



## Legislation Text

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**File #:** O-045-21, **Version:** 1

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All Council Members

### **Repealing Ordinance 295-20; removing certain special assessments levied on real property under Ordinance 295-20; and declaring an emergency.**

#### SUMMARY & BACKGROUND:

The City of Toledo, the City of Oregon, the City of Maumee, the City of Northwood, the City of Perrysburg, the City of Sylvania, the Village of Whitehouse, the Township of Monclova, the Township of Springfield, the Township of Swanton, the Township of Sylvania, and the Toledo-Lucas County Port Authority have partnered to create an Energy Special Improvement District (“District”) under Ohio Revised Code Chapter 1710 and a non-profit corporation, known as the Northwest Ohio Advanced Energy Improvement District (“Corporation”), to govern the District. Property owners within the District are permitted to make certain “energy efficiency improvements” to their properties, which constitute a “special energy improvement project”, and pay for the cost of the special energy improvement project by way of special assessments in accordance with the process set out in Chapters 727 and 1710 of the Ohio Revised Code. Revised Code Section 1710.01(G) provides that special energy improvement projects (including energy efficiency improvements) constitute public improvements and are therefore subject to special assessments.

Clock Tower Capital, LLC (the “Petitioner”) is the owner of 100% of the property described on **Exhibit A** attached to Ordinance 295-20 of this Council adopted on August 25, 2020 (the “Property”). The Petitioner previously caused the completion of an energy assessment of the Property.

The energy assessment identified energy conservation measures, all of which qualified as energy efficiency improvements as defined in Revised Code Section 1710.01(K), and Petitioner previously determined to proceed with implementing those energy efficiency improvements and requested certain financing to be secured by and repaid through special assessments.

Petitioner previously submitted to this Council the Petition for Special Assessments for Special Energy Improvement Projects (the “Petition”) seeking (i) the addition of certain of its property to the District and (ii) approval of an amendment to the District’s comprehensive plan for special energy improvement projects to include the Clock Tower Capital, Toledo, Ohio Special Energy Improvement Project (the “Project”) and requesting that the Project be undertaken by the District and that the costs thereof be specially assessed against the Property specially benefited thereby (the “Special Assessments”).

The Petition contemplated that the cost of the Project will be funded through a loan from Inland Green Trust (“Inland”), which would be repaid over time from the Special Assessments paid by Petitioner. Petitioner, in turn, expected to be able to pay a portion of the Special Assessments from the energy savings estimated to be achieved as a result of the Special Energy Improvement Project.

This special assessment process is a voluntary process with one hundred percent of the cost of the Project being assigned to the specially benefited Property.

Based on Petitioner's requests in the Petition, this Council previously adopted Ordinance 295-20 on August 25, 2020, which approved the petition from Petitioner, determined to proceed with the Project, and levied the final costs of the Project, as certified by the Petitioner, against the benefited Property (the "Assessing Ordinance"). This Council further caused the Assessing Ordinance to be certified to the Lucas County Auditor, as provided in the Assessing Ordinance, in order to provide for the collection of the Special Assessments by the Lucas County Auditor.

After the adoption and certification of the Assessing Ordinance, Petitioner became aware of certain facts that would prevent it from closing on the anticipated loan from Inland. Due to those facts, Petitioner and Inland have been unable to close on the loan as contemplated in the Petition, and the special assessments are no longer necessary to repay the contemplated loan.

Petitioner and Inland have each submitted signed written requests to this Council requesting that the Special Assessments be removed from the Property.

This Ordinance repeals the Assessing Ordinance and removes the Special Assessments from the Property.  
NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Assessing Ordinance.

SECTION 2. Based solely upon the signed written statements of Petitioner and of Inland, this Council hereby finds and determines that the Special Assessments levied under the Assessing Ordinance are no longer necessary in order to pay the contemplated costs of the Project and should therefore be removed as special assessments to be collected with real property taxes with respect to the Property.

SECTION 3. In accordance with the signed written requests of Petitioner and of Inland, the Assessing Ordinance (Ordinance 295-20, adopted on August 25, 2020 and approved by the Mayor on August 27, 2020) is hereby repealed.

SECTION 4. The Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor in order to cause all installments of the Special Assessments to be removed from the tax list and duplicate with respect to the Property.

SECTION 5. That this Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION 6. That this Ordinance is declared to be an emergency measure and shall take effect and be enforced from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, safety and property and for the further reason that the immediate action is necessary in order to remove the Special Assessments from the Property as soon as possible.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

\_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council