



Legislation Text

File #: 2228-2023, Version: 1

BACKGROUND: Columbus City Council (“**COUNCIL**”), by Ordinance No. 1902-2015, passed July 27, 2015, authorized the City of Columbus (“**CITY**”) to enter into an Community Reinvestment Area Agreement (the “**AGREEMENT**”) with N.P. Limited Partnership (“**ENTERPRISE**”) for a tax abatement of one-hundred percent (100%) for a period of ten (10) years in consideration of a proposed \$24 million investment in real property improvements. Additionally, the **ENTERPRISE** committed to creating approximately 708 full-time jobs with an associated annual payroll of approximately \$45,489,000.00 upon full build-out and occupancy, and committed to relocate approximately 177 employees currently employed within the **CITY** related to the construction of a series of buildings containing speculative office space (either primarily or as one component of mixed-use buildings) totaling approximately 177,000 square feet along with two associated 600 space parking structures (the “**PROJECT**”) on one newly expanded parcel, 318-431-01-017-000 (recently combined from the two adjacent parcels 318-431-01-017-000 and 318-431-01-013-003), zip code 43240 in Delaware County within the City of Columbus and within the Old State Road Community Reinvestment Area (the “**PROJECT SITE**”). The **AGREEMENT** was made and entered into effective October 23, 2015 (CRA #049-00960-06/15-001) with the abatement to commence no later than tax year 2026 nor extend beyond tax year 2035.

Pursuant to Ordinance No. 1256-2016, passed May 16, 2016, the First Amendment for Assignment and Assumption to the **AGREEMENT** (the “**FIRST AMENDMENT**”) was made and entered into effective on June 30, 2016 to amend the **AGREEMENT** to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC (“**Pointe I**”), and to assign certain benefits and obligations from **Pointe I** to the Columbus-Franklin County Finance Authority (“**Finance Authority**”). **Pointe I** and the **Finance Authority** submitted an application for abatement related to the first phase of the **PROJECT** (“**PHASE I**”) to the **CITY** on July 16, 2018, and the **CITY** certified to the Delaware County Auditor (the “**AUDITOR**”) that the project described in the application met the necessary requirements for exemption and granted a 10-year, 100% exemption to the applicable improvements on Parcel Number 318-431-01-017-006, to commence January 1, 2018 with the term of the abatement to run through 2027.

Pursuant to Ordinance No. 1519-2019, passed June 10, 2019, the legislation authorized the Director of the Department of Development to amend the **AGREEMENT** for the second time (“**SECOND AMENDMENT**”) to add The Pointe at Polaris Phase II, LLC as party to the **AGREEMENT**, to clarify the obligations and commitments of all parties to the **AGREEMENT** and to allow for exclusion for the CRA exemption that portion of the **PROJECT SITE** to be occupied by office tenants on the Phase II parcel that elect not to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to the Phase II real property improvements. The **SECOND AMENDMENT** was made and entered into effective July 10, 2019.

Subsequently, the ongoing impact of the COVID-19 pandemic, and the many employees working from home, continues to impair the office real estate market as worker occupancy rates remain significantly lower than pre-pandemic levels. Additionally, pursuant to the Tax Incentive Review Council (“**TIRC**”) meeting on August 19, 2022, it was recommended that the **CITY** work with the **ENTERPRISE** to amend the **AGREEMENT** to right size the job creation based on the revised reduced amount of square footage due to the **SECOND AMENDMENT** and the actual jobs present in the Phase I and II upon current occupancy based on the **ENTERPRISE** annual report from 2021 which demonstrated 177 retained jobs and 142 new jobs. On October 10, 2022, Columbus City Council passed Resolution 0184X-2022 accepting the recommendations of the 2022 **TIRC** meeting. The **ENTERPRISE**’s largest tenant, which occupies approximately 61,000 square feet of office space at the **PROJECT SITE** determined it did not want to benefit from the **CRA** exemption; therefore, the significant amount of jobs created by the tenant are not being considered for purposes of the total number of jobs created or retained under this **AGREEMENT**. The retained and new jobs include those from Dwight Capital,

Cathcart, Fusion, Ohio Real Title, and Anthem. This project, now stabilized, will be adjusted based on the current occupants within the building and reviewed annually by the TIRC consistent with their recommendation.

