File #: 3345-2018, **Version:** 1

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 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 pursuant to Chapters 727 and 1710 of the Ohio Revised Code and pursuant to the Charter of the City of Columbus.

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 located at 3100 Olentangy River Road in the City in cooperation with the Columbus Regional Energy Special Improvement District; and to declare an emergency.

WHEREAS, this Council ("Council") of the City of Columbus, Ohio (the "City") duly adopted a resolution on the date of this Ordinance (the "Resolution of Necessity"), (i) declaring the necessity of acquiring, constructing, and improving certain public improvements consisting of energy special improvement projects, 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 more fully described in the Petition referenced in this Ordinance), located on real property owned by UPH Holdings, LLC (the "Owner") at 3100 Olentangy River Road within the City (the "Property," as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, installation, equipment, and improvement of the Project by the Owner, as set forth in the Owner's *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the "Petition"), including by levying and collecting special assessments to be assessed upon the Property (the "Special Assessments") in an amount sufficient to pay the costs of the Project, which is estimated to be $32,920,604.74, including other related costs of financing the Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Columbus Regional Energy Special Improvement District ("District") administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the District; and

WHEREAS, the claims for damages alleged to result from, and objections to, the Project have been waived by one hundred percent (100%) of the Owners and no claims for damages alleged to result from, or objections to, the Project have been filed within the times prescribed by Sections 727.15 and 727.18 of the Ohio Revised Code; 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. This Council declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, installation, equipment, and improvement of the Project described in the Petition and the Resolution of Necessity. The Project 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 Development Director or the Development Director's designee.

Section 3. The Special Assessments to pay costs of the Project, which are estimated to be $32,920,604.74 including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued or incurred to provide a loan or to secure an advance of funds to the Owner or otherwise 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 or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District or the Columbus-Franklin County Finance Authority as its conduit financing entity to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District, the Columbus-Franklin County Finance Authority, or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Petition and the Resolution of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of any principal repayment and interest and administrative fees payable with respect to the Project. The Special Assessments shall be 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. In addition to the Special Assessments, the County Auditor of Franklin County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount, if imposed, will be added to the Special Assessments by the County Auditor of Franklin County, Ohio.

Section 4. The estimated Special Assessments for the costs of the Project prepared and filed with the Development Director or the Development Director's designee, in accordance with the Resolution of Necessity, are adopted

Section 5. In compliance with Section 319.61 of the Ohio Revised Code, the Development Director or the Development Director's designee is directed to deliver a certified copy of this Ordinance to the County Auditor within 15 days after its passage.

Section 6. All contracts for the construction of the Project will be let in accordance with the Petition, the Plan, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

Section 7. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is

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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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