

BRUNSWICK CITY ECONOMIC DEVELOPMENT COMMITTEE

Agenda MAY 24, 2021 6:15 PM

1. Discussion Items

ORD. NO. 54-2021 - An emergency ordinance determining to proceed with certain Medina County Energy Improvement District Projects by way of Special Assessments in accordance with Chapters 1710 and 727 of the Ohio Revised Code. - **1st Reading** (To be brought from Economic Development Committee, *Administration/Grant Aungst*)

ORD. NO. 55-2021 - An emergency ordinance levying special assessments for the Special Energy Improvement Project. - **1st Reading** (To be brought from Economic Development Committee, *Administration/Grant Aungst*)

2. General Discussion

3. Adjournment

PROPOSED LEGISLATION



DATE: 5/24/2021

TO: Vice Mayor Michael Abella Jr. and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 54-2021** - An emergency ordinance determining to proceed with certain Medina County Energy Improvement District Projects by way of Special Assessments in accordance with Chapters 1710 and 727 of the Ohio Revised Code. - **1st Reading** (To be brought from Economic Development Committee, *Administration/Grant Aungst*)

BACKGROUND: The City of Brunswick is seeking to establish the City as part of the Energy Special Improvement District (ESID) within Medina County for the betterment of the City, its stakeholders, and the business community to improve real property.

**PURPOSE AND
EXPLANATION:**

**IMPLEMENTATION
SCHEDULE:**

**FINANCIAL
INFORMATION:**

**FINANCIAL
SUMMARY:**

**RECOMMENDED
ACTION:**

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	Yes
Suspension of Rules	No

If emergency or suspension of the rules, why the request?

Upcoming project timing and needing to pair with agreements with the Medina County ESID.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 54-2021

BY: Mr. Hanek, Mr. Delsanter and Mrs. Hanek

AN EMERGENCY ORDINANCE DETERMINING TO PROCEED WITH CERTAIN MEDINA COUNTY ENERGY IMPROVEMENT DISTRICT PROJECTS BY WAY OF SPECIAL ASSESSMENTS IN ACCORDANCE WITH CHAPTERS 1710 AND 727 OF THE OHIO REVISED CODE.

- WHEREAS: The City of Medina created an Energy Special Improvement District (“District”) under Ohio Revised Code Chapter 1710 and a non-profit corporation, known as City of Medina Energy Special Improvement District, Inc., dba Medina County 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. Ohio 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;
- WHEREAS: The City of Medina and the City of Brunswick have partnered to expand an Energy Special Improvement District under Ohio Revised Code Chapter 1710 and the Corporation, known as the City of Medina Energy Special Improvement District, Inc. dba County of Medina Energy Improvement District, to govern the district;
- WHEREAS: The City of Brunswick (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 (the “Agreement”) with the Corporation. A copy of the Agreement is attached to the Petition as **Exhibit C**;
- WHEREAS: Pursuant to the Agreement, the Corporation and the Petitioner have caused an energy audit to the Property to be completed;
- WHEREAS: The energy audit has identified energy conservation measures, all of which qualify as energy efficiency improvements as defined in Ohio Revised Code Section 1710.01(K), which the Petitioner has determined to proceed with implementation, and to pay by way of special assessments;
- WHEREAS: The Petitioner has submitted to this Council a petition (“Petition”) seeking (i) the expansion of the District; (ii) the addition certain of its property to the District; and (iii) approval of the District's amended 2021 comprehensive plan for special energy improvement projects, (the “Plan”) including the City of Brunswick Special Energy Improvement Project (the “Project”) and requesting that this Project be undertaken by the District and that the costs thereof be specially assessed against the properties of the Petitioner specially benefited thereby;

WHEREAS: A complete list and description of the Project is on file with the Clerk of Council and is attached as **Exhibit B** to this Ordinance. **Exhibit B** provides the following information for the Project:

1. Identification of the parcel numbers 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 each parcel of property 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 Petitioner expressly waives the right to pay the assessments in cash within 30 days after passage of the assessing ordinance.

WHEREAS: The total dollar cost of the Project, is Thirty-Five Dollars and Ninety-Six Cents (\$35.96). Each annual payment represents the payment of a portion of the principal of and interest. The Auditor of Medina County, Ohio may impose a special assessment collection fee with respect to each annual assessment payment. If imposed, this special assessment collection fee will be added by the Auditor of Medina County, Ohio to each annual assessment payment;

WHEREAS: The annual special assessments for the Project are to be paid in one (1) annual payment over one (1) year. The plans and specifications for the Project are on file with the Clerk of Council. The Petitioner's petition also waives 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, the City of Brunswick Charter and Codified Ordinances. The Petitioner consents to the immediate imposition of the special assessments upon the various properties specially benefited by Special Energy Improvement Projects; and

WHEREAS: This special assessment process is a voluntary process with one hundred percent of the cost of the special energy improvement projects being assigned to the specially benefited properties. When the Project is complete and the final costs known, an assessing ordinance directing that the necessary special assessments be made against the benefited properties will be presented to the Council.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY RESOLVES:

SECTION 1: That this Council hereby determines to proceed with the Project as described in the Petitioner's Petition and in the Resolution of Necessity, including the **Exhibit B** attached thereto, and in accordance with the plans, specifications, profiles and estimates of costs previously approved and now on file with the Clerk of Council.

SECTION 2: That the Corporation and Petitioner shall cause the Project to be constructed under such contracts as they determine to be appropriate under law and in accordance with the plans and specifications approved by this Council.

SECTION 3: That the total cost of the Project to be assessed in accordance with the Resolution of Necessity shall be assessed on the properties in the manner and pursuant to the payment schedule set forth in the Resolution of Necessity, and the estimated special assessments prepared and filed in the Office of the Clerk of Council are adopted.

SECTION 4: That the Clerk of Council is hereby directed to deliver a certified copy of this Ordinance to the County Auditor within fifteen (15) days after its passage (or by such other date as may be specified in the Ohio Revised Code or acceptable to the County Auditor of Medina County, Ohio for the certification of assessments in connection with the preparation of the general tax list for tax year 2021).

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 or any of its Committees that resulted in such formal action were held in meetings open to the public, in compliance with all legal requirements including those of Section 121.22 of the Ohio Revised Code.

