

# **PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS**

**A PETITION TO THE COUNCIL OF THE CITY OF TOLEDO SEEKING THE IMPOSITION OF SPECIAL ASSESSMENTS TO PAY THE COSTS OF VARIOUS SPECIAL ENERGY IMPROVEMENT PROJECTS AGAINST PROPERTY OWNED BY THE PETITIONER AND SPECIALLY BENEFITED THEREBY, INCLUDING A WAIVER OF ALL RIGHTS TO NOTICES, HEARINGS AND APPEALS RESPECTING THE REQUESTED SPECIAL ASSESSMENTS**

To the Council of the City of Toledo, Lucas County, Ohio:

Barone Brothers, LLC. (the "Petitioner") is the owner of 100% of the property described on **Exhibit A** attached hereto (the "Property"). The Petitioner has executed an Agreement to Impose Special Assessments which appoints the Chairperson of the Northwest Ohio Advanced Energy Improvement District ("the Energy Corporation"), an Ohio nonprofit corporation formed to govern the City of Toledo, City of Oregon, City of Maumee, City of Northwood, Township of Monclova, Township of Springfield, Township of Swanton, Township of Sylvania, Ohio, Advanced Energy Improvement District (the "District") created within the boundaries of the City of Toledo, City of Oregon, City of Maumee, City of Northwood, Township of Monclova, Township of Springfield, Township of Swanton, Township of Sylvania, Ohio for the purpose of developing and implementing special energy improvement projects as defined in Section 1710.01(I) of the Revised Code, as the attorney-in-fact and agent for the Petitioner with the authority to act on behalf of the Petitioner in the special assessment process. A copy of the Agreement to Impose Special Assessments is attached to this Petition as **Exhibit C**.

The Board of Directors of the Energy Corporation has approved initial and amended plans for special energy improvement projects in the District (the "Current Comprehensive Plan"), pursuant to which the Energy Corporation has caused special energy improvement projects to be provided from time to time. In accordance with Chapter 1710 of the Revised Code and the Current Comprehensive Plan, the Current Comprehensive Plan may be amended from time to time to provide for additional special energy improvement projects, and the District may be enlarged from time to time to include additional property so long as at least one special energy improvement project is designated for each parcel of real property within the additional territory added to the District.

The Board of Directors of the Energy Corporation has reviewed the plans for the special energy improvement projects described on **Exhibit B** attached hereto as (the "Project" or the "Barone Brothers Energy Improvement Project") proposed to be constructed or installed on the Property and related and supporting materials and, subject to an approval by the City Council of an expansion of the District to include the Property, has approved an amendment of the Current Comprehensive Plan to include provision for the Barone Brothers Energy Improvement Project.

As required by Section 1710.06 of the Revised Code, the Petitioner, as the owner of Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Barone Brothers Energy Improvement Project, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approve an amendment to the Current Comprehensive Plan to include the Barone Brothers Energy Improvement Project and (b) requests that (i) the Barone Brothers Energy Improvement Project be undertaken by the District and (ii) the total cost of the Project be assessed on the Property in proportion to the special benefits that will result from the Project.

In connection with this Petition and in furtherance of the purposes hereof, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Current Comprehensive Plan, (ii) the plans, specifications and profiles for the Barone Brothers Energy Improvement Project, (iii) the estimate of cost for the Barone Brothers Energy Improvement Project included in **Exhibit B** and (iii) the schedule of estimated special assessments to be levied for the Barone Brothers Energy Improvement Project also included in **Exhibit B**. The Petitioner acknowledges that the estimated special assessment for the parcel is in proportion to the benefits that may result from the Barone Brothers Energy Improvement Project.

Accordingly, the Petitioner hereby petitions for the construction of the Barone Brothers Energy Improvement Project identified in this Petition and the attached **Exhibit B**, as authorized under Revised Code Chapter 1710, and for the imposition of the special assessments identified herein and authorized under Revised Code Chapters 727 and 1710 ("the Special Assessments") to pay the costs thereof.

In consideration of the Council's acceptance of this Petition and the imposition of the requested Special Assessments, the Petitioner consents and agrees that the Property as identified in **Exhibit A** shall be assessed for all of the costs of the Barone Brothers Energy Improvement Project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, survey, testing and inspection costs, the amount of any damages resulting from the Project and the interest thereon, 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 therein, 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 issued by the Toledo-Lucas County Port Authority (the "Port Authority") or Northwest Ohio Advanced Energy Improvement District to provide a loan to the Corporation to pay costs of the Project in anticipation of its receipt of the special assessments, capitalized interest on, and financing reserve funds for, such securities issued by the Port Authority and the Port Authority program administration fee, together with all other necessary expenditures. The Petitioner agrees to pay the Special Assessments in a timely manner whether or not the Petitioner receives annual and timely notices of the Special Assessments.

