

# **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:

Beauty Bar II, 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, Township of Springfield, 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, Township of Springfield, Township of Sylvania, Township of Monclova, Township of Swanton, 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 “Beauty Bar 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 Beauty Bar 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 Beauty Bar Energy Improvement Project, hereby (a) petitions the City Council to (i) approve the addition of the Property to the District and (ii) approves an amendment to the Current Comprehensive Plan to include the Beauty Bar Energy Improvement Project and (b) requests that (i) the Beauty Bar 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 Beauty Bar Energy Improvement Project, (iii) the estimate of cost for the Beauty Bar Energy Improvement Project included in **Exhibit B** and (iii) the schedule of estimated special assessments to be levied for the Beauty Bar 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 Beauty Bar Energy Improvement Project.

Accordingly, the Petitioner hereby petitions for the construction of the Beauty Bar 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 Beauty Bar 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 Beauty Bar 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 Beauty Bar Energy Improvement Project and the Special Assessments, particularly those in Chapter 727 and 1710 of the Revised Code and consents to proceeding with the Beauty Bar 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 notice that bids or quotations for the Special Energy Improvements may exceed estimates by 15%;
- 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 Beauty Bar 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 Beauty Bar 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 Beauty Bar Energy Improvement Project have been completed.

The Petitioner further acknowledges that the final assessments for the Beauty Bar 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 Beauty Bar Energy Improvement Project be payable in twenty-eight (28) 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 Beauty Bar 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.

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**IN WITNESS WHEREOF**, Beauty Bar II, LLC., has caused this petition to be executed by Matthew Rubin, in his official capacity as Member, on February 16, 2018.

**Beauty Bar II, LLC.**

By: \_\_\_\_\_  
Joseph Spallino  
Member, Beauty Bar II, LLC.

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF LUCAS            )

On the 16 day of February, 2018, before me, a Notary Public, in and for said County and State, personally appeared, Joseph Spallino, Member for Beauty Bar II, LLC., located at 2919 Central Avenue, Toledo, Ohio 43606, who affirmed that pursuant to due authorization he/she executed the within and foregoing instrument for and on behalf of Beauty Bar II, LLC., in his/her official capacity, and that the same is the free act and deed of Beauty Bar II, 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**

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

Lots 539 and 540 in Old Orchard First Extension, as recorded in Plat Volume 43,  
Page 61, City of Toledo, Lucas County, Ohio.

Parcel Number 11-77654

Property Address: 2919 Central Avenue, Ohio, 43606

## EXHIBIT B

### Project Plan for Beauty Bar II, LLC

The real property owned by Beauty Bar II, LLC at 2919 Central Avenue, Toledo Ohio 43606, 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

Total project cost: \$27,231.00

Total cost including financing and other charges: \$31,417.17

Total assessment payments to be collected: \$44,984.41

Estimated Annual assessment payment: \$3,312.18

Estimated semi-annual special assessments for 14 years\*: *varies – see table below*

Number of semi-annual installments: 28

First annual assessment due: January 31, 2019

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

County Taxable Year	Total Annual Assessment Parcel	Year Payments Are Due	1st Half (Due 1/31)	2nd Half (Due 7/31)
2018	\$3,213.18	2019	\$1,606.59	\$1,606.59
2019	\$3,213.18	2020	\$1,606.59	\$1,606.59
2020	\$3,213.18	2021	\$1,606.59	\$1,606.59
2021	\$3,213.18	2022	\$1,606.59	\$1,606.59
2022	\$3,213.18	2023	\$1,606.59	\$1,606.59
2023	\$3,213.18	2024	\$1,606.59	\$1,606.59
2024	\$3,213.18	2025	\$1,606.59	\$1,606.59
2025	\$3,213.18	2026	\$1,606.59	\$1,606.59
2026	\$3,213.18	2027	\$1,606.59	\$1,606.59
2027	\$3,213.18	2028	\$1,606.59	\$1,606.59
2028	\$3,213.18	2029	\$1,606.59	\$1,606.59
2029	\$3,213.18	2030	\$1,606.59	\$1,606.59
2030	\$3,213.18	2031	\$1,606.59	\$1,606.59
2031	\$3,213.07	2032	\$1,606.59	\$1,606.48
<b>Total Assessment</b>	<b>\$44,984.41</b>			

**EXHIBIT C**

**AGREEMENT TO IMPOSE SPECIAL ASSESSMENTS**

(See Attached)