



Legislation Text

File #: 0311-2019, **Version:** 1

BACKGROUND: Chapter 1710 of the Ohio Revised Code allows property owners to petition the municipal corporation within which their property is located to include the property in an energy special improvement district, the purpose of which is to provide “special energy improvement projects,” as defined in Section 1710.01 of the Ohio Revised Code. Section 1710.02(F) of the Ohio Revised Code also allows such property owners to submit an initial plan of services for approval with the petition. Upon receipt of a petition and an initial plan submitted by the owners 100% of the properties requesting to be included in the energy special improvement district, the municipal corporation may approve the petition, cause the addition of the property to the energy special improvement district, and proceed to levy special assessments to pay the costs of the special energy improvement projects to be completed pursuant to the petition and the initial plan.

On November 23, 2015, the Council passed Resolution No. 0261X-2015, which approved a petition, program plan, and the articles of incorporation for the Columbus Regional Energy Special Improvement District (the “District”), and created the District.

Section 1710.02 of the Ohio Revised Code allows the owners of real property within a municipal corporation which has created an energy special improvement district to submit to the municipal corporation petitions (“Petitions”) and plans that supplement the program plan (“Supplemental Plans”). Upon its receipt of a Petition and Supplemental Plan signed by the owners of 100% of the properties requesting to be added to the energy special improvement district, the municipal corporation may approve the Petition and Supplemental Plan and proceed to levy special assessments to pay the costs of the special energy improvement projects to be completed pursuant to the Petition and the Supplemental Plan.

This legislation is to authorize the Director of the Department of Development (the “Development Director”), on behalf of the Council, to approve Petitions and Supplemental Plans submitted by the owners of property located within the City requesting that their property be added to the territory of the District and special assessments be levied by the City on that property in order to pay the costs of special energy improvement projects described in the applicable Petition and Supplemental Plan. This legislation approves and adopts program guidelines with which the Development Director shall comply in approving or disapproving any Petitions and Supplemental Plans under this legislation.

This legislation is also to approve and authorize the City to execute, deliver, and perform a Standing Assignment Agreement with the District to provide for the financing of special energy improvement projects on commercial and industrial properties within the City from time to time.

Emergency action is requested on this legislation to allow the approval of Petitions and Supplemental Plans by the Development Director 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 authorize 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 and plans for public improvements and public services attached to those petitions on behalf of the Council of the City; to approve program guidelines for the implementation of property assessed clean energy financing on commercial and industrial real property within the City; to approve and authorize the City to execute, deliver, and perform a Standing Assignment Agreement with respect to property assessed clean energy transactions in cooperation with the Columbus Regional Energy Special Improvement District; and to declare an emergency.

WHEREAS, as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (“ESIDs”) upon a petition to a municipal corporation or township; and

WHEREAS, ESIDs are voluntary organizations of municipal corporations, townships, and property owners who undertake special energy improvement projects that benefit real property and finance those special energy improvement projects through voluntary special assessments; and

WHEREAS, 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”) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID and established pursuant to Resolution No. 0261X-2015 of the Council of the City of Columbus, Ohio (the “City”), approved on November 23, 2015 and signed by the Mayor of the City on November 24, 2015 (the “District Creation Resolution”); and

WHEREAS, the *Columbus Regional Energy Special Improvement District Project Plan*, as previously approved by the Council by the District Creation Resolution, and as supplemented and amended from time to time, including, without limitation, by Supplemental Plans (the “Plan”) sets forth the terms and conditions under which the City and the District will facilitate the financing of special energy improvement projects on real property located within the boundaries of the City and within the territory of the District; and

WHEREAS, the Plan and Section 1710.02 of the Ohio Revised Code allow the owners of commercial and industrial real property within the City to submit to the municipal corporation petitions for special energy improvement projects and for special assessments (“Petitions”) and plans or supplemental plans for public improvements or public services (“Supplemental Plans”) requesting that the real property be added to the territory of the District, special energy improvement projects that will benefit the property be approved, and special assessments be levied on the property to finance the costs of the special energy improvement projects; and

WHEREAS, Upon its receipt of a Petition and Supplemental plan signed by the owners of 100% of the properties requesting to be added to the District, the City may approve the Petition and Supplemental Plan and proceed to levy special assessments to pay the costs of the special energy improvement projects to be completed pursuant to the Petition and the Supplemental Plan; and