The Petitioner further acknowledges and confirms that the Special Assessments set forth herein and in **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the Barone Brothers Energy Improvement Project identified herein. The Petitioner further consents to the levying of the assessments therefore against the Property by the

Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the specific request of the Petitioner.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Barone Brothers Energy Improvement Project and the Special Assessments, particularly those in Chapter 727 and 1710 of the Revised Code and consents to proceeding with the Barone Brothers Energy Improvement Project. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Sections 727.13 and .14;
- The right to limit the amount of the Special Assessment und Sections 727.03 and 727.06;
- The right to file an objection to the Special Assessment under Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Sections 727.16 and .17;
- The right to file any claim for damages under Sections 727.18 through 727.22 and Section 727.43;
- The right to seek a deferral of payments of Special Assessments under Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Section 727.26.

The Petitioner consents to immediately proceeding with all actions necessary to acquire, install and construct the Barone Brothers Energy Improvement Project and impose the Special Assessments.

The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Chapter 929 of the Revised Code, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Section 929.03 of the Revised Code, hereby grants permission to collect any assessments levied against such Property.

The Petitioner acknowledges that the Special Assessments set forth herein and in the Exhibits hereto are based upon an estimate of costs, and that the final Special Assessments shall be calculated in the same manner, which, regardless of any statutory limitation thereon, may be more or less than the respective estimated assessments for the Barone Brothers Energy Improvement Project. In the event the final assessments exceed the estimated assessments, the Petitioner, without limitation of the other waivers contained herein, also waives any rights it may now or in the future have to object to those assessments, any notice provided for in Chapters 727 and 1710 of the Revised Code, and any rights of appeal provided for in such Chapters or otherwise. The Petitioner further acknowledges and represents that the respective final assessments may be levied at such time as determined by the City and regardless of whether or not any of the parts or portions of the Barone Brothers Energy Improvement Project have been completed.

The Petitioner further acknowledges that the final assessments for the Barone Brothers Energy Improvement Project, when levied against the Property, will be payable in cash within

thirty (30) days from the date of passage of the ordinance confirming and levying the final assessments and that if any of such assessments are not paid in cash they will be certified to the Auditor of the County, as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected, or collected by the City Treasurer as the City may elect. The Petitioner requests that the unpaid final assessments for the Barone Brothers Energy Improvement Project be payable in Thirty (30) semi-annual installments, together with interest at the same rate as shall be borne by any bonds or other securities which may be issued in anticipation of the collection of all or a portion of any such final assessments.

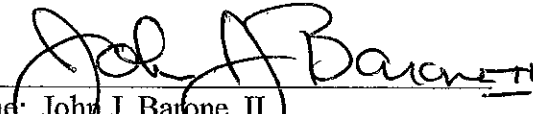
The Petitioner further waives any and all questions as to the constitutionality of the laws under which the Barone Brothers Energy Improvement Project shall be acquired, installed or constructed or the proceedings relating thereto, the jurisdiction of the City acting in connection therewith, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Special Energy Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code, Title 7, and specifically but without limitation, Chapters 727 and 1710 of the Revised Code, as well as all such similar rights under the Constitution of the State of Ohio, the Charter of the City of Toledo and the Toledo Municipal Code. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Special Energy Improvements, the estimated assessments, the final assessments and any Special Assessments levied against the Property for the Special Energy Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City, the Energy Corporation (a/k/a the Energy Special Improvement District created under Revised Code Chapter 1710), and the Toledo-Lucas County Port Authority all will be relying upon this petition in taking actions pursuant thereto and expending resources. Therefore this petition shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns thereof, the Property, and any grantees, mortgagees, lessees, or transferees thereof. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified herein.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, Barone Brothers, LLC., has caused this petition to be executed by John J. Barone, II, in his official capacity as Member, on August 3, 2018.

**Barone Brothers, LLC.**

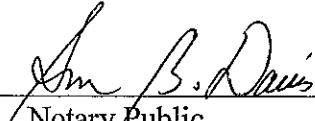
By:   
Name: John J. Barone, II  
Member, Barone Brothers, LLC.

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF LUCAS            )

On the 3 day of August, 2018, before me, a Notary Public, in and for said County and State, personally appeared, John J. Barone, II, for Barone Brothers, LLC., located at 4841 Monroe St, #101, Toledo, OH 43623, who affirmed that pursuant to due authorization he/she executed the within and foregoing instrument for and on behalf of Barone Brothers, LLC., in his/her official capacity, and that the same is the free act and deed of Barone Brothers, LLC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.



  
Notary Public

## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

#### PARCEL 1:

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

Lot 1 in The Regency, as recorded in Plat Volume 108, Page 3, City of Toledo, Lucas County, Ohio.

