



Legislation Text

File #: 0464-2017, **Version:** 1

BACKGROUND: The Council of the City of Columbus previously passed a resolution approving two petitions for the addition or certain real property to the Columbus Regional Energy Special Improvement District (the “District”) and two supplemental plans 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 plans previously approved by the Council provide 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 plans.

The Council, by resolution, has further determined the necessity of proceeding to levy special assessments for the purposes set forth in the supplemental plans.

This legislation is to determine to proceed with the levying of the special assessments and 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 Energy Project Cooperative Agreements and Special Assessment Agreements 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 determine to proceed with levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City in cooperation with the Columbus Regional Energy Special Improvement District; to levy such special assessments; to approve Energy Project Cooperative Agreements and Special Assessment Agreements in connection with such improvements and special assessments; and to declare an emergency

WHEREAS, this Council (“Council”) of the City of Columbus, Ohio (the “City”) duly adopted Resolution No. 0050X-2017 on February 27, 2017 (the “Resolution of Necessity”) and declared the necessity of acquiring, constructing, and improving certain public improvements consisting of energy special improvement projects, including, without limitation, LED lighting, DDC Controls, water conservation measures resulting in electricity and other energy savings, roof upgrades, and related improvements (the “1103 Schrock Road Project”), as described in the Resolution of Necessity and as set forth in the petition requesting those improvements; and

WHEREAS, this Council duly adopted the Resolution of Necessity and further declared the necessity of acquiring, constructing, and improving certain public improvements consisting of energy special improvement projects, including, without limitation LED lighting, DDC Controls, water conservation measures resulting in electricity and other energy savings, rooftop unit upgrades, envelope upgrades, roof upgrades, and related improvements (the “7965 North High Project,” and together with the 1103 Schrock Road Project, the “Projects”), as described in the Resolution of Necessity and as set forth in the petition requesting those improvements; and

WHEREAS, in order to facilitate the provision of the 1103 Schrock Road Project, 1103 Schrock Road LP has requested that the City enter into (1) an Energy Project Cooperative Agreement, a form of which is attached to and incorporated into this Ordinance as **Exhibit A** (the “1103 Schrock Road Energy Project Cooperative Agreement”) by and between the City, the Columbus Regional Energy Special Improvement District (the “District”), 1103 Schrock Road LP, and Greenworks Lending, LLC (the “Investor”) and (2) a Special Assessment Agreement, form of which is attached to and incorporated

into this Ordinance as **Exhibit B** (the “1103 Schrock Road Special Assessment Agreement”) by and between the County Treasurer of Franklin County, Ohio (the “County Treasurer”), the City, the District, 1103 Schrock Road LP, and the Investor; and

WHEREAS, in order to facilitate the provision of the 7965 North High Project, Northwoods One LP has requested that the City enter into (1) an Energy Project Cooperative Agreement, a form of which is attached to and incorporated into this Ordinance as **Exhibit C** (the “7965 North High Energy Project Cooperative Agreement,” and together with the 1103 Schrock Road Energy Project Cooperative Agreement, the “Energy Project Cooperative Agreements”) by and between the City, the District, Northwoods One LP, and the Investor and (2) a Special Assessment Agreement, form of which is attached to and incorporated into this Ordinance as **Exhibit D** (the “7965 North High Special Assessment Agreement”) by and between the County Treasurer, the City, the District, Northwoods One LP, and the Investor; 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 1103 Schrock Road LP and Northwoods One LP 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. This Council declares that its intention is to proceed with the acquisition, construction, and improvement of the Projects described in the Petitions and the Resolution of Necessity. The Projects shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Director of the Department of Development or the Director of the Department of Development’s designee. The estimated Special Assessments for costs of the Projects prepared and filed in the office of the City Clerk and in the office of the Director of the Department of Development, in accordance with the Resolution of Necessity, are adopted. All contracts for the construction of the Projects will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code, the Petitions, and the Supplemental Plans, and the costs of the Projects shall be financed as provided in the Resolution of Necessity.

Section 3. The list of 1103 Schrock Road Special Assessments to be levied and assessed on the 1103 Schrock Road Property in an amount sufficient to pay the costs of the 1103 Schrock Road Project, which is \$780,468.83, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to 1103 Schrock Road LP or otherwise to pay costs of the 1103 Schrock Road Project in anticipation of the receipt of the 1103 Schrock Road 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 1103 Schrock Road Petition and previously reported to this Council and are now on file in the office of the City Clerk, is adopted and confirmed, and that the 1103 Schrock Road Special Assessments are levied and assessed on the 1103 Schrock Road Property. The interest portion of the 1103 Schrock Road Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the 1103 Schrock Road Special Assessments if such securities had been issued by the City.

The 1103 Schrock Road Special Assessments are assessed against the 1103 Schrock Road Property commencing in tax year 2017 for collection in 2018 and shall continue through tax year 2035 for collection in 2036. The annual installment of the 1103 Schrock Road Special Assessments shall be collected in each calendar year equal to a maximum annual amount of 1103 Schrock Road Special Assessments as shown in **Exhibit E**, attached to and incorporated into this Ordinance.

