

**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:

123 N Erie, LLC. (the "Petitioner") is the owner of 100% of the property described on **Exhibit A** attached hereto (the "Property"). The Petitioner has executed an Energy Project Agreement which appoints the Chairperson of the Northwest Ohio Advanced Energy Improvement District ("the Energy Corporation"), an Ohio nonprofit corporation formed to govern the Toledo, Oregon, Maumee, Northwood, Perrysburg, Sylvania, Whitehouse, 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, City of Perrysburg, City of Sylvania, Village of Whitehouse, Township of Monclova, Township of Springfield, Township of Swanton, and 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 Energy Project Agreement 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 "123 N Erie 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 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 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 Project and (b) requests that (i) the 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 Project, (iii) the estimate of cost for the Project included in **Exhibit B** and (iii) the schedule of estimated special assessments to be levied for the 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 Project.

Accordingly, the Petitioner hereby petitions for the construction of the 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 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 the Energy Corporation to provide a loan to the Petitioner 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 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 Project and the Special

Assessments, particularly those in Chapter 727 and 1710 of the Revised Code and consents to proceeding with the 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 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 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 Project have been completed.

The Petitioner further acknowledges that the final assessments for the 123 N Erie 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 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 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, 123 N Erie, LLC., has caused this petition to be executed by Eric Hatton, in his official capacity as Member, on April 1, 2019.

123 N Erie, LLC.

By: 
Name: Eric Hatton
Member, 123 N Erie, LLC.

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

On the 1 day of April, 2019, before me, a Notary Public, in and for said County and State, personally appeared, Eric Hatton, for 123 N Erie, LLC., located at 100 S Huron Street, Unit 4B, Toledo, OH 43604, who affirmed that pursuant to due authorization he executed the within and foregoing instrument for and on behalf of 123 N Erie, LLC., in his official capacity, and that the same is the free act and deed of 123 N Erie, LLC.

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



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


Notary Public

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.

EXHIBIT C

ENERGY PROJECT AGREEMENT

(See Attached)