SECTION 15: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety or welfare, and for the additional reason that immediate passage 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 Project. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading_____

2nd Reading_____

3rd Reading_____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Fijabi Julien-Gallam, CMC

EXHIBIT A

DESCRIPTION OF PROPERTY

Parcel No. 003-18B-43-010

Property Address: 4095 Center Road, Brunswick, Ohio 44212

EXHIBIT B

Project Plan for City of Brunswick, Ohio

The real property owned by the City of Brunswick, Ohio located at 4095 Center Road, Brunswick, Ohio 44212, serves as City Hall for the City of Brunswick. The description of the property is set forth on the attached Exhibit A. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The energy efficiency savings for the project are expected to be 20% or more annually and consist of the following energy efficiency elements:

1. LED Lighting Replacement

Total Project Cost: \$35.96

Total cost including financing and other charges: \$35.96

Total direct payments collected: \$0.00

Total assessment payments to be collected: \$35.96

Estimated annual special assessment for 1 year: \$35.96

Estimated annual special assessments for 1 year*: 1

Number of annual installments: 1

First annual installment due: January 31, 2022

**Note: Numbers do not reflect additional charges the County Auditor may apply to the annual assessment.*

Year Payments Are Due	Total Annual Assessment Parcel 003-18B-43-010	1st Half (Due 1/31)	2nd Half (Due 7/31)
2022	\$35.96	\$35.96	\$0.00
Total Assessment	\$35.96		

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 Medina County Auditor under certain conditions.

The County Auditor of Medina County, Ohio may impose a special assessment collection fee with respect to each Annual Assessment payment. If imposed, this special assessment collection fee will be added by the County Auditor of Medina County, Ohio to each Annual Assessment payment.

EXHIBIT C
ENERGY PROJECT AGREEMENT

[Attached]

ENERGY PROJECT AGREEMENT

by

CITY OF MEDINA ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.,

dba

MEDINA COUNTY ENERGY IMPROVEMENT DISTRICT

and

CITY OF BRUNSWICK, OHIO

Dated

as of

_____, 2021

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ENERGY PROJECT AGREEMENT

This Energy Project Agreement (the “Agreement”) is made and entered into as of _____, 2021 (the “Effective Date”) between the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District, a non-profit corporation and special improvement district under the laws of the State of Ohio (the “Corporation”), with offices at 144 Broadway Street, # 202, Medina, OH 44256, and the City of Brunswick, Ohio, a chartered Ohio municipal corporation with offices at 4095 Center Road, Brunswick, Ohio 44212 (the “Petitioner”):

WHEREAS, the Petitioner is engaging in a certain special energy improvement project (“Energy Project”); and

WHEREAS, the Petitioner petitioned the City of Brunswick, Ohio for the expansion of the Medina County Energy Improvement District to become a member (the “Petition”); and

WHEREAS, on September 9, 2019 the City Council of Medina passed Resolution No. 140-19, which approved the initial petition, the initial plan for the district, and authorized the formation of the Medina County Energy Improvement District; and

WHEREAS, the Energy Project has an overall estimated cost of Thirty-Five Dollars and Ninety-Six Cents (\$35.96) (excluding interest and other transactional and carrying costs, all of which shall be included in the Special Assessments described below) as shown in Exhibit B, which the Petitioner has agreed to fund; and

WHEREAS, the Petitioner requests that the Energy Project be funded through special assessments (“Special Assessments”) upon the real property upon which the Energy Project will be constructed and exist (the “Property”) as allowed under Ohio Revised Code Chapters 1710 and 727; and

WHEREAS, the Corporation and the Petitioner agrees to undertake the funding of the Energy Project through Special Assessments upon the condition that the Petitioner agrees to impose the Special Assessments upon the Property and provide full cooperation with and assistance to the Corporation and the City of Brunswick, Ohio (the “City”) and other entities and institutions involved in the process of approving and imposing the Special Assessments; and

WHEREAS, in order to induce the Corporation to provide the funds for the Energy Project, the Petitioner agrees to provide all such cooperation and assistance necessary for the imposition of the Special Assessments upon the Property.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the Petitioner and the Corporation do hereby enter into this Energy Project Agreement (“Agreement”) as follows:

SECTION 1. Consent to Special Assessments. The Petitioner consents to the imposition of Special Assessments upon the Property, which is commonly referred to as 4095 Center Road, Brunswick, Ohio 44212, and which consists of the following permanent parcel numbers in the records of the Auditor of Medina County, Ohio (the “Auditor”): Parcel Number/PPN 003-18B-43-010 as detailed on Exhibit A attached hereto and incorporated herein by reference. In the event there are additional or other parcels of property that are not listed but which are benefitted by the Energy Project, the Petitioner consents to the imposition of the Special Assessments with respect to those parcels as well. The Petitioner acknowledges that the Special Assessments in the event of non-payment and default will constitute a lien upon the Property and may be enforced and collected in accordance with law, including the provisions of Chapter 727 of the Ohio Revised Code.

The cost of the Energy Project shall include, but not be limited to, the cost of: labor, materials, equipment, engineering, design, and audits (“Energy Project Amount”) and is estimated to be Thirty-Five Dollars and Ninety-Six Cents (\$35.96). The Special Assessments shall be in an amount sufficient to fund the Energy Project Amount and shall include an amount sufficient to fund the necessary and reasonable additional costs related to the financing of the Energy Project Amount including but not limited to: interests, fees, carrying costs, taxes, filing fees, recording charges and all other costs incident to the financing of the Energy Project Amount.

The Petitioner acknowledges that the Energy Project Amount is an estimated cost of the Energy Project and that the actual cost of the Energy Project may be more or less than the estimate and that such estimate does not limit the amount of the Special Assessments; provided, however, that the sum total of all Special Assessments, including the costs related to financing the Energy Project Amount, will not exceed the Total Assessment Amount to be Collected amount listed on Exhibit B attached to this Agreement and incorporated into this Agreement by this reference. The Petitioner agrees that one hundred percent (100%) of the Special Assessments shall be imposed upon the Property and that the Property is being specially benefitted to the full extent of the Special Assessments. The Special Assessments may continue for such period of time as allowed by law and shall continue for the full period of time required to pay the Corporation for all costs, including financing costs, for the Energy Project.