The **ENTERPRISE** shall continue to share income tax revenues with the applicable school district under a section of the **AGREEMENT** that requires payments from the **ENTERPRISE** in the event income taxes do not reach agreed upon levels. Accordingly, in the interest of providing clarity, the **CITY** and **ENTERPRISE** determine the current **CARRYFORWARD AMOUNT** (as defined in the **AGREEMENT**).

This legislation is to authorize the Director of the Department of Development to amend the **AGREEMENT** for the third time to right size the job creation based on the revised reduced amount of square footage due to the **SECOND AMENDMENT** and the actual jobs present in the Phase I and II upon occupancy, which follows the recommendations of the TIRC, and to authorize the Director of the Department of Development to stipulate to the current **CARRYFORWARD AMOUNT**.

This legislation is being presented as 30-day legislation.

FISCAL IMPACT:

No funding is required for this legislation.

This legislation is to authorize the Director of the Department of Development to amend the City of Columbus Community Reinvestment Area Agreement for the third time to right size the job creation commitment based on the revised reduced amount of square footage of the project per the Tax Incentive Review Council ("TIRC") recommendations, and to determine the current Carryforward Amount.

WHEREAS, the City of Columbus ("CITY") entered into a Community Reinvestment Area Agreement (the "**AGREEMENT**") with N.P. Limited Partnership, approved by Columbus City Council ("COUNCIL") on July 17, 2015 by Ordinance No. 1902-2015 with this **AGREEMENT** made and entered into effective October 23, 2015; and

WHEREAS, the **AGREEMENT** granted a 100%/10-Year abatement on real property improvements; and

WHEREAS, the incentive was granted in consideration of a \$24 million investment in real property improvements, the relocation of 177 employees currently employed within the CITY and the creation of 708 full-time jobs with an annual payroll of approximately \$45,489,000 upon full build-out related to the construction of a series of buildings containing speculative office space (either primarily or as one component of mixed-use buildings) totaling approximately 177,000 square feet along with two associated 600 space parking structures as of the original effective date of the **AGREEMENT** on one newly expanded parcel, 318-431-01-017-000 (combined from the two adjacent parcels 318-431-01-017-000 and 318-431-01-013-003), zip code 43240 in Delaware County within the City of Columbus and within the Old State Road Community Reinvestment Area with the abatement to commence no later than tax year 2026 nor extend beyond tax year 2035; and

WHEREAS, pursuant to Ordinance No. 1256-2016, passed May 16, 2016, **COUNCIL** authorized the First Amendment for Assignment and Assumption to the **AGREEMENT** (the "**FIRST AMENDMENT**") which was entered into on June 30, 2016 to amend the **AGREEMENT** to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC ("Pointe I"), and to assign certain benefits and obligations from Pointe I to the Columbus-Franklin County Finance Authority ("Finance Authority"); and

WHEREAS, Pointe I and the Finance Authority submitted an application for abatement related to the first phase of the

PROJECT ("PHASE I") to the CITY on July 16, 2018, and the City certified to the Delaware County Auditor (the "AUDITOR") that the project described in the application met the necessary requirements for exemption and granted a 10-year, 100% exemption to the applicable improvements on Parcel Number 3I 8-431-01-017-006, to commence January 1, 2018 with the term of the abatement to run through 2027; and

WHEREAS, in a letter dated April 29, 2019 and subsequent discussion and email communication with representatives of **ENTERPRISE**, the CITY had been advised that the **PROJECT SITE** consists of three parcels, two parcels related to PHASE I and a third parcel related to the second phase of the PROJECT ("PHASE II"); and