Parcel Number 24-22181

Property Address: 1000 Regency Court, Toledo, Ohio, 43623

#### PARCEL 2:

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

Lot 2 in The Regency, as recorded in Plat Volume 108, Page 3, City of Toledo, Lucas County, Ohio, furthermore described as follows:

A parcel of land being part of the East 1/2 of the Northeast 1/4 of Section 13, Town 9 South, Range 6 East, City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the intersection of the centerline of Talmadge Road, with the centerline of Regency Court;

Thence in a Westerly direction along the centerline of Regency Court, having an assumed bearing of South 89 degrees, 59 minutes, 45 seconds West, a distance of 50.00 feet to the Westerly right of way line of Talmadge Road;

Thence in a Northerly direction along the Westerly right of way line of Talmadge Road, a bearing of North 00 degrees, 00 minutes, 15 seconds West, a distance of 30.00 feet to the Northerly right of way line of Regency Court, said point being the True Point of Beginning of the parcel herein described;

Thence in a Westerly direction along the Northerly right of way line of Regency Court, a bearing of South 89 degrees, 59 minutes, 45 seconds West, a distance of 28.98 feet to a point of curve;

Thence in a Westerly direction along an arc of curve to the right along the Northerly right of way line of Regency Court, an arc distance of 90.32 feet to a point of tangency, said arc of curve to the right having a radius of 345.00 feet, a central angle of 15 degrees, 00 minutes, 00 seconds, a chord length of 90.06 feet, a chord bearing of North 82 degrees, 30 minutes, 15 seconds West, and a tangent length of 45.42 feet;

Thence North 75 degrees, 00 minutes, 15 seconds West along the Northerly right of way line of Regency Court, a distance of 63.46 feet to a point of curve;

Thence continuing along the Northerly right of way line of Regency Court, an arc of curve to the right, an arc distance of 43.82 feet to a point of reverse curve, said arc of curve to the right having a radius of 50.00 feet, a central angle of 50 degrees, 12 minutes, 30 seconds, a chord length of 42.43 feet, a chord bearing of North 49 degrees, 54 minutes, 00 seconds West, and a tangent length of 23.43 feet;

Thence continuing along the Northerly right of way line of Regency Court, an arc of curve to the left, an arc distance of 164.51 feet to the intersection of a point on curve, said arc of curve to the left having a radius of 75.00 feet, a central angle of 125 degrees, 40 minutes, 27 seconds, a chord length of 133.45 feet, a chord bearing of North 87 degrees, 37 minutes, 56 seconds West, and a tangent length of 146.16 feet;

Thence in a Northwesterly direction, a bearing of North 45 degrees, 00 minutes, 15 seconds West, a distance of 172.17 feet to a point of intersection;

Thence in a Northerly direction a bearing of North 00 degrees, 00 minutes, 15 seconds West, a distance of 219.16 feet to the intersection of the Southerly right of way line of Laskey Road, said point of intersection being a point on curve;

Thence in an Easterly direction along an arc of curve to the left along said Southerly right of way line of Laskey Road, an arc distance of 218.31 feet to a point of tangency, said arc of curve to the left having a radius of 5777.31 feet, a central angle of 02 degrees, 09 minutes, 54 seconds, a chord length of 218.30 feet, a chord bearing of South 89 degrees, 43 minutes, 03 seconds East, and a tangent length of 109.17 feet;

Thence continuing along the Southerly right of way line of Laskey Road, a bearing of North 89 degrees, 12 minutes, 00 seconds East, a distance of 248.83 feet to a point of intersection with the Westerly right of way line of Talmadge Road;

Thence in a Southerly direction along the Westerly right of way line of Talmadge Road, a bearing of South 00 degrees, 00 minutes, 15 seconds East, a distance of 404.30 feet to the True Point of Beginning of the parcel herein described; containing 3.635 acres of land.

Parcel Number 24-22191

Property Address: 2000 Regency Court, Toledo, Ohio, 43623

**PARCEL 3:**

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

Lot 3 in The Regency, as recorded in Plat Volume 108, Page 3, City of Toledo, Lucas County, Ohio.

