Legislation Details (With Text)

File #:	O-408-20	**Version:**	1	**Name:**	
Type:	Ordinance			**Status:**	Approved
File created:	10/8/2020			**In control:**	City Council
On agenda:	10/20/2020			**Final action:**	10/20/2020
Title:	Approving a Petition For Special Assessments for Special Energy Improvement Projects and a Project Plan for the Northwest Ohio Advanced Energy Improvement District under Chapter 1710 of the Ohio Revised Code; to authorize and levy special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Toledo in cooperation with the Northwest Ohio Advanced Energy Improvement District; and to approve an Energy Project Agreement in connection with such improvements and special assessments; and declaring an emergency.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Exhibit A, B & C, 2. Petition, 3. Agreement				

Date	Ver.	Action By	Action	Result
10/20/2020	1	City Council		
10/20/2020	1	City Council		
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All Council Members

Approving a Petition For Special Assessments for Special Energy Improvement Projects and a Project Plan for the Northwest Ohio Advanced Energy Improvement District under Chapter 1710 of the Ohio Revised Code; to authorize and levy special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Toledo in cooperation with the Northwest Ohio Advanced Energy Improvement District; and to approve an Energy Project Agreement in connection with such improvements and special assessments; 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 Sylvania, the Village of Whitehouse, the Township of Monclova, the Township of Springfield, the Township of Swanton, and 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.

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Shumaker, Loop & Kendrick, LLP (the "Petitioner") is the owner of 100% of the property described on **Exhibit A** attached hereto (the "Property"). The Petitioner has caused the completion of an energy assessment of the Property.

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

Petitioner has 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 Shumaker, Loop & Kendrick, LLP Special Energy Improvement Project (the "Special Energy Improvement 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.

A complete list and description of the Special Energy Improvement Project is on file with the Clerk of Toledo City Council and is attached as Exhibit B to this Resolution. **Exhibit B** provides the following information for the Special Energy Improvement Project:

1. Identification of the parcel number and name of the Property/building to be improved;
2. A description of the nature of the Special Energy Improvement Project for the particular parcel;
3. The estimated amount of the special assessment to be levied against the Property (the "Special Assessment) and the number of years the Special Assessment will be collected (if not paid in cash within 30 days after the passage of the assessing ordinance as provided by law).

The total dollar cost of the Special Energy Improvement Project, including accrued interest and the associated closing costs, is estimated to be Four Hundred Forty-Three Thousand Seven Hundred Dollars and Zero Cents ($443,700.00). Each semi-annual payment represents the payment of a portion of the principal, interest, and program administration fee due with respect to each semi-annual payment. The total amount to be assessed against the property pursuant to this Ordinance is Three Hundred Eighty-Nine Thousand, Eighty-Eight Dollars and Eighty-Eight Cents ($389,088.88).

The cost of the Project will be funded through a loan from the Toledo-Lucas County Port Authority's Revolving Loan Fund. Ultimately, the loan will be repaid over time from the Special Assessments paid by Petitioners. Petitioners, in turn, are expected to be able to pay a portion of the Special Assessment from the energy savings estimated to be achieved as a result of the Special Energy Improvement Project.

The annual Special Assessment for the Special Energy Improvement Project is to be paid in semi-annual payments over five (5) years. The plans and specifications for the Special Energy Improvement Project are on file with the Clerk of Council. The Petitioners also waive all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Chapter 727 of the Revised Code, the Toledo City Charter and the Toledo Municipal Code. Petitioners consent to the immediate imposition of the Special Assessment upon the Property specially benefited by Special Energy Improvement Project.

This special assessment process is a voluntary process with one hundred percent of the cost of the Special Energy Improvement Project being assigned to the specially benefited Property. This resolution accepts and approves the petition from Petitioners, to begin that special assessment process, and is accompanied by an ordinance to proceed with Petitioners. When the Special Energy Improvement Project is complete and the final

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costs known, an assessing ordinance directing that the necessary Special Assessment be made against the benefited Property will be presented to the Council. 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 Petition.

SECTION 2. This Council approves the Petition attached to the Petition as Exhibit B thereto, both of which are now on file with the Clerk of Council.

SECTION 3. This Council hereby approves and consents to (i) any addition of real property to the territory of the District within the boundaries any municipal corporation or township in which a portion of the territory of the District is located or any municipal corporation or township which is contiguous to the municipal corporations or townships in which a portion of the territory of the District is located; (ii) the addition of the municipal corporation or township in which such real property is located as a "participating political subdivision," as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize or effect such addition.