WHEREAS, in order to provide for the efficient implementation of the Plan, this Council has determined to appoint the Director of the Department of Development (the “Development Director”) as its delegate, for and on behalf of this Council, to receive and approve or disapprove Petitions and Supplemental Plans submitted by the owners of commercial and industrial properties, which approval or disapproval shall constitute this Council’s legislative approval or disapproval of those Petitions and Supplemental Plans for all purposes of Ohio Revised Code Chapters 727 and 1710; and

WHEREAS, in order to direct the Development Director’s discretion in approving or disapproving Petitions and Supplemental Plans submitted by the owners of commercial and industrial properties, this Council has determined to adopt and approve Program Guidelines in the form attached to this Ordinance as **Exhibit A** (as they may be amended or supplemented from time to time by the legislative action of this Council, the “Program Guidelines”); and

WHEREAS, in order to further provide for the efficient implementation of the Plan, the City has determined to enter into a Standing Assignment Agreement (the “Standing Assignment Agreement”) as a cooperative agreement with the District; and

WHEREAS, under the Standing Assignment Agreement City, the District will agree to cooperate to provide for the financing of special energy improvement projects within the boundaries of the City and within the territory of the District, all as authorized under this Ordinance, the Standing Assignment Agreement, and Ohio Revised Code Chapter 1710 and Ohio Revised Code Section 9.482; and

WHEREAS, this Council has determined to authorize and approve the Standing Assignment Agreement; 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 and the Development Director to cooperate 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. This Council hereby approves the Program Guidelines in the form attached and incorporated into this Ordinance as **Exhibit A**.

Section 2. This Council hereby appoints the Development Director, for and on behalf of this Council, to receive and approve or disapprove Petitions and Supplemental Plans in his or her reasonable discretion, subject to the terms and conditions stated in this Ordinance and in the Program Guidelines. Without limiting the generality of the foregoing, the Development Director shall not approve any Petitions or Supplemental Plans unless the Petitions and Supplemental Plans and the information regarding the properties, special energy improvement projects, financing terms, and other facts and terms certified within the Petitions and Supplemental Plans shall conform and comply in all material respects with the terms and conditions of the Plan, the Program Guidelines, and this Ordinance. The Development Director's approval or disapproval of any Petitions or Supplemental Plans shall constitute the legislative approval or disapproval of this Council for all purposes of Ohio Revised Code Chapters 727 and 1710, and all legal consequences appertaining to a legislative authority's legislative approval or disapproval of the Petitions and Supplemental Plans under Ohio Revised Code Chapters 727 and 1710, shall appertain to the Development Director's approval or disapproval of Petitions and Supplemental Plans for and on behalf of this Council.

Section 3. This Council hereby approves the Standing Assignment Agreement, a copy of which is on file with the Clerk of Council and is further attached to this Ordinance as **Exhibit B**. The Mayor, the Development Director, or either of them, or either of their designees, shall sign and deliver, in the name and on behalf of the City, the Standing Assignment Agreement, in substantially the form as is now on file with the Clerk of this Council. The Standing Assignment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance, are not substantially adverse to the City, and are approved the Mayor, the Development Director, or either of them, or either of their designees, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Standing Assignment Agreement or amendments to the Standing Assignment Agreement.

Section 4. The City is hereby authorized to enter into such other agreements, that are not inconsistent with this Ordinance and that are approved by the Mayor, the Development Director, or either of them, or either of their designees, on behalf of the City, including, without limitation, any and all future addenda to the Standing Assignment Agreement as contemplated in the Standing Assignment Agreement, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements. The City Auditor is hereby authorized to execute and deliver, to the extent appropriate, fiscal officer certificates to any and all addenda to the Standing Assignment Agreement as contemplated in the Standing Assignment Agreement.

Section 5. This Council may, at any time and from time to time, provide legislative approval under Ohio Revised Code Chapters 727 and 1710 for any Petitions and Supplemental Plans that have not been approved by the Development Director. This Council may, at any time and from time to time, by legislation, modify or repeal any or all of the authorizations provided in this Ordinance, including the authority of the Development Director to approve Petitions and Supplemental Plans under this Ordinance.

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 adoption and approval by the Mayor or ten days after adoption if the Mayor neither approves nor vetoes the same.