All 1103 Schrock Road Special Assessments shall be certified by the City Clerk or the Director of the Department of Development or the Director of the Department of Development's designee to the County Auditor of Franklin County, Ohio the ("County Auditor") pursuant to the 1103 Schrock Road Petition and Ohio Revised Code Section 727.33 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 1103 Schrock Road Petition. In the event the County Auditor fails to collect any installment of the 1103 Schrock Road Special Assessments, the Treasurer of the City is hereby authorized to collect such installment in accordance with Ohio Revised Code Section 727.331. The City is further authorized to collect any installment of the 1103 Schrock Road Special Assessments in any manner which may be provided in the Charter of the City.

The Special Assessments shall be allocated among the parcels constituting the 1103 Schrock Road Property as set forth in the 1103 Schrock Road Petition and the List of Special Assessments attached to and incorporated into this Ordinance as **Exhibit E**.

Section 4. The list of 7965 North High Special Assessments to be levied and assessed on the 7965 North High Property in an amount sufficient to pay the costs of the 7965 North High Project, which is \$1,057,139.22, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to Northwoods One LP or otherwise to pay costs of the 7965 North High Project in anticipation of the receipt of the 7965 North High 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 7965 North High Petition and previously reported to this Council and are now on file in the office of the City Clerk, is adopted and confirmed, and that the 7965 North High Special Assessments are levied and assessed on the 7965 North High Property. The interest portion of the 7965 North High Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the 7965 North High Special Assessments if such securities had been issued by the City.

The 7965 North High Assessments are assessed against the 7965 North High Property commencing in tax year 2017 for collection in 2018 and shall continue through tax year 2036 for collection in 2037. The annual installment of the 7965 North High Special Assessments shall be collected in each calendar year equal to a maximum annual amount of 7965 North High Special Assessments as shown in **Exhibit F**, attached to and incorporated into this Ordinance.

All 7965 North High Special Assessments shall be certified by the City Clerk or the Director of the Department of Development or the Director of the Department of Development's designee to the County Auditor pursuant to the 7965 North High Petition and Ohio Revised Code Section 727.33 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 7965 North High Petition. In the event the County Auditor fails to collect any installment of the 7965 North High Special Assessments, the Treasurer of the City is hereby authorized to collect such installment in accordance with Ohio Revised Code Section 727.331. The City is further authorized to collect any installment of the 7965 North High Special Assessments in any manner which may be provided in the Charter of the City.

The Special Assessments shall be allocated among the parcels constituting the 7965 North High Property as set forth in the 7965 North High Petition and the List of Special Assessments attached to and incorporated into this Ordinance as **Exhibit F**.

Section 5. This Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Properties as set forth in the Petitions and are not in excess of any applicable statutory limitation.

Section 6. Each of 1103 Schrock Road LP and Northwoods One LP has waived its right to pay the Special Assessments applicable to its real property in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the City Clerk or the Director of the Department of Development or the Director of the

Department of Development's designee to the County Auditor as provided by the Petition and Ohio Revised Code Section 727.33 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 Petitions. In the event the County Auditor fails to collect any installment of the Special Assessments, the Treasurer of the City is hereby authorized to collect such installment in accordance with Ohio Revised Code Section 727.331. The City is further authorized to collect any installment of the Special Assessments in any manner which may be provided in the Charter of the City.

Section 7. This Council hereby approves each of the 1103 Schrock Road Energy Project Cooperative Agreement, the 7965 North High Energy Project Cooperative Agreement, the 1103 Special Assessment Agreement, and the 7965 North High Special Assessment Agreement (collectively the "Financing Documents"), a copy of each of which is on file in the office of the Clerk of Council and is further attached to this Ordinance and incorporated into this Ordinance as **Exhibits A, B, C, and D**, respectively. The Mayor, the Director of the Department of Development, either of them, or either of their designees, shall sign and deliver, in the name and on behalf of the City, each of the Financing Documents in substantially the form as is now on file with the Clerk of Council. Each of the Financing Documents 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, Director of the Department of Development, either of them, or either of their designees, on behalf of the City, all of which shall be conclusively evidenced by the signing of each of the Financing Documents or amendments to the Financing Documents. The City is authorized to execute, deliver, and enter into such other documents, agreements or instruments that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the Mayor, Director of the Department of Development, 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 documents, agreements, instruments or any amendments to the same.

Section 8. The 1103 Schrock Road Special Assessments will be used by the City to provide the 1103 Schrock Road Project in cooperation with the District in any manner, including assigning the 1103 Schrock Road Special Assessments actually received by the City to the Investor or to another party the City deems appropriate pursuant to the 1103 Schrock Road Energy Project Cooperative Agreement, and the 1103 Schrock Road Special Assessments are appropriated for such purposes. The 7965 North High Special Assessments will be used by the City to provide the 7965 North High Project in cooperation with the District in any manner, including assigning the 7965 North High Special Assessments actually received by the City to the Investor or to another party the City deems appropriate pursuant to the 7965 North High Energy Project Cooperative Agreement, and the 7965 North High Special Assessments are appropriated for such purposes.

Section 9. The Director of the Department of Development shall keep the Special Assessments on file in the Office of the Director of the Department of Development.

Section 10. In compliance with Ohio Revised Code Section 319.61, the Director of the Department of Development or the Director of the Department of Development's designee is directed to deliver a certified copy of this Ordinance to the County Auditor within 15 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.