



Legislation Text

File #: 2378-2019, **Version:** 1

BACKGROUND: The Council of the City of Columbus previously adopted an ordinance authorizing the Director of the Department of Development to approve petitions submitted by the owners of real property within the City requesting that their property be added to the territory of the Columbus Regional Energy Special Improvement District (the “District”) and plans for public improvements and public services attached to those petitions for and on behalf of the Council.

Under the authority granted by that ordinance, the Director of the Department of Development has approved three petitions for the addition of certain real property to the District and plans for public improvements and public services attached to those petitions for and on behalf of the Council. Pursuant to those approvals, the real property subject to those petitions have been added to the District. The petitions approved by the Director of the Department of Development provides that special assessments levied by the Council pursuant to Chapters 727 and 1710 of the Ohio Revised Code be used to pay the costs of “special energy improvement projects,” as that term is defined in Section 1710.01 of the Ohio Revised Code, to be constructed pursuant to the petitions.

This legislation is to levy such special assessments, all pursuant to Chapters 727 and 1710 of the Ohio Revised Code, and pursuant to the Charter of the City of Columbus.

Emergency action is requested on this legislation to allow the special assessment process to proceed in a timely manner and allow financing for the special energy improvement projects to be obtained by the District.

FISCAL IMPACT: No funding is required for this legislation.

To levy special assessments for the purpose of acquiring, constructing, and improving certain public improvements constituting special energy improvement projects in the City in cooperation with the Columbus Regional Energy Special Improvement District; and to declare an emergency.

WHEREAS, the Council (the “Council”) of the City of Columbus, Ohio (the “City”) adopted Ordinance 0311-2019 on June 25, 2019 (the “Commercial PACE Ordinance”); and

WHEREAS, under the Commercial PACE Ordinance, the Director of the Department of Development (the “Development Director”) is authorized, for and on behalf of Council, to receive and approve or disapprove petitions for special energy improvement projects and for special assessments (“Petitions”) and plans or supplemental plans for public improvements or public services (“Supplemental Plans”) submitted by the owners of commercial and industrial real property within the City, subject to the terms and conditions stated in the Commercial PACE Ordinance and the Program Guidelines adopted by the Commercial PACE Ordinance; and

WHEREAS, under the Commercial PACE Ordinance, the Council further approved the Standing Assignment Agreement (the “Standing Assignment Agreement”) with the Bexley, Columbus, Dublin, Grove City, Hilliard, Perry Township, Whitehall, Worthington Energy Special Improvement District, Inc. doing business under the registered trade name Columbus Regional Energy Special Improvement District, Inc. (the “District”) and authorized the Development Director to execute and deliver the Standing Assignment Agreement for and on behalf of the City; and

WHEREAS, the Standing Assignment Agreement was executed by each of the City and the District and became effective on July 24, 2019; and

WHEREAS, under Ohio Revised Code Section 1710.02(F) and under Section 2.2 of the Standing Assignment

Agreement, following approval of Petitions and Supplemental Plans by the Development Director, the City shall levy the special assessments described in such Petitions and Supplemental Plans; and

WHEREAS, on July 22, 2019, the Development Director approved a Petition for Special Assessments for Special Improvement Projects and Affidavit and a Columbus Regional Energy Special Improvement District Program Plan-Supplement to Plan for 8351 North High Street, Columbus, Ohio Project (collectively, “Petition and Supplemental Plan 2019-01”), including the list of special assessments attached to them, a copy of which list of special assessments is attached to this ordinance as **Exhibit A**; and

WHEREAS, on August 1, 2019, the Development Director approved a Petition for Special Assessments for Special Improvement Projects and Affidavit and a Columbus Regional Energy Special Improvement District Program Plan-Supplement to Plan for 333 Stewart Avenue, Columbus, Ohio Project (collectively, “Petition and Supplemental Plan 2019-02”), including the list of special assessments attached to them, a copy of which list of special assessments is attached to this ordinance as **Exhibit B**; and

WHEREAS, on August 13, 2019, the Development Director approved a Petition for Special Assessments for Special Improvement Projects and Affidavit and a Columbus Regional Energy Special Improvement District Program Plan-Supplement to Plan for 200 Civic Center Drive, Columbus, Ohio Project (collectively, “Petition and Supplemental Plan 2019-03”), including the list of special assessments attached to them, a copy of which list of special assessments is attached to this ordinance as **Exhibit C**; and

