



Legislation Details (With Text)

File #: 0220-2021 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 1/25/2021 **In control:** Economic Development Committee
On agenda: 2/8/2021 **Final action:** 2/11/2021
Title: To authorize the Director of Development to amend the Enterprise Zone Agreement with Meritex Columbus, LLC to remove Meritex Columbus, LLC as ENTERPRISE to be replaced by 6380 Adelaide Court, LLC that will assume the terms and commitments of the AGREEMENT and to add language requiring an Amendment Fee for future Grantee-initiated Amendments; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
2/11/2021	1	CITY CLERK	Attest	
2/10/2021	1	MAYOR	Signed	
2/10/2021	1	CITY CLERK	Attest	
2/8/2021	1	COUNCIL PRESIDENT	Signed	
2/8/2021	1	Columbus City Council	Approved	Pass

BACKGROUND: Columbus City Council (COUNCIL), by Ordinance No. 1624-2017, passed July 17, 2017, as amended by Ordinance No. 2217-2017, passed September 18, 2017, authorized the City of Columbus (CITY) to enter into an Enterprise Zone Agreement (the AGREEMENT) with Meritex Columbus, LLC (“ENTERPRISE”), for a real property tax abatement of seventy-five percent (75%) for a period of ten (10) consecutive years in consideration of a proposed \$10.34 million investment in real property improvements and the creation of 22 new full-time permanent positions with an associated annual payroll of approximately \$1.12 million related to the construction of a new 250,000 square foot speculative office/warehouse facility on a 16-acre site located at the southeast corner of Spiegel Drive and Adelaide Court on Parcel Number 495-232645 within the City of Columbus and within the Columbus Central Enterprise Zone (The PROJECT SITE). The AGREEMENT was made and entered into effective September 27, 2017 with the abatement to commence no later than 2019 nor extend beyond 2028.

The Final Determination of the Tax Commissioner regarding the application for exemption of real property from taxation that was filed by Meritex Columbus, LLC on April 15, 2019 was issued on May 31, 2019 whereby the abatement was processed by the Franklin County Auditor to begin in the first year for which the real property would first be taxable were that property not exempted from taxation for a period of ten (10) years, such period not to exceed ten (10) years with that term being from 2019 to 2028.

Paragraph thirteen within Section 6 (Program Compliance) of the AGREEMENT states that the “AGREEMENT is not transferable or assignable without the express, written, approval of the CITY.”

In email communication on August 19, 2020 from The Meritex Company on behalf of Meritex Columbus, LLC), the CITY was advised of the pending sale of the property located at 6380-6480 Adelaide Court (the PROJECT SITE) to an unspecified buyer and requested that the necessary forms be provided “to be completed by Seller and Buyer in order to initiate the assignment process and paperwork” and also acknowledged that “the formal assignment will not take place

until the property has closed.” Subsequently the CITY received a letter dated August 26, 2020 from 6380 Adelaide Court, LLC advising of their anticipated purchase of the PROJECT SITE with both The Meritex Company and 6380 Adelaide Court, LLC requesting that once the sale was finalized that the AGREEMENT be Amended for Assignment & Assumption whereby Meritex Columbus, LLC would assign the benefits of the AGREEMENT to 6380 Adelaide Court, LLC and assume the commitments of the AGREEMENT as ENTERPRISE per the AGREEMENT.

Due diligence has been undertaken by the CITY in that 6380 Adelaide Court, LLC has submitted an updated Economic Development Incentive Application and that all other pertinent information has been reviewed and vetted. Following this, the CITY received notice that 6380 Adelaide Court, LLC had acquired ownership of the PROJECT SITE on September 15, 2020, the date on the limited warranty deed.

Additionally, Columbus City Council, by Ordinance No. 3221-2018, passed March 13, 2019, authorized the Director of Development to establish a fee schedule that supports the Department’s administrative and project costs associated with administering Department programs with one of those fees being an Amendment Fee.

This legislation is to authorize the Director of Development to amend the AGREEMENT for the first time for Assignment & Assumption to remove Meritex Columbus, LLC as ENTERPRISE to be replaced by 6380 Adelaide Court, LLC as ENTERPRISE whereby 6380 Adelaide Court, LLC assumes the terms and commitments of the AGREEMENT as ENTERPRISE and to add language requiring an Amendment Fee for future Grantee-initiated Amendments.

This legislation is presented as an emergency measure in order for this amendment to be legislated prior to the end of the Report Year 2020 annual reporting cycle so that this amendment to the AGREEMENT can be reported to the necessary local and state agencies in as expedient manner as possible to ensure that ENTERPRISE remains in compliance with the terms of the AGREEMENT.

FISCAL IMPACT: No funding is required for this legislation.

To authorize the Director of Development to amend the Enterprise Zone Agreement with Meritex Columbus, LLC to remove Meritex Columbus, LLC as ENTERPRISE to be replaced by 6380 Adelaide Court, LLC that will assume the terms and commitments of the AGREEMENT and to add language requiring an Amendment Fee for future Grantee-initiated Amendments; and to declare an emergency.