SECTION 2. Agreement to Cooperate. The Petitioner agrees to provide full and timely cooperation to the Corporation and the agencies, entities and institutions involved in the special assessment process, including but not limited to: the City and the Medina County, Ohio Treasurer (the “Treasurer”), so that the Special Assessments are imposed upon the Property and enforceable against the Property. The Petitioner agrees that pursuant to a Petition, it has submitted its Energy Project for admission as a special energy improvement project to be undertaken by the Corporation. The Petitioner therefore shall be a member of the Corporation. The Petitioner further agrees that it shall cause a representative to appear at any necessary hearings or legal proceedings involving the Special Assessments and cooperate in such hearings or legal proceedings so that the Special Assessments are approved and become binding upon the Property. The Petitioner agrees to provide on-going cooperation with the Corporation and all other agencies, entities and institutions involved in the special assessment process during the entire period of time any of the financing for the Energy Project remains outstanding.

The Corporation and the Petitioner agree to provide full and timely cooperation with each other for the financing of the Energy Project and the provision of the Energy Project pursuant to this Agreement, and the Petition.

SECTION 3. Execution of Documents; Appointment of Agent. Petitioner shall execute or cause to be executed by appropriate Petitioner officials, all applications, petitions for special assessments, waivers, acknowledgements, and other instruments, documents and papers (“Documents”) necessary or helpful to impose the Special Assessments upon the Property and to acknowledge the validity and binding nature of such Special Assessments. To facilitate that process, Petitioner hereby irrevocably appoints the Corporation’s Chairperson, or such other individual as the Corporation may name from time to time, as the Petitioner’s attorney-in-fact and agent with full and complete authority to execute all such Documents, including but not limited to the Petition, on behalf of Petitioner and to bind Petitioner and the Property to the Special Assessments, including making all waivers of hearings and notices concerning the Special Assessments.

Without limiting the generality of the foregoing grant of authority, Petitioner grants the Corporation full irrevocable power and authority in the place of Petitioner and in the name of Petitioner or in Corporation’s own name, for the purpose of carrying out the terms of this Agreement, to perform, at any time and from time to time, each agreement contained in this Agreement that is on Petitioner's part to be complied with, and to take any and all actions and to execute and deliver any and all Documents which may be necessary or desirable to give the Corporation the full benefit of this Agreement, in each case as the Corporation may from time to time deem advisable, Petitioner hereby agreeing that the Corporation shall owe no duty whatever to Petitioner to perform any such agreement, to take any such action, or to execute or deliver any such Document or, having done so any one or more times, to thereafter continue doing so. Without limiting the generality of the foregoing, Petitioner hereby irrevocably authorizes the Corporation, at any time and from time to time, to (a) fill in any blank space contained in this Agreement or another Document, (b) correct patent errors, to complete and correct the description of the Property, and to complete the date herein or therein, (c) file and sign, on Petitioner's behalf, at Petitioner's expense and without Petitioner's signature, such petitions for special assessments, waivers, affidavits, assignments, financing statements, endorsements of specific items of collateral, mortgages, powers of attorney, security agreements, or other Documents as the Corporation may from time to time deem advisable for the better evidencing, perfection, protection, or validation of, or realization of the benefits of this Agreement, and (d) to the extent the Corporation filed any such petitions for special assessments, waivers, affidavits, assignments, financing statements, endorsements of specific items of collateral, mortgages, powers of attorney, security agreements, or other Documents prior to the date of this Agreement, all such actions and Documents are hereby ratified by the Petitioner.

SECTION 4. Waiver of Certain Rights. Petitioner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Chapter 727 of the Ohio Revised Code, the Charter of the City and the Codified Ordinances of Brunswick, Ohio (collectively, "Assessment Rights"). Petitioner hereby irrevocably waives all Assessment Rights and consents to the imposition of the Special Assessments immediately or at such time as the Corporation determines to be appropriate, and Petitioner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessment upon the Property. The Petitioner further waives: any and all questions as to the constitutionality of the law under which the Energy Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council of the City acting thereunder; and the right to file a claim for damages as provided in Section 727.18 of the Ohio Revised Code and any similar provision of the Charter of the City of Medina or the Codified Ordinances of Medina, Ohio.

SECTION 5. Representations and Warranties. Petitioner represents and warrants that:

5.1 Petitioner is a duly organized and validly existing chartered municipal corporation under the laws of the State of Ohio;

5.2 Petitioner is the owner of the Property with the legal authority to subject the Property to the Special Assessments;

5.3 Petitioner and the individual executing this Agreement on behalf of the Petitioner are duly authorized to enter into this Agreement;

5.4 Entering into this Agreement will not result in the breach of any other agreement to which the Petitioner is a party;

5.5 Petitioner will complete the Energy Project, and has or will provide sufficient funds to complete the Energy Project in the event of additional costs or expenses above and beyond the estimated Energy Project Amount of Thirty-Five Dollars and Ninety-Six Cents (\$35.96). In the event that the Energy Project is completed below the estimated cost of Thirty-Five Dollars and Ninety-Six Cents (\$35.96) the remaining amount shall be used to reduce the final assessment amount payable; and

5.6 All of the factual statements concerning Petitioner contained in this Agreement are true and accurate to the best of Petitioner's knowledge and belief and if there is a material change in the accuracy or truthfulness of any such factual statement, Petitioner will promptly disclose the same to the Corporation.

SECTION 6. Assignment; Third Party Beneficiaries. Petitioner may not assign this Agreement without the consent of the Corporation, which consent shall not be unreasonably withheld. Corporation may assign this Agreement, or any portion of its benefits or obligations, freely to another party, with or without the consent of the Petitioner.

SECTION 7. Default. If any of the following events shall occur, it shall be deemed a default (“Default”) under this Agreement and the Corporation shall be entitled to any rights or remedies under this Agreement and any rights or remedies provided under law:

7.1 The Petitioner fails to pay an installment of any Special Assessment when due.

7.2 The Petitioner fails to perform any other obligation under this Agreement and the failure continues for a period of ten (10) days after written notice from the Corporation.

7.3 The Petitioner is in breach of any of its representations or warranties under this Agreement.

7.4 The Petitioner abandons the Property.

7.5 The Petitioner commits waste upon the Property.

7.6 The Petitioner becomes bankrupt or insolvent or files or has filed against it a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes an assignment for the benefit of creditors.

In the event of a Default, then, in addition to any other remedy the Corporation may have, the Corporation may recover from Petitioner all damages they respectively incur by reason of the Default, including reasonable attorneys’ fees and expenses.