WHEREAS, on August 13, 2019, the Development Director approved a Petition for Special Assessments for Special Improvement Projects and Affidavit and a Columbus Regional Energy Special Improvement District Program Plan-Supplement to Plan for 7450 Huntington Park Drive, Columbus, Ohio Project (collectively, “Petition and Supplemental Plan 2019-04”), including the list of special assessments attached to them, a copy of which list of special assessments is attached to this ordinance as **Exhibit D**; and

WHEREAS, the actual costs of the special energy improvement projects described in the Petition and Supplemental Plan 2019-01, Petition and Supplemental Plan 2019-02, Petition and Supplemental Plan 2019-03, and Petition and Supplemental Plan 2019-04 have been ascertained and have been certified to the City in the respective Petitions and the Supplemental Plans for the special energy improvement projects; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that it is necessary that this Ordinance take effect at the earliest possible date in order to allow the District to take advantage of financing available to it for a limited time and for the immediate preservation of public peace, property, health and safety; **NOW, THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. The list of special assessments to be levied and assessed on the commercial real property described in Petition and Supplemental Plan 2019-01 in an amount sufficient to pay the costs of the special energy improvement projects described in Petition and Supplemental Plan 2019-01, which is \$2,209,467.20, 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 special energy improvement projects described in Petition and Supplemental Plan 2019-01 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 Supplemental Plan 2019-01 and previously reported to the Development Director and are now on file in the offices of the Development Director, is adopted and confirmed, and that the special Assessments are levied and assessed on the real property described in Petition and Supplemental Plan 2019-01. The interest portion of the special assessments, 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 real property described in Petition and Supplemental Plan 2019-01 commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2038 for collection in 2039; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Franklin County, Ohio determines that collections shall not commence in 2020, 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 maximum semi-annual amount of Special Assessments as shown in **Exhibit A**, attached hereto and incorporated into this Ordinance.

All special assessments shall be certified by the Development Director to the County Auditor pursuant to Petition and Supplemental Plan 2019-01 and Chapter 727.33 of the Ohio Revised Code to be placed 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 Petition and Supplemental Plan 2019-01.

The special assessments shall be allocated among the parcels constituting the real property described in Petition and Supplemental Plan 2019-01 in the manner set forth in Petition and Supplemental Plan 2019-01 and the List of Special Assessments attached hereto as **Exhibit A** and incorporated herein.

SECTION 2. The list of special assessments to be levied and assessed on the commercial real property described in Petition and Supplemental Plan 2019-02 in an amount sufficient to pay the costs of the special energy improvement projects described in Petition and Supplemental Plan 2019-02, which is \$161,126.00, 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 special energy improvement projects described in Petition and Supplemental Plan 2019-02 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 Supplemental Plan 2019-02 and previously reported to the Development Director and are now on file in the offices of the Development Director, is adopted and confirmed, and that the special Assessments are levied and assessed on the real property described in Petition and Supplemental Plan 2019-02. The interest portion of the special assessments, 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 real property described in Petition and Supplemental Plan 2019-02 commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2038 for collection in 2039; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Franklin County, Ohio determines that collections shall not commence in 2020, 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 maximum semi-annual amount of Special Assessments as shown in **Exhibit B**, attached hereto and incorporated into this Ordinance.

All special assessments shall be certified by the Development Director to the County Auditor pursuant to Petition and Supplemental Plan 2019-02 and Chapter 727.33 of the Ohio Revised Code to be placed 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 Petition and Supplemental Plan 2019-02.

The special assessments shall be allocated among the parcels constituting the real property described in Petition and Supplemental Plan 2019-02 in the manner set forth in Petition and Supplemental Plan 2019-02 and the List of Special Assessments attached hereto as **Exhibit B** and incorporated herein.

