Legislation Details (With Text)

File #:	3346-2018 **Version:** 1		
Type:	Ordinance	**Status:**	Passed
File created:	11/20/2018	**In control:**	Economic Development & Small and Minority Business Committee
On agenda:	12/3/2018	**Final action:**	12/6/2018
Title:	To levy special assessments for the purpose of acquiring, constructing, and improving certain public improvements located at 3100 Olentangy River Road in the City in cooperation with the Columbus Regional Energy Special Improvement District; to approve an Energy Project Cooperative Agreement and a Special Assessment Agreement in connection with such improvements and special assessments; and to declare an emergency.		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. ORD3346-2018 3100 Olentangy River Road Energy Project Cooperative Agreement, 2. ORD3346-2018 3100 Olentangy River Road Special Assessment Agreement, 3. ORD3346-2018 488-18 3100 Olentangy River Road Agreements Lis of Special Assessments		

Date	Ver.	Action By	Action	Result
12/6/2018	1	CITY CLERK	Attest	
12/5/2018	1	ACTING MAYOR	Signed	
12/3/2018	1	COUNCIL PRESIDENT	Signed	
12/3/2018	1	Columbus City Council	Approved	Pass

BACKGROUND: The Council of the City of Columbus previously passed a resolution approving a petition for the addition or certain real property to the Columbus Regional Energy Special Improvement District (the "District") and a supplemental plan for special energy improvement projects to be constructed upon such parcels once added to the District. Pursuant to that resolution, the real property has been added to the District. The supplemental plan previously approved by the Council 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 supplemental plan.

The Council, by resolution, has further determined the necessity of proceeding to levy special assessments for the purposes set forth in the supplemental plans. The Council, by ordinance, has further determined to proceed with the levying of the special assessments pursuant to Chapters 727 and 1710 of the Ohio Revised Code, and pursuant to the Charter of the City of Columbus.

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. This legislation also authorizes and approves an Energy Project Cooperative Agreement and a Special Assessment Agreement facilitating the provision of the special energy improvement projects.

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 located at 3100 Olentangy River Road in the City in cooperation with the Columbus Regional Energy Special Improvement District; to approve an Energy Project Cooperative Agreement and a Special Assessment Agreement in connection with such improvements and special assessments; and to declare an emergency.

WHEREAS, UPH Holdings, LLC (the "Owner") has submitted its *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the "Petition") in order to provide for the completion of a special energy improvement project on real property owned by the Owner in the City of Columbus, Ohio (the "City"); and

WHEREAS, this Council (the "Council") of the City duly passed a resolution on the date of this Ordinance (the "Resolution of Necessity"), which approved the Petition and added the Owner's property, subject to the Petition, to the Columbus Regional Energy Special Improvement District (the "District") and declared the necessity of acquiring, installing, equipping, and improving energy efficiency improvements, including, without limitation, roofing insulation above roof decking, energy efficient floor slab on grade, energy efficient exterior walls, energy efficient windows, energy efficient doors, energy efficient interior lighting, and related improvements (the "Project"), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, this Council duly adopted an ordinance on the date of this ordinance and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Development Director or the Development Director's designee pursuant to the Resolution of Necessity; and

WHEREAS, the City intends to enter into an Energy Project Cooperative Agreement (the "Energy Project Cooperative Agreement") with the District, the Owner, and Petros PACE Finance, LLC (or one or more of its affiliates, the "Investor") to provide for, among other things, (i) the making of the Project Advance (as defined in the Energy Project Cooperative Agreement) to pay costs of the Project, a form of which is attached to and incorporated into this Ordinance as **Exhibit A**, (ii) the disbursement of the Project Advance for the acquisition, installation, equipment, and improvement of the Project and the transfer of the Special Assessments by the City to the Investor to pay principal and interest and other costs relating to the Project Advance; and

WHEREAS, to provide for the security for the Project Advance and for the administration of payments on the Project Advance and related matters, the City intends to enter into the Special Assessment Agreement with the County Treasurer of Franklin County, Ohio, the District, the Owner, and the Investor, a form of which is attached to and incorporated into this Ordinance as **Exhibit B**; and

WHEREAS, the actual costs of the Project have been ascertained and have been certified to the City in the Petition and the Supplemental Plan for the Project; 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 Owner to begin work on the special energy improvement project on the Property, and 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. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

Section 2. The list of Special Assessments to be levied and assessed on the Property (as further described in Exhibit A to the Petition) in an amount sufficient to pay the costs of the Project, which is $32,920,604.74, 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 Project 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

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were set forth in the Petition and previously reported to this Council and are now on file in the offices of the Development Director or the Development Director's designee, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, which shall accrue at the annual rate of 6.30%, 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 Property 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 2019, 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 or the Development Director's designee to the County Auditor pursuant to the Petition 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 the Petition.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Petition and the List of Special Assessments attached hereto as **Exhibit C** and incorporated herein.

Section 3. This Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

Section 4. The Owner has waived its 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 as provided by the Petition and Section 727.33 of the Ohio Revised Code to be placed by him or her 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 5. The Special Assessments will be used by the City to pay the cost of the Project 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 6. 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 7. This Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file with the Clerk of Council and is further attached to this Ordinance as **Exhibit A**. 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 Energy Project Cooperative Agreement, in substantially the form as is now on file with the Clerk of this Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that 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 Energy Project Cooperative Agreement or amendments to the Energy Project Cooperative Agreement.

Section 8. This Council hereby approves the Special Assessment Agreement a copy of which is on file in the office of 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 Special Assessment Agreement, in substantially the form as is now on file with the Clerk of this Council. The Special Assessment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by 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 Special Assessment Agreement or amendments to the Special Assessment Agreement.

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Section 9. The City is hereby authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the Mayor, 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 such agreements or any amendments to such agreements.

Section 10. 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 11. 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.

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