SECTION 8. General.

8.1 If any provision of this Agreement is found to be invalid, illegal or unenforceable under any applicable statute or law, such provision shall to that extent be deemed to be omitted, and the remaining provisions of this Agreement shall not be affected in any way.

8.2 The Petitioner acknowledges that it has read and understands this Agreement and is bound by its terms. This Agreement contains the entire understanding and agreement of the parties with respect to the matters contained in this Agreement, and supersedes all prior proposals and understandings between the parties.

8.3 This Agreement shall not be modified or altered except as by a written instrument duly executed by all of the parties.

8.4 The Petitioner acknowledges that it has had an opportunity to review this Agreement and to be advised by an attorney of its choosing as to the Agreement’s terms, conditions and provisions. The Petitioner is entering into this Agreement knowingly and voluntarily.

8.5 The Corporation and the Petitioner are, in relation to one another, independent contractors and not agents of one another. The parties have no fiduciary obligations to one another and are not, by entering into this Agreement, assuming any such fiduciary obligations.

8.6 The Petitioner acknowledges that the Corporation has been created under provisions of the Ohio Revised Code and that and that their authority, as well as the authority of their employees, agents and representatives, is limited under law.

8.7 The Corporation may cause this Agreement to be recorded in the office of the Recorder. The obligations created by this Agreement shall run with and be binding upon the land regardless of the owner of Property until duly released by the Corporation.

8.8 The Petitioner shall provide written notice to Corporation of any sale or transfer of the Property.

8.9 The Petitioner shall disclose the existence of this Agreement to any purchaser or transferee of the Property and inform such purchaser or transferee of the nature and extent of the Special Assessments before entering into a binding agreement for the sale or transfer of the Property.

8.10 The Petitioner acknowledges that the Special Assessments, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance levying the final assessment if permitted by law and that if such Special Assessment is not paid in cash, the balance will be certified to the Auditor, as provided by law, to be placed by the Auditor on the tax list and duplicate and collected as other taxes are collected in such number of semiannual installments as determined by the Corporation and as allowed by law, together with interest at the same rate as shall be borne by the loans received or bonds issued to pay the costs of the Energy Project or in anticipation of the collection of the Special Assessments. Notwithstanding the foregoing, the Petitioner waives and authorizes the Corporation to waive on its behalf, the right to pay the Special Assessments in cash.

8.11 At such time as the Special Assessments are no longer necessary to finance the Energy Project, the Corporation having recovered all of its costs, and all other requirements under this Agreement have been fulfilled, the Corporation will provide a release of this Agreement and cause the same to be recorded in the office of the Recorder.

8.12 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to its conflict of laws principles.

8.13 Any legal proceeding, including any arbitration or litigation, concerning this agreement, directly or indirectly, shall be heard only in a state or federal court with proper jurisdiction in Medina County, Ohio.

[Remainder of Page Intentionally Left Blank]

[Signature Page Immediately Follows]

Petitioner:

CITY OF BRUNSWICK, OHIO

By: _____
Carl S. DeForest, City Manager

Date: _____

STATE OF OHIO)
) SS:
COUNTY OF MEDINA)

On this __ day of _____, 2021 personally appeared before me, a notary public in and for the State of Ohio, Carl S. DeForest, City Manager, who acknowledged that he did execute the foregoing Energy Project Agreement on behalf of the City of Brunswick, Ohio and that the same was the free act and deed of the City of Brunswick, Ohio and himself as City Manager.

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

Notary Public

Approved as to form:

Kenneth J. Fisher, Law Director

Corporation:

CITY OF MEDINA ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC., DBA
MEDINA COUNTY ENERGY
IMPROVEMENT DISTRICT

By: _____
_____, Chairperson

Date: _____

STATE OF OHIO)
) SS:
COUNTY OF MEDINA)

On the __ day of _____, 2021 personally appeared before me, a notary public in and for the State of Ohio, _____, the Chairperson of the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District, who acknowledged that he/she did execute the foregoing Energy Project Agreement on behalf of the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District and that the same was the free act and deed of said City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District and of himself/herself as such officer of the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District.

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

Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY

Parcel No. 003-18B-43-010

Property Address: 4095 Center Road, Brunswick, Ohio 44212

EXHIBIT B

Project Plan for City of Brunswick, Ohio

The real property owned by the City of Brunswick, Ohio located at 4095 Center Road, Brunswick, Ohio 44212, serves as City Hall for the City of Brunswick. The description of the property is set forth on the attached Exhibit A. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The energy efficiency savings for the project are expected to be 20% or more annually and consist of the following energy efficiency elements:

1. LED Lighting Replacement

Total Project Cost: \$35.96

Total cost including financing and other charges: \$35.96

Total direct payments collected: \$0.00

Total assessment payments to be collected: \$35.96

Estimated annual special assessment for 1 year: \$35.96

Estimated annual special assessments for 1 year*: 1

Number of annual installments: 1

First annual installment due: January 31, 2022

**Note: Numbers do not reflect additional charges the County Auditor may apply to the annual assessment.*

Year Payments Are Due	Total Annual Assessment Parcel 003-18B-43-010	1st Half (Due 1/31)	2nd Half (Due 7/31)
2022	\$35.96	\$35.96	\$0.00
Total Assessment	\$35.96		

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 Medina County Auditor under certain conditions.

The County Auditor of Medina County, Ohio may impose a special assessment collection fee with respect to each Annual Assessment payment. If imposed, this special assessment collection fee will be added by the County Auditor of Medina County, Ohio to each Annual Assessment payment.

PROPOSED LEGISLATION



DATE: 5/24/2021

TO: Vice Mayor Michael Abella Jr. and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 55-2021** - An emergency ordinance levying special assessments for the Special Energy Improvement Project. - **1st Reading** (To be brought from Economic Development Committee, Administration/Grant Aungst)

BACKGROUND: The City of Brunswick is seeking to establish the City as part of the Energy Special Improvement District (ESID) with in Medina County for the betterment of the City, its stakeholders and business community to improve real property

**PURPOSE AND
EXPLANATION:**

**IMPLEMENTATION
SCHEDULE:**

**FINANCIAL
INFORMATION:**

**FINANCIAL
SUMMARY:**

The City will self fund a Special Assessment, total amount of \$35.96 for four LED light bulbs for the ESID project. The cost for each bulb was \$8.99 and was part of the re-bulbing project for City Hall. This specific four bulb project was approved by the County of Medina ESID.

