



Legislation Text

File #: O-287-24, Version: 1

5245 Airport Hwy
Removal of Special Assessment
Council President Hartman

To remove Special Assessments previously levied for certain public improvements in the City of Toledo, Ohio in cooperation with the Northwest Ohio Advanced Energy Improvement District (Frayer Enterprises, LLC Project) and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo previously adopted an ordinance levying property assessed clean energy (“PACE”) special assessments on certain property located at 5325 and 5245 Airport Hwy, Toledo, Ohio and as owned by Frayer Enterprises, L.L.C. (the “Owner”). The special assessments repay and secure financing for special energy improvement projects installed at the property. The financing was provided by Greenworks Lending LLC, and as thereafter assigned to PACEWell 3 LLC (the “Investor”).

On March 20, 2020, the Director of the Department of Economic Development approved a Petition for Special Assessments for Special Energy Improvement Projects and Affidavit (the “Petition”) and the Northwest Ohio Advanced Energy Improvement District (the “District”) Program Plan-Supplement to Plan for the Frayer Enterprises Project (the “Supplemental Plan”) from the Owner; and

This Council (the “Council”) of the City of Toledo, Ohio (the “City”) duly passed Ordinance No. O-129-20 on April 7, 2020 (the “Ordinance Levying Assessments”) and levied special assessments for the purpose of acquiring, constructing, and improving certain public improvements at 5325 and 5245 Airport Hwy in the City in cooperation with the District as requested and described in the Petition and the Supplemental Plan (the “Special Assessments”);

As described in the Energy Project Cooperative Agreement dated as of April 23, 2020 (the “Energy Project Cooperative Agreement”), the Investor authorized 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;

As provided in the Energy Project Cooperative Agreement between the Owner, the Investor, and the District, the Owner, prior to the transfer of property at 5325 and 5245 Airport Hwy on January 11, 2024, has prepaid to the Investor all amounts outstanding with respect to the Project Advance, and the Owner and the Investor have notified the City that the remaining Special Assessments should be reduced to \$0.00;

The Owner and the Investor 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;

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 2023 are prepared;

An emergency exists in the usual daily operation of the Department of Economic Development in that it is 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 2023 and for the immediate preservation of public peace, property, health and safety;

NOW THEREFORE Be it ordained by the Council of the City of Toledo:

SECTION 1. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Energy Project Cooperative Agreement.

SECTION 2. 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.

The Investor 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. 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 Economic 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. 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 Lucas County, Ohio within 15 days after its passage.

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 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 6. That this Ordinance is declared to be an emergency measure and shall take effect and be enforced from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, safety and property and for the further reason that the immediate action is necessary in order to reduce the amount of the Special Assessments to \$0.00.

Vote on emergency clause: yeas 10, nays 0.

Passed: June 18, 2024, as an emergency measure: yeas 10, nays 0.

Attest:

Julie A. Gibbons
Clerk of Council

Carrie Hartman
President of Council

Approved:

June 18, 2024
Wade Kapszukiewicz
Mayor

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION REMOVING SPECIAL ASSESSMENTS PREVIOUSLY LEVIED FOR CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF TOLEDO, OHIO IN COOPERATION WITH THE NORTHWEST
OHIO ADVANCED ENERGY IMPROVEMENT DISTRICT

I, Katie Moline, the duly elected, qualified, and acting Auditor in and for Lucas County, Ohio hereby certify that a certified copy of Ordinance No. ____-24, duly adopted by the Council of the City of Toledo, Ohio on _____, 2024 reducing special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Toledo, Ohio in cooperation with the Northwest Ohio Advanced Energy Improvement District to \$0.00, was filed in this office on _____, 2024.

WITNESS my hand and official seal at Toledo, Ohio on _____, 2024.

[SEAL]

Auditor
Lucas County, Ohio