Parcel Number 24-22201

Property Address: 3000 Regency Court, Toledo, Ohio, 43623

## EXHIBIT B

### Project Plan for Barone Brothers, LLC

The real property owned by Barone Brothers, LLC. at 1000, 2000 & 3000 Regency Court, Toledo Ohio 43623, 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. HVAC Systems Replacement
2. Building Controls & VFDs
3. LED Lighting Interior & Exterior
4. Boiler Replacements

Total project cost: \$1,529,324.00

Total cost including financing and other charges: \$1,806,777.22

Total assessment payments to be collected: \$2,728,670.66

Estimated Annual assessment payment: \$182,578.04

Estimated semi-annual special assessments for 15 years\*: varies – see table below

Number of semi-annual installments: 30

First annual assessment due: January 31, 2019

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

#### Regency Court Project 1 (1000 Regency)

County Taxable Year	Total Annual Assessment Parcel 24-22181	Year Payments Are Due	1st Half (Due 1/31)	2nd Half (Due 7/31)
2018	\$60,859.02	2019	\$30,429.67	\$30,429.67
2019	\$60,859.02	2020	\$30,429.67	\$30,429.67
2020	\$60,859.02	2021	\$30,429.67	\$30,429.67
2021	\$60,859.02	2022	\$30,429.67	\$30,429.67
2022	\$60,859.02	2023	\$30,429.67	\$30,429.67
2023	\$60,859.02	2024	\$30,429.67	\$30,429.67
2024	\$60,859.02	2025	\$30,429.67	\$30,429.67
2025	\$60,859.02	2026	\$30,429.67	\$30,429.67
2026	\$60,859.02	2027	\$30,429.67	\$30,429.67
2027	\$60,859.02	2028	\$30,429.67	\$30,429.67
2028	\$60,859.02	2029	\$30,429.67	\$30,429.67
2029	\$60,859.02	2030	\$30,429.67	\$30,429.67
2030	\$60,859.02	2031	\$30,429.67	\$30,429.67
2031	\$60,859.02	2032	\$30,429.67	\$30,429.67
2032	\$60,859.02	2033	\$30,429.67	\$30,429.67
<b>Total Assessment</b>	<b>\$912,890.25</b>		<b>\$912,890.10</b>	



**Regency Court Project 2 (2000 Regency)**

County Taxable Year	Total Annual Assessment Parcel 24-22191	Year Payments Are Due	1st Half (Due 1/31)	2nd Half (Due 7/31)
2018	\$60,859.02	2019	\$30,429.67	\$30,429.67
2019	\$60,859.02	2020	\$30,429.67	\$30,429.67
2020	\$60,859.02	2021	\$30,429.67	\$30,429.67
2021	\$60,859.02	2022	\$30,429.67	\$30,429.67
2022	\$60,859.02	2023	\$30,429.67	\$30,429.67
2023	\$60,859.02	2024	\$30,429.67	\$30,429.67
2024	\$60,859.02	2025	\$30,429.67	\$30,429.67
2025	\$60,859.02	2026	\$30,429.67	\$30,429.67
2026	\$60,859.02	2027	\$30,429.67	\$30,429.67
2027	\$60,859.02	2028	\$30,429.67	\$30,429.67
2028	\$60,859.02	2029	\$30,429.67	\$30,429.67
2029	\$60,859.02	2030	\$30,429.67	\$30,429.67
2030	\$60,859.02	2031	\$30,429.67	\$30,429.67
2031	\$60,859.02	2032	\$30,429.67	\$30,429.67
2032	\$60,859.02	2033	\$30,429.67	\$30,429.67
<b>Total Assessment</b>	<b>\$912,890.25</b>		<b>\$912,890.10</b>	

**Regency Court Project 3 (3000 Regency)**

County Taxable Year	Total Annual Assessment Parcel 24-22201	Year Payments Are Due	1st Half (Due 1/31)	2nd Half (Due 7/31)
2018	\$60,859.02	2019	\$30,429.67	\$30,429.67
2019	\$60,859.02	2020	\$30,429.67	\$30,429.67
2020	\$60,859.02	2021	\$30,429.67	\$30,429.67
2021	\$60,859.02	2022	\$30,429.67	\$30,429.67
2022	\$60,859.02	2023	\$30,429.67	\$30,429.67
2023	\$60,859.02	2024	\$30,429.67	\$30,429.67
2024	\$60,859.02	2025	\$30,429.67	\$30,429.67
2025	\$60,859.02	2026	\$30,429.67	\$30,429.67
2026	\$60,859.02	2027	\$30,429.67	\$30,429.67
2027	\$60,859.02	2028	\$30,429.67	\$30,429.67
2028	\$60,859.02	2029	\$30,429.67	\$30,429.67
2029	\$60,859.02	2030	\$30,429.67	\$30,429.67
2030	\$60,859.02	2031	\$30,429.67	\$30,429.67
2031	\$60,859.02	2032	\$30,429.67	\$30,429.67
2032	\$60,859.02	2033	\$30,429.67	\$30,429.67
<b>Total Assessment</b>	<b>\$912,890.25</b>		<b>\$912,890.10</b>	

**EXHIBIT C**

**AGREEMENT TO IMPOSE SPECIAL ASSESSMENTS**

(See Attached)