**RECOMMENDED
ACTION:**

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	Yes
Suspension of Rules	No

If emergency or suspension of the rules, why the request?

Upcoming project timing and needing to pair with agreements with the Medina County ESID.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 55-2021

BY: Mr. Hanek, Mr. Delsanter, and Mrs. Hanek

AN EMERGENCY ORDINANCE LEVYING SPECIAL ASSESSMENTS
FOR THE SPECIAL ENERGY IMPROVEMENT PROJECT.

- WHEREAS: The City of Medina created an Energy Special Improvement District (“District”) under Ohio Revised Code Chapter 1710 and a non-profit corporation, known as the City of Medina Energy Special Improvement District, Inc., dba Medina County 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. Ohio 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.
- WHEREAS: The City of Brunswick (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 (the “Agreement”) with the Corporation. A copy of the Agreement is attached to the Petition as **Exhibit C**.
- WHEREAS: Pursuant to the Agreement, the Petitioner has caused an energy audit to the property to be completed, which is on file with the Clerk of Brunswick City Council.
- WHEREAS: The energy audit has identified energy conservation measures, all of which qualify as energy efficiency improvements as defined in Ohio Revised Code Section 1710.01(K), which the Petitioner, has determined to proceed with implementation, and to pay by way of special assessments.
- WHEREAS: The Petitioner has submitted to this Council a petition (“Petition”) seeking (i) the addition of certain of its property to the District and (ii) approval of the District’s comprehensive plan for special energy improvement projects, including the Project (as described herein) and requesting that this Project be undertaken by the District and that the costs thereof be specially assessed against the properties of the Petitioner, specially benefited thereby.
- WHEREAS: A complete list and description of the Project is on file with the Clerk of Council and is attached as **Exhibit B** to this Ordinance. **Exhibit B** provides the following information for the Project:

1. Identification of the parcel numbers 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 each parcel of property 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).

WHEREAS: The Petitioner expressly waives the right to pay the assessments in cash within 30 days after passage of the assessing Ordinance.

WHEREAS: The annual special assessments for the Project are to be paid in a single annual payment. The plans and specifications for the Project are on file with the Clerk of Council. The Petitioner's petition also waives 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, the Charter and Codified Ordinances of the City. The Petitioner, consents to the immediate imposition of the special assessments upon the various properties specially benefited by the Project. This special assessment process is a voluntary process with one hundred percent of the cost of the special energy improvement projects being assigned to the specially benefited properties. Final costs for the Project are now known and this assessing ordinance completes the assessing process, which included the adoption of a Resolution of Necessity (Resolution No. 50-2021) and an Ordinance to Proceed (Ordinance No. 54-2021) by levying the assessments against the benefitted properties.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That the special assessments for the cost of providing the Project in the District pursuant to Resolution No. 50-2021 adopted by this Council on June 14, 2021 (the Resolution of Necessity), which were filed and are on file in the office of the Clerk of Council are adopted and confirmed; provided that the cost of providing such Projects are reduced to the aggregate amount of Thirty-Five Dollars and Ninety-Six Cents (\$35.96) which reduction is adopted and confirmed. Those special assessments are levied and assessed upon the properties in the respective amounts set forth in the payment schedule attached as **Exhibit B** and on file with the Clerk of Council, which special assessments have been calculated in a manner provided for in the Resolution of Necessity and are not in excess of the special benefits or any statutory limitation. The special assessments are levied and assessed in accordance with the payment schedule attached hereto as **Exhibit B** in the amounts sufficient to pay the principal of and interest and the scheduled amounts payable as the Authority administrative fees due with respect to each annual period identified in such payment schedule. The Auditor of Medina County, Ohio may impose a special assessment collection fee with respect to each annual assessment payment.

If imposed, this special assessment collection fee will be added by the Auditor of Medina County, Ohio to each semi-annual assessment payment.

SECTION 2: That Petitioner, waives the right to pay the special assessments in cash within thirty days after the passage of this ordinance, and shall pay the assessments in one (1) annual installment in accordance with the schedules attached hereto as **Exhibit B**. All special assessments shall be certified by the Clerk of Council to the County Auditor as provided by law to be placed on the tax duplicate and collected as taxes are collected. All payments shall be made to the Treasurer of Medina County, Ohio and shall be subject to the same delinquency procedures, penalties, and interest as the payment of real property taxes in accordance with Ohio Revised Code Chapter 323.

Notwithstanding the foregoing, pursuant to the Agreement between the Petitioner and the Corporation, attached and providing that the Petitioner, grants the Corporation the authority to determine, in its sole discretion, the amount of the special assessments, the Corporation, acting through its Chairman or other authorized representative, may annually, on or before August 15th, deliver to the City's assessment officer or other appropriate official, a certificate signed by the Chairman reflecting a reduction, in whole or in part, in the amount of the special assessment to be certified by the City assessment officer to the County Auditor in that year for placement onto the tax duplicate the following year and collected as other taxes and assessments are collected. The Corporation's certificate shall reflect payments made by or on behalf of the Petitioner, or its successors, directly to the Corporation or to the Corporation's designee for some or all of the cost of the special energy improvement project thereby resulting in a reduction in the required annual special assessment. The City's assessment officer and all officials with authority to certify special assessments to the County Auditor shall, without any further action by this Council, rely upon the Corporation's certificate and take all actions necessary to implement the annual reduction of the special assessment, if any, evidenced by the certificate. In the event the City's assessment officer does not receive such a certificate in any given year on or before August 15th, the assessment officer shall certify the full amount of the annual special assessment as provided herein to the County Auditor.

SECTION 3: The Council finds and determines that it has previously waived notice of the passage of this assessing Ordinance and therefore no notice need be published in a newspaper of general circulation in the City.

SECTION 4: That the Clerk of Council shall deliver a certified copy of this Ordinance to the County Auditor within fifteen (15) days after its passage or by such other date as may be specified in the Ohio Revised Code or acceptable to the County Auditor of Medina County, Ohio for the certification of assessments in connection with the preparation of the general tax list for tax year 2021.