SECTION 3. The list of special assessments to be levied and assessed on the commercial real property described in Petition and Supplemental Plan 2019-03 in an amount sufficient to pay the costs of the special energy improvement projects described in Petition and Supplemental Plan 2019-03, which is \$5,880,585.00, 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 special energy improvement projects described in Petition and Supplemental Plan 2019-03 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 Supplemental Plan 2019-03 and previously reported to the Development Director and are now on file in the offices of the Development Director, is adopted and confirmed, and that the special Assessments are levied and assessed on the real property described in Petition and Supplemental Plan 2019-03. The interest portion of the special assessments, 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 real property described in Petition and Supplemental Plan 2019-03 commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2043 for collection in 2044; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Franklin County, Ohio determines that collections shall not commence in 2020, 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 maximum semi-annual amount of Special Assessments as shown in **Exhibit C**, attached hereto and incorporated into this Ordinance.

All special assessments shall be certified by the Development Director to the County Auditor pursuant to Petition and Supplemental Plan 2019-03 and Chapter 727.33 of the Ohio Revised Code to be placed 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 Petition and Supplemental Plan 2019-03.

The special assessments shall be allocated among the parcels constituting the real property described in Petition and Supplemental Plan 2019-03 in the manner set forth in Petition and Supplemental Plan 2019-03 and the List of Special Assessments attached hereto as **Exhibit C** and incorporated herein.

SECTION 4. The list of special assessments to be levied and assessed on the commercial real property described in Petition and Supplemental Plan 2019-04 in an amount sufficient to pay the costs of the special energy improvement projects described in Petition and Supplemental Plan 2019-04, which is \$1,438,664.64, 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 special energy improvement projects described in Petition and Supplemental Plan 2019-04 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 Supplemental Plan 2019-04 and previously reported to the Development Director and are now on file in the offices of the Development Director, is adopted and confirmed, and that the special Assessments are levied and assessed on the real property described in Petition and Supplemental Plan 2019-04. The interest portion of the special assessments, 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 real property described in Petition and Supplemental Plan 2019-04 commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2034 for collection in 2035; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Franklin County, Ohio determines that collections shall not commence in 2020, 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 maximum semi-annual amount of Special Assessments as shown in **Exhibit D**, attached hereto and incorporated into this Ordinance.

All special assessments shall be certified by the Development Director to the County Auditor pursuant to Petition and Supplemental Plan 2019-04 and Chapter 727.33 of the Ohio Revised Code to be placed 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 Petition and Supplemental Plan 2019-04.

The special assessments shall be allocated among the parcels constituting the real property described in Petition and Supplemental Plan 2019-04 in the manner set forth in Petition and Supplemental Plan 2019-04 and the List of Special Assessments attached hereto as **Exhibit D** and incorporated herein.

SECTION 5. This Council finds and determines that the special assessments described in each of **Exhibit A**, **Exhibit B**, **Exhibit C**, and **Exhibit D** (collectively, the “Special Assessments”) are in proportion to the special benefits received by the real property against which they are levied as set forth in each of Petition and Supplemental Plan 2019-01, Petition and Supplemental Plan 2019-03, and Petition and Supplemental Plan 2019-04 and are not in excess of any applicable statutory limitation.

SECTION 6. The owners of the real property described in Petition and Supplemental Plan 2019-01, Petition and Supplemental Plan 2019-02, Petition and Supplemental Plan 2019-03, and Petition and Supplemental Plan 2019-04 have 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 Development Director or the Development Director’s designee to the County Auditor of Franklin County, Ohio (the “County Auditor”) as provided by each of Petition and Supplemental Plan 2019-01, Petition and Supplemental Plan 2019-02, Petition and Supplemental Plan 2019-03, and Petition and Supplemental Plan 2019-04 and Section 727.33 of the Ohio Revised Code to be placed by the County Auditor 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 7. The Special Assessments will be used by the City to pay the cost of the special energy improvement projects described in Petition and Supplemental Plan 2019-01, Petition and Supplemental Plan 2019-02, Petition and Supplemental Plan 2019-03, and Petition and Supplemental Plan 2019-04 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.

SECTION 8. The Development Director or the Development Director’s designee shall keep the Special Assessments on file in the Office of the Development Director or the Development Director’s designee.

SECTION 9. In compliance with Section 319.61 of the Ohio Revised Code, the Development Director of the Development Director’s designee is directed to deliver a certified copy of this Ordinance to the County Auditor of Franklin County, Ohio within 20 days after its passage.

SECTION 10. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its adoption and approval by the Mayor or ten days after adoption if the Mayor neither approves nor vetoes the same.