



Legislation Text

File #: 1256-2016, **Version:** 1

BACKGROUND: Columbus City Council (Council), by Ordinance 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, the creation of 708 full-time jobs with an associated annual payroll of approximately \$45,489,000 upon full build-out and occupancy and the relocation of 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 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.

Within recitation paragraph four of the Agreement it is noted that it is expected that the Enterprise will assign the Agreement to a joint venture to be formed by the Enterprise or one or more of its affiliates or owners and VanTrust Real Estate, LLC or one or more of its affiliates or owners.

Within Section 23 of the Agreement (Transfer and/or Assignment), it is stated that the Agreement “is not transferable or assignable without the express, written, approval of the CITY,” that the “CITY hereby expressly approves any assignment from the ENTERPRISE of all or a portion of the ENTERPRISE’s rights and obligations under this Agreement to the Columbus Franklin-County Finance Authority in connection with the financing for any parking garages or parking structures; provided that such assignment will not relieve the ENTERPRISE of its obligations under this AGREEMENT”, that the “Director of Development for the CITY is authorized to approve and sign any assumption on behalf of the CITY,” and that “the initial assignment of this AGREEMENT from the ENTERPRISE, which does not now own the PROJECT SITE, to the joint venture described in a recital to this AGREEMENT must be approved by COUNCIL before it shall be effective.”

Following discussion and email communication with representatives of Enterprise, the City has been advised that the above noted joint venture has been formed, namely The Pointe at Polaris Phase I, LLC and that Enterprise has requested that the Agreement be amended to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC, and to assign certain benefits and obligations from The Pointe at Polaris Phase I, LLC to the Columbus-Franklin County Finance Authority.

This legislation is to authorize the Director of Development to amend the Agreement for the first time to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC, and to assign certain benefits and obligations to the Columbus-Franklin County Finance Authority.

This legislation is being presented as an emergency measure in order for this amendment to be legislated in as expedient manner as possible so that this amendment to the Agreement might be fully executed prior to the 2016 Tax Incentive Review Council (the “TIRC”) and so that The Pointe at Polaris Phase I, LLC and the Columbus-Franklin-County Finance Authority are able to move forward with the real property improvements as described in the Agreement.

FISCAL IMPACT: No funding is required for this legislation.

To authorize the Director of Development to amend the Community Reinvestment Area Agreement with N.P. Limited Partnership, to remove N.P. Limited Partnership as Enterprise and party to the Agreement and to be replaced with The Pointe at Polaris Phase I, LLC and the Columbus-Franklin County Finance Authority as Enterprise and parties to the Agreement; and to declare an emergency.

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 on July 17, 2015 by Ordinance 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, within recitation paragraph four of the Agreement it is noted that it is expected that the Enterprise will assign the Agreement to a joint venture to be formed by the Enterprise or one or more of its affiliates or owners and VanTrust Real Estate, LLC or one or more of its affiliates or owners; and

WHEREAS, within Section 23 of the Agreement (Transfer and/or Assignment), it is stated that the Agreement “is not transferable or assignable without the express, written, approval of the CITY,” that the “Director of Development for the CITY is authorized to approve and sign any assumption on behalf of the CITY” and that “the initial assignment of this AGREEMENT from the ENTERPRISE, which does not now own the PROJECT SITE, to the joint venture described in a recital to this AGREEMENT must be approved by COUNCIL before it shall be effective;” and

WHEREAS, within that same section it is stated that the “CITY hereby expressly approves any assignment from the ENTERPRISE of all or a portion of the ENTERPRISE’s rights and obligations under this AGREEMENT to the Columbus-Franklin County Finance Authority in connection with the financing for any parking garages or parking structures; provided that such assignment will not relieve the ENTERPRISE of its obligations under this AGREEMENT;” and

WHEREAS, following discussion and email communication with representatives of Enterprise, the City has been advised that the above noted joint venture has been formed, namely The Pointe at Polaris Phase I, LLC and that Enterprise has requested that the Agreement be amended to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC, and to assign certain benefits and obligations from The Pointe at Polaris Phase I, LLC to the Columbus-Franklin County Finance Authority; and

WHEREAS, due diligence has been undertaken by the City in that The Pointe at Polaris Phase I, LLC has agreed to fully assume the terms and commitments of the Enterprise pursuant to the Agreement, and that the Columbus-Franklin County Finance Authority has agreed to assume selected terms and commitments of the Enterprise pursuant to the Agreement and all other pertinent information has been reviewed and vetted; and

WHEREAS, a first amendment for assignment and assumption is needed to remove N.P. Limited Partnership as Enterprise and party to the Agreement and be replaced with The Pointe at Polaris Phase I, LLC and the Columbus-Franklin County Finance Authority as Enterprise and parties to the Agreement and to delineate through assignment and assumption which certain sections of the Agreement will be the responsibility of the two parties comprising the Enterprise; and

WHEREAS, an emergency exists in the usual daily operation of the Columbus Department of Development in that it is immediately necessary to seek an amendment for assignment and assumption to the Agreement with N.P. Limited Partnership for the purpose of (1) removing N.P. Limited Partnership as Enterprise and party to the Agreement to be replaced with The Pointe at Polaris Phase I, LLC and the Columbus-Franklin County Finance Authority as Enterprise and parties to the Agreement and, (2) to further delineate through assignment and assumption which certain sections of the Agreement will be the responsibility of the two parties comprising the Enterprise; thereby preserving the public health, peace, property and safety, **NOW, THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Director of Development is hereby authorized to amend the Community Reinvestment Area Agreement with N.P. Limited Partnership (the Agreement) to remove N.P. Limited Partnership as Enterprise and party to the Agreement to be replaced with The Pointe at Polaris Phase I, LLC and the Columbus-Franklin County Finance Authority as Enterprise and parties to the Agreement.

SECTION 2. That the Director of Development is hereby authorized to delineate through assignment and assumption which certain sections of the Agreement will be the responsibility of the two new parties comprising the Enterprise.

SECTION 3. That this FIRST AMENDMENT FOR ASSIGNMENT AND ASSUMPTION to the City of Columbus Community Reinvestment Area Agreement be signed by N.P. Limited Partnership, The Pointe at Polaris Phase I, 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 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.