Office of City Clerk
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Legislation Details (With Text)

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Type:	Ordinance	**Status:**	Passed
File created:	9/14/2021	**In control:**	Economic Development Committee
On agenda:	10/11/2021	**Final action:**	10/13/2021
Title:	To remove special assessments previously levied for certain public improvements in the City of Columbus, Ohio in cooperation with the Columbus Regional Energy Special Improvement District (5130 Warner Road Project); and to declare an emergency.		
Sponsors:			
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Date	Ver.	Action By	Action	Result
10/13/2021	1	CITY CLERK	Attest	
10/12/2021	1	MAYOR	Signed	
10/11/2021	1	COUNCIL PRESIDENT	Signed	
10/11/2021	1	Columbus City Council	Approved	Pass

BACKGROUND: The Council of the City of Columbus previously adopted an ordinance levying property assessed clean energy ("PACE") special assessments on certain property located at 5130 Warner Road and owned by Baxter Park LLC. The special assessments repay and secure financing for special energy improvement projects installed at the property. The financing was provided by Greenworks Lending LLC ("Greenworks").

Under the authority granted by Ordinance No. 0311-2019, the City entered into a Standing Assignment Agreement dated as of July 24, 2019 (the "Standing Assignment Agreement") with the Columbus Regional Energy Special Improvement District, Inc. (the "District") and Addendum No. 2020-04 dated as of July 6, 2020 (the "Addendum") with the District. Under the Standing Assignment Agreement and the Addendum, the City agreed to cooperate with the other parties to reduce the amount of the special assessments levied if all or a portion of the financing was prepaid.

The Owner and Greenworks have notified the City that the financing provided for the special energy improvement projects has been prepaid in full and have requested that the City reduce the special assessments previously levied down to $0.00.

The ESID (the "District") hereby certifies to the City that a reduction in the amount of the special assessments levied against the Property under the Assessing Ordinance such that the remaining special assessments levied against the Property are $0.00 should be made and the special assessments should be removed from the Property

This legislation is to reduce the amount of the special assessments previously levied down to $0.00 and to cause the County Auditor to remove the special assessments from the tax bills for the property.

Emergency action is requested on this legislation to allow the reduction of the special assessments to be certified to the County Auditor before real property tax bills for tax year 2021 are prepared.

FISCAL IMPACT: No funding is required for this legislation.

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To remove special assessments previously levied for certain public improvements in the City of Columbus, Ohio in cooperation with the Columbus Regional Energy Special Improvement District (5130 Warner Road Project); and to declare an emergency.

WHEREAS, this Council (the "Council") of the City of Columbus, Ohio (the "City") duly passed Ordinance No. 0311-2019 (the "Commercial PACE Ordinance") and authorized the City to enter into the Standing Assignment Agreement with the Columbus Regional Energy Special Improvement District (the "District") and further authorized the Director of the Department of Development to receive and approve petitions for special energy improvement projects and for special assessments on behalf of the City subject to the terms and conditions of the Commercial PACE Ordinance; and

WHEREAS, the City entered into the Standing Assignment Agreement dated as of July 24, 2019 (the "Standing Assignment Agreement") with the District; and

WHEREAS, on July 6, 2020, the Director of the Department of Development approved a Petition for Special Assessments for Special Energy Improvement Projects and Affidavit (the "Petition") and the Columbus Regional Energy Special Improvement District Program Plan-Supplement to Plan for 5130 Warner Road, Columbus, Ohio Project (the "Supplemental Plan") from Baxter Park LLC (the "Owner"); and

WHEREAS, the City entered into Addendum No. 2020-04 to the Standing Assignment Agreement dated as of July 6, 2020 (the "Addendum") with the District; and

WHEREAS, this Council (the "Council") of the City of Columbus, Ohio (the "City") duly passed Ordinance No. 1933-2021 on July 19, 2021 (the "Ordinance Levying Assessments") and levied special assessments for the purpose of acquiring, constructing, and improving certain public improvements at 5130 Warner Road in the City in cooperation with the District as requested and described in the Petition and the Supplemental Plan (the "Special Assessments");

WHEREAS, as described in the Addendum, Greenworks Lending LLC ("Greenworks") authorized provided financing (the "Project Advance") to the Owner for the purpose of paying and financing the costs of the special energy improvement projects described in the Petition and the Supplemental Plan;

WHEREAS, as provided in the Energy Project Cooperative Agreement dated as of July 25, 2020 (the "Energy Project Cooperative Agreement") between the Owner, Greenworks, and the District, the Owner has prepaid to Greenworks all amounts outstanding with respect to the Project Advance, and, as provided in the Standing Assignment Agreement and the Addendum, the Owner and Greenworks have notified the City that the remaining Special Assessments should be reduced to $0.00;

WHEREAS, based on the instructions provided and in accordance with the Standing Assignment Agreement, and the Energy Project Cooperative Agreement referred to above, the ESID (the "District") hereby certifies to the City that a reduction in the amount of the special assessments levied against the Property under the Assessing Ordinance such that the remaining special assessments levied against the Property are $0.00 should be made and the special assessments should be removed from the Property;

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary for this Ordinance to take effect at the earliest possible date in order to certify the appropriate reduction in the amount of the Special Assessments to the County Auditor in order to effect such reduction prior to the preparation of real property tax bills for tax year 2021 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. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Standing Assignment Agreement and the Addendum.

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SECTION 2. That, as provided by Section 2.2 Standing Assignment Agreement, in the event the Project Advance is prepaid, in whole or in part, the parties shall, in cooperation with the Owner, and to the extent permitted by law, cause the aggregate lien of the Special Assessments to be no greater than the remaining principal of and interest, premium, and fees, if any, on the Project Advance through its final repayment.

Greenworks has notified the City that all Special Assessments certified by the City Auditor to the County Auditor pursuant to Ohio Revised Code Chapter 727.33, are to be reduced by the amount of the aggregate Special Assessments prepaid. The remaining principal of and interest, premium, and fees on the Project Advance will be $0.00, and the amount of Special Assessments necessary to pay principal of and interest, premium and fees on the Project Advance will be $0.00.

SECTION 3. That the aggregate Special Assessments previously levied by this Council and certified by the City Auditor to the County Auditor are hereby reduced to $0.00. The City Auditor and the Department of Development of the City are hereby authorized to take any actions as may be necessary in order to cause the County Auditor to reduce the amount of the Special Assessments to $0.00.

SECTION 4. That in accordance with the Standing Assignment Agreement, Addendum No. 2020-04 to the Standing Assignment Agreement, and the Energy Project Cooperative Agreement, the ESID hereby certifies to the City that a reduction in the amount of the special assessments levied against the Property are $0.00 should be made and the special assessments should be removed from the Property.

SECTION 5. That, in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council 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 6. 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 passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

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