SECTION 5: That the proceeds of the special assessments levied by this Ordinance that are received by the City shall be applied as provided in Section 1710.12 of the Ohio

Revised Code and are hereby appropriated for that purpose. This Council covenants and agrees that it will give effect to the appropriation in the ordinances it hereafter adopts appropriating money for expenditure or encumbrance. The Director of Finance is authorized and directed to make appropriate accounting entries and adjustments to reflect the City's receipt and disbursement of those proceeds.

SECTION 6: 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 7: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety or welfare, and for the additional reason that immediate passage is necessary to in order to conserve energy and protect the environment of the City, as well as undertake the construction of public improvements and enable and provide for the timely levying, certification and collection of the special assessments for the Project. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading _____
 2nd Reading _____
 3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
 Clerk of Council
 Fijabi Julien-Gallam, CMC

EXHIBIT A

DESCRIPTION OF PROPERTY

Parcel No. 003-18B-43-010

Property Address: 4095 Center Road, Brunswick, Ohio 44212

EXHIBIT B

Project Plan for City of Brunswick, Ohio

The real property owned by the City of Brunswick, Ohio located at 4095 Center Road, Brunswick, Ohio 44212, serves as City Hall for the City of Brunswick. The description of the property is set forth on the attached Exhibit A. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The energy efficiency savings for the project are expected to be 20% or more annually and consist of the following energy efficiency elements:

1. LED Lighting Replacement

Total Project Cost: \$35.96

Total cost including financing and other charges: \$35.96

Total direct payments collected: \$0.00

Total assessment payments to be collected: \$35.96

Estimated annual special assessment for 1 year: \$35.96

Estimated annual special assessments for 1 year*: 1

Number of annual installments: 1

First annual installment due: January 31, 2022

**Note: Numbers do not reflect additional charges the County Auditor may apply to the annual assessment.*

Year Payments Are Due	Total Annual Assessment Parcel 003-18B-43-010	1st Half (Due 1/31)	2nd Half (Due 7/31)
2022	\$35.96	\$35.96	\$0.00
Total Assessment	\$35.96		

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 Medina County Auditor under certain conditions.

The County Auditor of Medina County, Ohio may impose a special assessment collection fee with respect to each Annual Assessment payment. If imposed, this special assessment collection fee will be added by the County Auditor of Medina County, Ohio to each Annual Assessment payment.

EXHIBIT C
ENERGY PROJECT AGREEMENT

[Attached]

ENERGY PROJECT AGREEMENT

by

CITY OF MEDINA ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.,

dba

MEDINA COUNTY ENERGY IMPROVEMENT DISTRICT

and

CITY OF BRUNSWICK, OHIO

Dated

as of

_____, 2021

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ENERGY PROJECT AGREEMENT

This Energy Project Agreement (the “Agreement”) is made and entered into as of _____, 2021 (the “Effective Date”) between the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District, a non-profit corporation and special improvement district under the laws of the State of Ohio (the “Corporation”), with offices at 144 Broadway Street, # 202, Medina, OH 44256, and the City of Brunswick, Ohio, a chartered Ohio municipal corporation with offices at 4095 Center Road, Brunswick, Ohio 44212 (the “Petitioner”):

WHEREAS, the Petitioner is engaging in a certain special energy improvement project (“Energy Project”); and

WHEREAS, the Petitioner petitioned the City of Brunswick, Ohio for the expansion of the Medina County Energy Improvement District to become a member (the “Petition”); and

WHEREAS, on September 9, 2019 the City Council of Medina passed Resolution No. 140-19, which approved the initial petition, the initial plan for the district, and authorized the formation of the Medina County Energy Improvement District; and

WHEREAS, the Energy Project has an overall estimated cost of Thirty-Five Dollars and Ninety-Six Cents (\$35.96) (excluding interest and other transactional and carrying costs, all of which shall be included in the Special Assessments described below) as shown in Exhibit B, which the Petitioner has agreed to fund; and

WHEREAS, the Petitioner requests that the Energy Project be funded through special assessments (“Special Assessments”) upon the real property upon which the Energy Project will be constructed and exist (the “Property”) as allowed under Ohio Revised Code Chapters 1710 and 727; and

WHEREAS, the Corporation and the Petitioner agrees to undertake the funding of the Energy Project through Special Assessments upon the condition that the Petitioner agrees to impose the Special Assessments upon the Property and provide full cooperation with and assistance to the Corporation and the City of Brunswick, Ohio (the “City”) and other entities and institutions involved in the process of approving and imposing the Special Assessments; and

WHEREAS, in order to induce the Corporation to provide the funds for the Energy Project, the Petitioner agrees to provide all such cooperation and assistance necessary for the imposition of the Special Assessments upon the Property.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the Petitioner and the Corporation do hereby enter into this Energy Project Agreement (“Agreement”) as follows:

SECTION 1. Consent to Special Assessments. The Petitioner consents to the imposition of Special Assessments upon the Property, which is commonly referred to as 4095 Center Road, Brunswick, Ohio 44212, and which consists of the following permanent parcel numbers in the records of the Auditor of Medina County, Ohio (the “Auditor”): Parcel Number/PPN 003-18B-43-010 as detailed on Exhibit A attached hereto and incorporated herein by reference. In the event there are additional or other parcels of property that are not listed but which are benefitted by the Energy Project, the Petitioner consents to the imposition of the Special Assessments with respect to those parcels as well. The Petitioner acknowledges that the Special Assessments in the event of non-payment and default will constitute a lien upon the Property and may be enforced and collected in accordance with law, including the provisions of Chapter 727 of the Ohio Revised Code.

The cost of the Energy Project shall include, but not be limited to, the cost of: labor, materials, equipment, engineering, design, and audits (“Energy Project Amount”) and is estimated to be Thirty-Five Dollars and Ninety-Six Cents (\$35.96). The Special Assessments shall be in an amount sufficient to fund the Energy Project Amount and shall include an amount sufficient to fund the necessary and reasonable additional costs related to the financing of the Energy Project Amount including but not limited to: interests, fees, carrying costs, taxes, filing fees, recording charges and all other costs incident to the financing of the Energy Project Amount.

