



## Legislation Text

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**File #:** 1232-2020, **Version:** 1

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**BACKGROUND:** The need exists to amend the Downtown Office Incentive Agreement (hereinafter “**AGREEMENT**”) with Agility Partners, LLC (hereinafter “**GRANTEE**”) and the City of Columbus (hereinafter “**CITY**”). Columbus City Council approved the **AGREEMENT** by Ordinance No. 1328-2019, on June 3, 2019, and granted a financial incentive based on an amount equal to fifty percent (50%) of the City of Columbus income tax withheld on the Columbus payroll of New Employees for a term of three (3) consecutive years based on the **GRANTEE**’s commitment to increase its workforce in the Central Business District. The **GRANTEE** committed to invest in more IT/Software development, create 30 net new full-time permanent positions with an estimated annual payroll of approximately \$2.5 million and retain 50 full-time permanent positions with an annual payroll of approximately \$4.48 million (the “**PROJECT**”) at 175 South Third Street, Columbus, Ohio 43215 (the “**PROJECT SITE**”) in downtown Columbus, as defined in Columbus City Code Title 33 Section 3359.03 downtown district boundary. The **AGREEMENT** was made and entered into effective July 22, 2019.

In a letter from the **GRANTEE**, received by the **CITY** dated April 15, 2020, it was confirmed that the original retained employment commitment in the initial incentive application included employees not based within the City of Columbus and therefore set the **GRANTEE**’s retained employment goal, along with the associated annual payroll, too high. The incentive application stated fifty (50) full-time permanent positions were to be retained at the **PROJECT SITE**, when the actual retained commitment should have been thirty-nine (39) full-time permanent positions with an associated annual payroll of approximately \$2,890,000, instead of \$4,480,000.

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 requested to be considered as an emergency measure in order to authorize the Director of the Department of Development to amend the **AGREEMENT** for the first-time to (i) reduce the **GRANTEES**’s retained jobs baseline employment commitment from fifty (50) full-time permanent positions to thirty-nine (39), (ii) to reduce the associated annual payroll for those retained jobs from \$4,480,000 to \$2,890,000 and (ii) that language will be added to the **AGREEMENT** stating that any requested future amendment or modification to any of the terms of this **AGREEMENT** made to the **CITY** by the **GRANTEE** shall require the payment to the City by the **GRANTEE** of an **AMENDMENT FEE** in the amount of two-hundred fifty dollars (\$250.00), all being done so that there will be no delay in processing the Downtown Office Incentive payment for Report Year 2019 during the 2020 payment cycle which is currently underway.

**FISCAL IMPACT:** No funding is required for this legislation.

To authorize the Director of the Department of Development to amend the City of Columbus Downtown Office Incentive Agreement with Agility Partners, LLC to: (i) reduce the company’s retention commitment from 50 full-time permanent positions to 39, (ii) to reduce the associated annual payroll for those retained jobs from \$4,480,000.00 to \$2,890,000.00 and (ii) to provide for language that any requested future amendment to any of the terms of the Agreement shall require the payment of a fee to the City; and to declare an emergency.

**WHEREAS**, Columbus City Council (“**COUNCIL**”) approved a Downtown Office Incentive Agreement (the “**AGREEMENT**”) with Agility Partner, LLC (also referred to as the “**GRANTEE**”), by Ordinance No. 1328-2019 on June 3, 2019 with the **AGREEMENT** having been made and entered into effective July 22, 2019; and

**WHEREAS**, the **AGREEMENT** granted a financial incentive based on an amount equal to fifty percent (50%) of the

City of Columbus income tax withheld on the Columbus payroll of New Employees at the Project Site for three (3) consecutive years; and

**WHEREAS**, in the **AGREEMENT**, the **GRANTEE** committed to invest more in IT/Software Development, retain 50 full-time permanent positions with an annual payroll of approximately \$4.48 million and create 30 net new full-time permanent positions with an annual payroll of approximately \$2.5 million at 175 South Third Street, Columbus, Ohio 43215 (the “Project Site”); and

**WHEREAS**, in a letter received by the **CITY** from Agility Partners, LLC, dated April 15, 2020, it was confirmed that the retained employment commitment in the **GRANTEE**’s initial incentive application included employees not based within the City of Columbus and therefore set the **GRANTEE**’s retained employment commitment, along with the associated annual payroll, too high; 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 program with one of the those fees being an Amendment Fee; and

**WHEREAS**, it is necessary to amend the agreement to (i) reduce the **GRANTEE**’s retained jobs commitment from fifty (50) to thirty-nine (39), (ii) to reduce the associated annual payroll for those retained jobs from \$4,480,000 to \$2,890,000 and (iii) that language be added to the agreement stating that any requested future amendment or modification to any of the terms of this **AGREEMENT** made to the **CITY** by the **GRANTEE** shall require the payment to the **CITY** by the **GRANTEE** of an **AMENDMENT FEE** in the amount of two-hundred fifty dollars (\$250.00); 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 Downtown Office Incentive Agreement with Agility Partners, LLC. so that there will be no delay in processing the Downtown Office Incentive payment for Report Year 2019 during the 2020 payment cycle which is currently underway, thereby preserving the public health, peace, property and safety;

## **NOW, THEREFORE**

### **BE IT ORDAINED BY THE COUNCIL OF COLUMBUS**

**Section 1.** The Director of the Department of Development is hereby authorized to amend the City of Columbus Downtown Office Incentive Agreement with Agility Partners, LLC to (i) reduce Agility Partners, LLC’s retained full-time jobs commitment from fifty (50) to thirty-nine (39) and (ii) to reduce the associated annual payroll for those retained jobs from \$4,480,000 to \$2,890,000.

**Section 2.** That the entirety of the current Section 13 (D) of the **AGREEMENT** be removed and replaced with the following new Section 13 (D):

No amendment or modification shall be effective unless in writing and signed by all parties to this agreement. Any requested amendment or modification to any of the terms of this **AGREEMENT** made to the **CITY** by the **GRANTEE** shall require the payment to the **CITY** by the **GRANTEE** of an **AMENDMENT FEE** in the amount of two-hundred fifty dollars (\$250.00).

**Section 3.** That this **FIRST AMENDMENT** to the City of Columbus Downtown Office Incentive Amendment be signed by Agility Partners, LLC within 90 days of passage of this ordinance, or this ordinance and the incentive herein shall be null and void.

**Section 3.** 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.