constitutionality of the law under which the Energy Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council acting thereunder; and the right to file a claim for damages as provided in Revised Code section 727.18 and Toledo Charter section 201.

5. **Representations and Warranties.** The Borrower represents and warrants that:

- A. The Borrower is an existing Delaware limited liability company for profit in good standing;
- B. The Borrower owns the Property in fee simple absolute, and has the full legal authority to subject the Property to the Special Assessments;
- C. The Borrower is duly authorized to enter into this Agreement;
- D. Entering into this Agreement will not result in the breach of any other agreement to which the Borrower is a party, either jointly or individually; and
- E. All of the factual statements concerning the Borrower contained in the Application and in this Agreement are true and accurate to the best of the Borrower's knowledge and belief and if there is a material change in the accuracy or truthfulness of any such factual statement, the Borrower will promptly disclose the same to the District.

6. **Assignment; Third Party Beneficiaries.** The Borrower may assign this Agreement without the consent of the District, in accordance with the terms and conditions set forth in that certain Loan and Security Agreement by and between the parties of even date herewith. The District may assign this Agreement, or any portion of its benefits or obligations, freely to another party, with or without the consent of the Borrower.

7. **Default.** If any of the following events shall occur, it shall be deemed a default ("Default") under this Agreement and the District shall be entitled to avail itself of any rights or remedies under this Agreement and any rights or remedies provided under law:

- A. The Borrower fails to pay an installment of any Special Assessment when due.
- B. The Borrower fails to perform any other obligation under this Agreement and the failure continues for a period of ten (10) days after written notice from the District.
- C. The Borrower is in breach of any of its representations or warranties under this Agreement.
- D. The Borrower abandons the Property.
- E. The Borrower commits waste upon the Property.
- F. The Borrower becomes bankrupt or insolvent or files or has filed against it a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes an assignment for the benefit of creditors.

In the event of a Default, then, in addition to any other remedy the District may have, the District may recover from Borrower all damages it incurs by reason of the Default, including its reasonable attorneys' fees and expenses.

8. **General.**

- A. If any provision of this Agreement is found to be invalid, illegal or unenforceable under any applicable statute or law, such provision shall to that extent be deemed to be omitted, and the remaining provisions of this Agreement shall not be affected in any way.
- B. The Borrower acknowledges that it has read and understands this Agreement and is bound by its terms. This Agreement contains the entire understanding and agreement of the parties with respect to the matters contained herein, and supersedes all prior proposals and understandings between the parties.
- C. This Agreement shall not be modified or altered except as by a written instrument duly executed by all parties.
- D. The Borrower acknowledges that they have had an opportunity to review this Agreement and to be advised by an attorney of their choosing as to the Agreement's terms, conditions and provisions. The Borrower is entering into this Agreement knowingly and voluntarily.
- E. The District and the Borrower are, in relation to one another, independent contractors and not agents of one another, except to the extent the District is authorized to act on behalf of the Borrower in accordance with paragraph 3 above.

The parties have no fiduciary obligations to one another and are not, by entering into this Agreement, assuming any such fiduciary obligations.

- F. The Borrower acknowledges that the District has been created under provisions of the Revised Code and that the District's authority, as well as the authority of its employees, agents and representatives is limited under law.
- G. The District may cause this Agreement to be recorded in the office of the Lucas County Recorder. The obligations created by this Agreement shall run with and be binding upon the land regardless of the owner of Property until duly released by the District.
- H. The Borrower will provide written notice to the District of any sale or transfer of the Property.
- I. The Borrower shall disclose the existence of this Agreement to any purchaser or transferee of the Property and inform such purchaser or transferee of the nature and extent of the Special Assessments before entering into a binding agreement for the sale or transfer of the Property.
- J. The Borrower acknowledges that the Special Assessments, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance levying the final assessment if permitted by law and that if such Special Assessment is not paid in cash, the balance will be certified to the Auditor of Lucas County, as provided by law, to be placed by the Auditor on the tax list and duplicate and collected as other taxes are collected in such number of semi-annual installments as determined by the District and as allowed by law, together with interest at the same rate as shall be borne by the loans received or bonds issued to pay the costs of the Energy Project or in anticipation of the collection of the Special Assessments. Notwithstanding the foregoing, the Borrower waives and authorizes the District to waive on its behalf, the right to pay the Special Assessments in cash.
- K. At such time as the Special Assessments are no longer necessary to finance the Energy Project, the District having recovered all of its costs, and all other requirements under this Agreement have been fulfilled, the District will provide a release of this Agreement and cause the same to be recorded in the office of the Lucas County Recorder.
- L. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to its conflict of laws principles.
- M. Any legal proceeding, including any arbitration or litigation, concerning this agreement, directly or indirectly, shall be heard only in a state or federal court with proper jurisdiction in Lucas County, Ohio.

BORROWER:

123 N Erie, LLC

By: 

Date: 4-1-2019

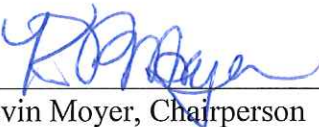
On the 1 day of April, 2019 personally appeared before me, a notary public in and for the State of Ohio, Eric Hatton, on behalf of 123 N Erie, LLC, who acknowledged that he did execute the foregoing Energy Project Agreement on behalf of 123 N Erie, LLC, and that the same was the free act and deed of 123 N Erie, LLC.