The Petitioner acknowledges that the Energy Project Amount is an estimated cost of the Energy Project and that the actual cost of the Energy Project may be more or less than the estimate and that such estimate does not limit the amount of the Special Assessments; provided, however, that the sum total of all Special Assessments, including the costs related to financing the Energy Project Amount, will not exceed the Total Assessment Amount to be Collected amount listed on Exhibit B attached to this Agreement and incorporated into this Agreement by this reference. The Petitioner agrees that one hundred percent (100%) of the Special Assessments shall be imposed upon the Property and that the Property is being specially benefitted to the full extent of the Special Assessments. The Special Assessments may continue for such period of time as allowed by law and shall continue for the full period of time required to pay the Corporation for all costs, including financing costs, for the Energy Project.

SECTION 2. Agreement to Cooperate. The Petitioner agrees to provide full and timely cooperation to the Corporation and the agencies, entities and institutions involved in the special assessment process, including but not limited to: the City and the Medina County, Ohio Treasurer (the “Treasurer”), so that the Special Assessments are imposed upon the Property and enforceable against the Property. The Petitioner agrees that pursuant to a Petition, it has submitted its Energy Project for admission as a special energy improvement project to be undertaken by the Corporation. The Petitioner therefore shall be a member of the Corporation. The Petitioner further agrees that it shall cause a representative to appear at any necessary hearings or legal proceedings involving the Special Assessments and cooperate in such hearings or legal proceedings so that the Special Assessments are approved and become binding upon the Property. The Petitioner agrees to provide on-going cooperation with the Corporation and all other agencies, entities and institutions involved in the special assessment process during the entire period of time any of the financing for the Energy Project remains outstanding.

The Corporation and the Petitioner agree to provide full and timely cooperation with each other for the financing of the Energy Project and the provision of the Energy Project pursuant to this Agreement, and the Petition.

SECTION 3. Execution of Documents; Appointment of Agent. Petitioner shall execute or cause to be executed by appropriate Petitioner officials, all applications, petitions for special assessments, waivers, acknowledgements, and other instruments, documents and papers (“Documents”) necessary or helpful to impose the Special Assessments upon the Property and to acknowledge the validity and binding nature of such Special Assessments. To facilitate that process, Petitioner hereby irrevocably appoints the Corporation’s Chairperson, or such other individual as the Corporation may name from time to time, as the Petitioner’s attorney-in-fact and agent with full and complete authority to execute all such Documents, including but not limited to the Petition, on behalf of Petitioner and to bind Petitioner and the Property to the Special Assessments, including making all waivers of hearings and notices concerning the Special Assessments.

Without limiting the generality of the foregoing grant of authority, Petitioner grants the Corporation full irrevocable power and authority in the place of Petitioner and in the name of Petitioner or in Corporation’s own name, for the purpose of carrying out the terms of this Agreement, to perform, at any time and from time to time, each agreement contained in this Agreement that is on Petitioner's part to be complied with, and to take any and all actions and to execute and deliver any and all Documents which may be necessary or desirable to give the Corporation the full benefit of this Agreement, in each case as the Corporation may from time to time deem advisable, Petitioner hereby agreeing that the Corporation shall owe no duty whatever to Petitioner to perform any such agreement, to take any such action, or to execute or deliver any such Document or, having done so any one or more times, to thereafter continue doing so. Without limiting the generality of the foregoing, Petitioner hereby irrevocably authorizes the Corporation, at any time and from time to time, to (a) fill in any blank space contained in this Agreement or another Document, (b) correct patent errors, to complete and correct the description of the Property, and to complete the date herein or therein, (c) file and sign, on Petitioner's behalf, at Petitioner's expense and without Petitioner's signature, such petitions for special assessments, waivers, affidavits, assignments, financing statements, endorsements of specific items of collateral, mortgages, powers of attorney, security agreements, or other Documents as the Corporation may from time to time deem advisable for the better evidencing, perfection, protection, or validation of, or realization of the benefits of this Agreement, and (d) to the extent the Corporation filed any such petitions for special assessments, waivers, affidavits, assignments, financing statements, endorsements of specific items of collateral, mortgages, powers of attorney, security agreements, or other Documents prior to the date of this Agreement, all such actions and Documents are hereby ratified by the Petitioner.

SECTION 4. Waiver of Certain Rights. Petitioner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Chapter 727 of the Ohio Revised Code, the Charter of the City and the Codified Ordinances of Brunswick, Ohio (collectively, “Assessment Rights”). Petitioner hereby irrevocably waives all Assessment Rights and consents to the imposition of the Special Assessments immediately or at such time as the Corporation determines to be appropriate, and Petitioner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessment upon the Property. The Petitioner further waives: any and all questions as to the constitutionality of the law under which the Energy Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council of the City acting thereunder; and the right to file a claim for damages as provided in Section 727.18 of the Ohio Revised Code and any similar provision of the Charter of the City of Medina or the Codified Ordinances of Medina, Ohio.

SECTION 5. Representations and Warranties. Petitioner represents and warrants that:

5.1 Petitioner is a duly organized and validly existing chartered municipal corporation under the laws of the State of Ohio;

5.2 Petitioner is the owner of the Property with the legal authority to subject the Property to the Special Assessments;

5.3 Petitioner and the individual executing this Agreement on behalf of the Petitioner are duly authorized to enter into this Agreement;

5.4 Entering into this Agreement will not result in the breach of any other agreement to which the Petitioner is a party;

5.5 Petitioner will complete the Energy Project, and has or will provide sufficient funds to complete the Energy Project in the event of additional costs or expenses above and beyond the estimated Energy Project Amount of Thirty-Five Dollars and Ninety-Six Cents (\$35.96). In the event that the Energy Project is completed below the estimated cost of Thirty-Five Dollars and Ninety-Six Cents (\$35.96) the remaining amount shall be used to reduce the final assessment amount payable; and

5.6 All of the factual statements concerning Petitioner contained in this Agreement are true and accurate to the best of Petitioner’s knowledge and belief and if there is a material change in the accuracy or truthfulness of any such factual statement, Petitioner will promptly disclose the same to the Corporation.

SECTION 6. Assignment; Third Party Beneficiaries. Petitioner may not assign this Agreement without the consent of the Corporation, which consent shall not be unreasonably withheld. Corporation may assign this Agreement, or any portion of its benefits or obligations, freely to another party, with or without the consent of the Petitioner.