WHEREAS, the City of Columbus (CITY) entered into an Enterprise Zone Agreement (the “AGREEMENT”) with Meritex Columbus, LLC (“ENTERPRISE”), approved by Columbus City Council (COUNCIL) by Ordinance No. 1624-2017, passed July 17, 2017, and as amended by Ordinance No. 2217-2017, passed September 18, 2017, with this AGREEMENT made and entered into effective September 27, 2017; and

WHEREAS, the AGREEMENT granted a 75%/10-Year abatement on real property improvements; and

WHEREAS, the incentive was granted in consideration of a proposed \$10.34 million investment in real property improvements and the creation of 22 full-time jobs with an associated annual payroll of approximately \$1.12 million related to the construction of a new 250,000 square foot speculative office/warehouse facility on a 16-acre site located at the southeast corner of Spiegel Drive and Adelaide Court on Parcel Number 495-232645 within the City of Columbus and within the Columbus Central Enterprise Zone (The PROJECT SITE) with the abatement to commence no later than 2019 nor extend beyond 2028.

WHEREAS, within Section 6 (Program Compliance) of the AGREEMENT it states that the “AGREEMENT is not transferable or assignable without the express, written, approval of the CITY;” and

WHEREAS, the Final Determination of the Tax Commissioner regarding the application for exemption of real property from taxation that was filed by Meritex Columbus, LLC on April 15, 2019 was issued on May 31, 2019 whereby the abatement was processed by the Franklin County Auditor to begin in the first year for which the real property would first be taxable were that property not exempted from taxation for a period of ten (10) years, such period not to exceed ten

(10) years with that term being from 2019 to 2028; and

WHEREAS, in email communication on August 19, 2020 from The Meritex Company (on behalf of Meritex Columbus, LLC), the CITY was advised of the pending sale of the property located at 6380-6480 Adelaide Court (the PROJECT SITE) to an unspecified buyer and requested that the necessary forms be provided “to be completed by Seller and Buyer in order to initiate the assignment process and paperwork” and also acknowledged that “the formal assignment will not take place until the property has closed;” and

WHEREAS, subsequently the CITY received a letter dated August 26, 2020 from 6380 Adelaide Court, LLC advising of their anticipated purchase of the PROJECT SITE with both The Meritex Company and 6380 Adelaide Court, LLC requesting that once the sale was finalized that the AGREEMENT be Amended for Assignment & Assumption whereby Meritex Columbus, LLC would assign the benefits of the AGREEMENT to 6380 Adelaide Court, LLC and assume the commitments of the AGREEMENT as ENTERPRISE per the AGREEMENT; and

WHEREAS, due diligence has been undertaken by the CITY in that 6380 Adelaide Court, LLC has submitted an updated Economic Development Incentive Application and that all other pertinent information has been reviewed and vetted and additionally the CITY received notice that 6380 Adelaide Court, LLC had acquired ownership of the PROJECT SITE on September 15, 2020, the date on the limited warranty deed; and

WHEREAS, Columbus City Council, by Ordinance No. 3221-2018, passed March 13, 2019, authorized the Director of Development to establish a fee schedule that supports the Department’s administrative and project costs associated with administering Department programs with one of those fees being an Amendment Fee; and

WHEREAS, an emergency exists in the usual daily operation of the Columbus Department of Development in that it is immediately necessary to authorize the Director to amend the AGREEMENT with Meritex Columbus, LLC to (1) remove Meritex Columbus, LLC as ENTERPRISE to be replaced by 6380 Adelaide Court, LLC as ENTERPRISE whereby 6380 Adelaide Court, LLC will assume the terms and commitments of the AGREEMENT as ENTERPRISE and (2) to add language requiring an Amendment Fee for future Grantee-initiated Amendments, so that this amendment can be reported to the necessary local and state agencies in as expedient manner as possible to ensure that ENTERPRISE remains in compliance with the terms of the AGREEMENT; thereby preserving the public health, peace, property and safety.

NOW, THEREFORE

BE IT ORDAINED BY THE COUNCIL OF COLUMBUS

SECTION 1. That the Director of Development is hereby authorized to amend the Enterprise Zone Agreement with Meritex Columbus, LLC (the AGREEMENT) to remove Meritex Columbus, LLC as ENTERPRISE to be replaced with 6380 Adelaide Court, LLC as ENTERPRISE whereby 6380 Adelaide Court, LLC will assume the terms and commitments of the AGREEMENT as ENTERPRISE.

SECTION 2. That the Director of Development is hereby authorized to amend the final paragraph of Section 6 (Program Compliance, modification provision paragraph) of the AGREEMENT to state that “Any request from the ENTERPRISE to modify any of the terms of this AGREEMENT must be received by the CITY at least 90 days prior to the expiration date of the AGREEMENT and shall require the payment to the CITY by the ENTERPRISE or any other potential Grantee an AMENDMENT FEE in the amount of \$500.”

SECTION 3. That this FIRST AMENDMENT FOR ASSIGNMENT AND ASSUMPTION to the City of Columbus Enterprise Zone Agreement be signed by 6380 Adelaide Court, LLC within ninety (90) days of passage of this ordinance, or this ordinance and the incentive authorized herein shall be null and void.

SECTION 4. That for reasons stated in the preamble hereto, which is hereby made a part hereof, the ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after the passage if the Mayor neither approves nor vetoes the same.