WHEREAS, the **ENTERPRISE** advised the **CITY** (i) of the final scope of PHASE I and the proposed scope of PHASE II; (ii) that a new entity, The Pointe at Polaris Phase II, LLC ("Pointe II"), will be the entity that will own the PHASE II parcel and so needs to be added as **ENTERPRISE** and party to the **AGREEMENT**; (iii) that the obligations and commitments of Pointe I, Pointe II and the Finance Authority should be clarified; and (iv) that one or more office tenants that are expected to occupy space upon completion of the improvements related to PHASE II may not desire to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to the PHASE II real property improvements; and

WHEREAS, pursuant to Ordinance No. 1519-2019, passed June 10, 2019, the legislation authorized the Director of the Department of Development to amend the **AGREEMENT** for the second time ("**SECOND AMENDMENT**") to add The Pointe at Polaris Phase II, LLC as party to the **AGREEMENT**, to clarify the obligations and commitments of all parties to the **AGREEMENT** and to allow for exclusion for the CRA exemption that portion of the **PROJECT SITE** to be occupied by office tenants on the Phase II parcel that elect not to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to the Phase II real property improvements. The **SECOND AMENDMENT** was made and entered into effective July 19, 2019; and

WHEREAS, subsequently, the ongoing effect of the COVID-19 pandemic, and the many employees working from home, continues to impair the office real estate market, as worker occupancy rates remain significantly lower than pre-pandemic levels, and pursuant to the Tax Incentive Review Council ("TIRC") recommendations on August 19, 2022, and approved by Columbus City Council on October 10, 2022, by Resolution 0184X-2022, accepting the recommendations, it was recommended that the **CITY** work with the **ENTERPRISE** to amend the **AGREEMENT** to right size the job creation based on the revised reduced amount of square footage due to the **SECOND AMENDMENT** and the actual jobs present in the Phase I and II upon occupancy - 177 retained jobs and 142 new jobs. The **ENTERPRISE's** largest tenant, which occupies approximately 61,000 square feet of office space at the **PROJECT SITE** determined it did not want to benefit from the **CRA** exemption; therefore, the significant amount of jobs created by the tenant are not being considered for purposes of the total number of jobs created or retained under this **AGREEMENT**. The buildings currently have 177 retained jobs and 142 new jobs from Dwight Capital, Cathcart, Fusion, Ohio Real Title, and Anthem. This project, now stabilized, will be adjusted based on the current occupants within the building as recommended by the TIRC and reviewed annually; and

WHEREAS, the **ENTERPRISE** shall continue to share income tax revenues with the applicable school district under a section of the **AGREEMENT** that requires payments from the **ENTERPRISE** in the event income taxes do not reach agreed upon levels. Accordingly, in the interest of providing clarity, the **CITY** and **ENTERPRISE** determine the current **CARRYFORWARD AMOUNT** (as defined in the **AGREEMENT**); and

WHEREAS, a third amendment to the **AGREEMENT**, which may be in the form of an amended and restated **AGREEMENT**, is now needed to right size the job creation commitment based on the revised reduced amount of square footage due to the **SECOND AMENDMENT** and the actual jobs present in the Phase I and II upon occupancy, which follows the recommendations of the TIRC, and to stipulate to the current **CARRYFORWARD AMOUNT**; and **NOW, THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF COLUMBUS

SECTION 1. That the Director of the Department is hereby authorized to amend the City of Columbus Community Reinvestment Area Agreement with The Pointe at Polaris Phase I, LLC, The Pointe at Polaris Phase II, LLC and the Columbus-Franklin County Finance Authority (the **AGREEMENT**) to amend Section 4 (Employee Positions and Salaries) of the **AGREEMENT**, to state that the **ENTERPRISE** shall create or cause to be created 142 new full-time permanent positions and retain 177 full-time employees and to stipulate to the current **CARRYFORWARD AMOUNT** (as defined in the **AGREEMENT**).

SECTION 2. That this **THIRD AMENDMENT** to the City of Columbus Community Reinvestment Area Agreement, which may be in the form of an amended and restated **AGREEMENT**, be signed by The Pointe at Polaris Phase I, LLC, The Pointe at Polaris Phase II, LLC and the Columbus-Franklin County Finance Authority within ninety (90) days of passage of this ordinance, or this ordinance and the incentive authorized herein shall be null and void.

SECTION 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.