SECTION 4. It is hereby declared necessary, and a vital and essential public purpose of the City, to improve the Property by providing for special energy improvement projects on the Property in the form of the Project, including any and all costs and expenses in connection with or otherwise related thereto as described in the Petition, all of which is described in the plans, specifications, profiles, and estimates of costs included in the Petition and on file in the office of the Clerk of the Council.

SECTION 5. The plans and specifications and total cost of the Project, as included in the Petition, and now on file in the office of the Clerk of the Council are approved. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project included in the Petition.

SECTION 6. This Council declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, installation, equipment, and improvement of the Project described in the Petition. The Project shall be made in accordance with the provisions of the plans, specifications, profiles, and estimates of cost approved by Section 5 of this Ordinance.

SECTION 7. Pursuant to Section 1710.02(G)(4) of the Ohio Revised Code, this Council determines that the Project to be constructed and implemented on the Property is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the board of directors of the District to act as its agent to sell, transfer, lease, or convey the Project to be constructed and implemented on the Property. The consideration the board of directors of the District must obtain from any sale, transfer, lease, or conveyance of the Project on the Property is any consideration greater than or equal to $1.00.

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SECTION 8. Pursuant to and subject to the provisions of the valid Petition signed by the owner of 100% of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The provisions of the Petition are ratified, adopted, approved and incorporated into this Ordinance as if set forth in full in this Ordinance. The portion of the costs of the Project allocable to the City will be 0%. The City does not intend to issue securities in anticipation of the levy or collection of the Special Assessments.

SECTION 9. The Director of Finance of the City (the "Finance Director") or the Finance Director's designee has caused to be prepared and filed in the office of the Clerk of the Council the estimated Special Assessments and the cost of the Project in accordance with the method of assessment set forth in the Petition. The estimated Special Assessments and cost of the Project are hereby adopted.

SECTION 10. This Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Chapter 727 of the Ohio Revised Code, Chapter 1710 of the Ohio Revised Code, and the Charter of the City of Toledo, Ohio, and consents to the immediate imposition of the Special Assessments upon the Properties. This waiver encompasses, but is not limited to, waivers by the Owners of the following rights:

(i) The right to notice of the adoption of a resolution of necessity under Sections 727.13 and 727.14 of the Ohio Revised Code;
(ii) The right to limit the amount of the Special Assessments under Sections 727.03 and 727.06 of the Ohio Revised Code;
(iii) The right to file an objection to the Special Assessments under Section 727.15 of the Ohio Revised Code;
(iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Sections 727.16 and 727.17 of the Ohio Revised Code;
(v) The right to file any claim for damages under Sections 727.18 through 727.22 of the Ohio Revised Code and Section 727.43 of the Ohio Revised Code;
(vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
(vii) The right to seek a deferral of payments of Special Assessments under Section 727.251 of the Ohio Revised Code;
(viii) The right to notice of the passage of the assessing ordinance under Section 727.26 of the Ohio Revised Code; and
(ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

SECTION 11. The list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, which is $389,088.88, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses, which costs were set forth in the Petition and previously reported to this Council and are now on file in the offices of the Clerk of Council, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, which shall accrue at the annual rate of 5% together with amounts used to pay administrative expenses, has been determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds been issued by the District.

The Special Assessments are assessed against the Property commencing in tax year 2020 for collection

in 2021 and shall continue through tax year 2024 for collection in 2025; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Lucas County, Ohio (the "County Auditor") determines that collections shall not commence in 2021, then the collection schedule may be deferred by one year. The semi-annual installment of the Special Assessments shall be collected in each calendar year equal to a semi-annual amount of Special Assessments as shown in **Exhibit C**, attached hereto and incorporated into this Ordinance. The Special Assessments may be levied and collected before the Project is commenced.

The Special Assessments shall be allocated in proportion to the benefits which may result from the Project among the parcels constituting the Property as set forth in the Petition and the List of Special Assessments attached hereto as **Exhibit C** and incorporated herein.

SECTION 12. This Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

SECTION 13. The Owner has waived their right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Clerk of Council to the County Auditor as provided by the Petition and Section 727.33 of the Ohio Revised Code to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

SECTION 14. The Special Assessments will be used by the City to pay the cost of the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes. The Finance Director or the Finance Director's designee shall keep the Special Assessments on file in the office of the Finance Director.

SECTION 15. In compliance with Section 319.61 of the Ohio Revised Code, the Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor within 15 days after its passage.

SECTION 16. 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 17. 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 conserve energy and protect the environment of the City, as well as, undertake the construction of the public improvements and enable and provide for the timely levying, certification and collection of the special assessments for the Special Energy Improvement Project.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____ _____

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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