Teresa N Snyder
Notary Public - Ohio
Lucas County
My Commission Expires 08/17/2021

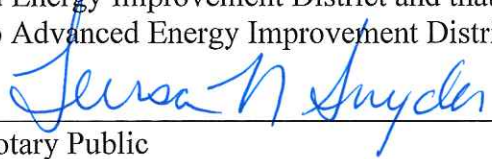

Notary Public

The Northwest Ohio Advanced Energy Improvement District

By: 
Kevin Moyer, Chairperson

Date: 4-1-19

On the 1 day of April, 2019 personally appeared before me, a notary public in and for the State of Ohio, Kevin Moyer, the Chairperson of the Northwest Ohio Advanced Energy Improvement District who acknowledged that he did execute the foregoing Energy Project Agreement on behalf of the Northwest Ohio Advanced Energy Improvement District and that the same was the free act and deed of said Northwest Ohio Advanced Energy Improvement District.


Notary Public



Teresa N Snyder
Notary Public - Ohio
Lucas County
My Commission Expires 08/17/2021

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Situated in the City of Toledo, County of Lucas, State of Ohio, described as follows:

The Northeasterly 1/2 of Lot 311 in the Port Lawrence Division, as recorded in Plat Volume 16, Page 47, City of Toledo, Lucas County, Ohio.

ALSO:

That portion of the abandoned Miami and Erie Canal lands lying in the rear of the Northeasterly 1/2 of said Lot 311 in the Port Lawrence Division and bounded on the Southwest by the Southwesterly line of the Northeast 1/2 of said Lot 311 extended Northwesterly in a straight line, to a point that it is 120 feet distant from the Northwesterly line of Erie Street, and on the Northwest by a line drawn parallel to and 120 feet distant from said Northwest line of Erie Street and on the Northeast by the Northeast line of said Lot 311 extended Northwesterly in a straight line, to a point that is 120 feet distant from the Northwest line of Erie Street, and on the Southeast by the Southeast line of the Miami and Erie Canal Land.

Parcel No. 12-15891

EXHIBIT B

Project Plan for 123 N Erie, LLC

The real property owned by 123 N Erie, LLC, the legal description of the property is set forth on the attached Exhibit A, will be subject to special assessments for energy improvements in accordance with Revised Code Chapter 1710.

The Project is expected to consist of the following energy efficiency elements:

1. Window Replacement
2. (6) HVAC units
3. Insulation
4. LED Lighting
5. Low Flow Fixtures

Total project cost: \$237,200.00

Total cost including financing and other charges: \$280,240.23

Total direct loan payments to be collected: \$13,042.50

Total assessment payments to be collected: \$392,896.00

Estimated Annual assessment payment: \$28,064.00

Estimated semi-annual special assessments for 14 years*: \$14,032.00

Number of semi-annual installments: 28

First annual installment due: January 31, 2020

**Note: Lucas County will add 1% processing charge to the annual assessment amount.*

| County Taxable Year | Total Annual Assessment Parcel 12-15891 | Year Payments Are Due | 1st Half (Due 1/31) | 2nd Half (Due 7/31) |
|----------------------------|--|------------------------------|----------------------------|----------------------------|
| 2019 | \$28,064.00 | 2020 | \$14,032.00 | \$14,032.00 |
| 2020 | \$28,064.00 | 2021 | \$14,032.00 | \$14,032.00 |
| 2021 | \$28,064.00 | 2022 | \$14,032.00 | \$14,032.00 |
| 2022 | \$28,064.00 | 2023 | \$14,032.00 | \$14,032.00 |
| 2023 | \$28,064.00 | 2024 | \$14,032.00 | \$14,032.00 |
| 2024 | \$28,064.00 | 2025 | \$14,032.00 | \$14,032.00 |
| 2025 | \$28,064.00 | 2026 | \$14,032.00 | \$14,032.00 |
| 2026 | \$28,064.00 | 2027 | \$14,032.00 | \$14,032.00 |
| 2027 | \$28,064.00 | 2028 | \$14,032.00 | \$14,032.00 |
| 2028 | \$28,064.00 | 2029 | \$14,032.00 | \$14,032.00 |
| 2029 | \$28,064.00 | 2030 | \$14,032.00 | \$14,032.00 |
| 2030 | \$28,064.00 | 2031 | \$14,032.00 | \$14,032.00 |
| 2031 | \$28,064.00 | 2032 | \$14,032.00 | \$14,032.00 |
| 2032 | \$28,064.00 | 2033 | \$14,032.00 | \$14,032.00 |
| Total Assessment | \$392,896.00 | | | |

Pursuant to Ohio Revised Code Chapter 323, the Assessment Payment Dates identified in this Exhibit B to the Plan are subject to adjustment by the Lucas County Fiscal Officer under certain conditions. The County Fiscal Officer of Lucas County, Ohio may impose a special assessment collection fee with respect to each Semiannual Assessment payment. If imposed, this special assessment collection fee will be added by the County Fiscal Officer of Lucas County, Ohio to each Semiannual Assessment payment.