SECTION 7. Default. If any of the following events shall occur, it shall be deemed a default (“Default”) under this Agreement and the Corporation shall be entitled to any rights or remedies under this Agreement and any rights or remedies provided under law:

7.1 The Petitioner fails to pay an installment of any Special Assessment when due.

7.2 The Petitioner fails to perform any other obligation under this Agreement and the failure continues for a period of ten (10) days after written notice from the Corporation.

7.3 The Petitioner is in breach of any of its representations or warranties under this Agreement.

7.4 The Petitioner abandons the Property.

7.5 The Petitioner commits waste upon the Property.

7.6 The Petitioner becomes bankrupt or insolvent or files or has filed against it a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes an assignment for the benefit of creditors.

In the event of a Default, then, in addition to any other remedy the Corporation may have, the Corporation may recover from Petitioner all damages they respectively incur by reason of the Default, including reasonable attorneys’ fees and expenses.

SECTION 8. General.

8.1 If any provision of this Agreement is found to be invalid, illegal or unenforceable under any applicable statute or law, such provision shall to that extent be deemed to be omitted, and the remaining provisions of this Agreement shall not be affected in any way.

8.2 The Petitioner acknowledges that it has read and understands this Agreement and is bound by its terms. This Agreement contains the entire understanding and agreement of the parties with respect to the matters contained in this Agreement, and supersedes all prior proposals and understandings between the parties.

8.3 This Agreement shall not be modified or altered except as by a written instrument duly executed by all of the parties.

8.4 The Petitioner acknowledges that it has had an opportunity to review this Agreement and to be advised by an attorney of its choosing as to the Agreement’s terms, conditions and provisions. The Petitioner is entering into this Agreement knowingly and voluntarily.

8.5 The Corporation and the Petitioner are, in relation to one another, independent contractors and not agents of one another. The parties have no fiduciary obligations to one another and are not, by entering into this Agreement, assuming any such fiduciary obligations.

8.6 The Petitioner acknowledges that the Corporation has been created under provisions of the Ohio Revised Code and that and that their authority, as well as the authority of their employees, agents and representatives, is limited under law.

8.7 The Corporation may cause this Agreement to be recorded in the office of the Recorder. The obligations created by this Agreement shall run with and be binding upon the land regardless of the owner of Property until duly released by the Corporation.

8.8 The Petitioner shall provide written notice to Corporation of any sale or transfer of the Property.

8.9 The Petitioner shall disclose the existence of this Agreement to any purchaser or transferee of the Property and inform such purchaser or transferee of the nature and extent of the Special Assessments before entering into a binding agreement for the sale or transfer of the Property.

8.10 The Petitioner acknowledges that the Special Assessments, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the ordinance levying the final assessment if permitted by law and that if such Special Assessment is not paid in cash, the balance will be certified to the Auditor, as provided by law, to be placed by the Auditor on the tax list and duplicate and collected as other taxes are collected in such number of semiannual installments as determined by the Corporation and as allowed by law, together with interest at the same rate as shall be borne by the loans received or bonds issued to pay the costs of the Energy Project or in anticipation of the collection of the Special Assessments. Notwithstanding the foregoing, the Petitioner waives and authorizes the Corporation to waive on its behalf, the right to pay the Special Assessments in cash.

8.11 At such time as the Special Assessments are no longer necessary to finance the Energy Project, the Corporation having recovered all of its costs, and all other requirements under this Agreement have been fulfilled, the Corporation will provide a release of this Agreement and cause the same to be recorded in the office of the Recorder.

8.12 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to its conflict of laws principles.

8.13 Any legal proceeding, including any arbitration or litigation, concerning this agreement, directly or indirectly, shall be heard only in a state or federal court with proper jurisdiction in Medina County, Ohio.

[Remainder of Page Intentionally Left Blank]

[Signature Page Immediately Follows]

Petitioner:

CITY OF BRUNSWICK, OHIO

By: _____
Carl S. DeForest, City Manager

Date: _____

STATE OF OHIO)
) SS:
COUNTY OF MEDINA)

On this __ day of _____, 2021 personally appeared before me, a notary public in and for the State of Ohio, Carl S. DeForest, City Manager, who acknowledged that he did execute the foregoing Energy Project Agreement on behalf of the City of Brunswick, Ohio and that the same was the free act and deed of the City of Brunswick, Ohio and himself as City Manager.

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

Notary Public

Approved as to form:

Kenneth J. Fisher, Law Director

Corporation:

CITY OF MEDINA ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC., DBA
MEDINA COUNTY ENERGY
IMPROVEMENT DISTRICT

By: _____
_____, Chairperson

Date: _____

STATE OF OHIO)
) SS:
COUNTY OF MEDINA)

On the __ day of _____, 2021 personally appeared before me, a notary public in and for the State of Ohio, _____, the Chairperson of the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District, who acknowledged that he/she did execute the foregoing Energy Project Agreement on behalf of the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District and that the same was the free act and deed of said City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District and of himself/herself as such officer of the City of Medina Energy Special Improvement District, Inc., dba Medina County Energy Improvement District.

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

Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY

Parcel No. 003-18B-43-010

Property Address: 4095 Center Road, Brunswick, Ohio 44212

EXHIBIT B

Project Plan for City of Brunswick, Ohio

The real property owned by the City of Brunswick, Ohio located at 4095 Center Road, Brunswick, Ohio 44212, serves as City Hall for the City of Brunswick. The description of the property is set forth on the attached Exhibit A. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

The energy efficiency savings for the project are expected to be 20% or more annually and consist of the following energy efficiency elements:

1. LED Lighting Replacement

Total Project Cost: \$35.96

Total cost including financing and other charges: \$35.96

Total direct payments collected: \$0.00

Total assessment payments to be collected: \$35.96

Estimated annual special assessment for 1 year: \$35.96

Estimated annual special assessments for 1 year*: 1

Number of annual installments: 1

First annual installment due: January 31, 2022

**Note: Numbers do not reflect additional charges the County Auditor may apply to the annual assessment.*

Year Payments Are Due	Total Annual Assessment Parcel 003-18B-43-010	1st Half (Due 1/31)	2nd Half (Due 7/31)
2022	\$35.96	\$35.96	\$0.00
Total Assessment	\$35.96		

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 Medina County Auditor under certain conditions.

The County Auditor of Medina County, Ohio may impose a special assessment collection fee with respect to each Annual Assessment payment. If imposed, this special assessment collection fee will be added by the County Auditor of Medina County, Ohio to each Annual Assessment payment.

