



Legislation Details (With Text)

File #: 1574-2018 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 5/30/2018 **In control:** Economic Development & Small and Minority Business Committee

On agenda: 6/11/2018 **Final action:** 6/13/2018

Title: To authorize the Director of the Department of Development to amend the Enterprise Zone Agreement for with AirSide Three LLC, to remove AirSide Three LLC as the party to the agreement and to be replaced with BVK US II Columbus, LLC; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|-----------|------|-----------------------|----------|--------|
| 6/13/2018 | 1 | CITY CLERK | Attest | |
| 6/12/2018 | 1 | MAYOR | Signed | |
| 6/11/2018 | 1 | COUNCIL PRESIDENT | Signed | |
| 6/11/2018 | 1 | Columbus City Council | Approved | Pass |

BACKGROUND: Columbus City Council (“**COUNCIL**”), by Ordinance No. 0161-2017, passed January 30, 2017, authorized the City of Columbus (CITY) to enter into an Enterprise Zone Agreement (the “**AGREEMENT**”) with AirSide Three LLC (the “**ENTERPRISE**”) for a tax abatement of seventy-five percent (75%) for a period of ten (10) years in consideration of a proposed \$6.1 million investment in real property improvements and the creation of 10 full-time jobs with an associated annual payroll of approximately \$350,000 related to the construction of a new 100,000-square-foot speculative office and distribution center on parcel number 520-164556, within the City of Columbus Enterprise Zone. The **AGREEMENT** was made and entered into effective February 27, 2017 (EZA #023-17-01) with no real property exemption commencing after 2019 nor extend beyond 2028. Following execution of the **AGREEMENT**, the parcel was split and the abatement now applies to parcel number 520-297253 at 4580 Bridgeway Avenue, Columbus, OH 43219.

Following discussions, a letter to the **CITY** from The Daimler Group, Inc. on behalf of AirSide Three LLC dated April 30, 2018 was received, confirming that BVK US II Columbus, LLC had acquired ownership of parcel number 520-297253 from AirSide Three LLC on April 26, 2018. Due diligence has been undertaken by the **CITY** in that BVK US II Columbus, LLC has agreed to fully assume the terms and commitments of the **ENTERPRISE** pursuant to the **AGREEMENT**, has submitted an updated Economic Development Incentive Application and that this application and all other pertinent information has been reviewed and vetted.

This legislation is to authorize the Director of the Department of Development to amend the **AGREEMENT** for the first time to remove AirSide Three LLC as **ENTERPRISE** and party to the **AGREEMENT** and to be replaced with BVK US II Columbus, LLC as **ENTERPRISE** and party to the **AGREEMENT**, whereby BVK US II Columbus, LLC will assume the terms and commitments of the **AGREEMENT**.

This legislation is being presented as an emergency measure in order for this amendment to be legislated in as expedient a manner as possible so that this amendment to the **AGREEMENT** might be fully executed prior to the 2018 Tax Incentive Review Council (the “**TIRC**”) so that the **TIRC** might be advised of this amendment.

FISCAL IMPACT: No funding is required for this legislation.

To authorize the Director of the Department of Development to amend the Enterprise Zone Agreement for with AirSide Three LLC, to remove AirSide Three LLC as the party to the agreement and to be replaced with BVK US II Columbus, LLC; and to declare an emergency.

WHEREAS, the City of Columbus (CITY) entered into an Enterprise Zone Agreement (the “**AGREEMENT**”) with AirSide Three LLC approved by Columbus City Council (COUNCIL) on January 30, 2017 by Ordinance No. 0161-2017 with this **AGREEMENT** made and entered into effective February 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 \$6.1 million investment in real property improvements and the creation of 10 full-time jobs with an annual payroll of approximately \$350,000 related to the construction of a new 100,000-square-foot speculative office and distribution center at 4580 Bridgeway Avenue, Columbus Ohio 43219, and within the City of Columbus Enterprise Zone with no real property exemption commencing after 2019 nor extend beyond 2028. Following execution of the **AGREEMENT**, the parcel was split and the abatement now applies to parcel number 520-297253.

WHEREAS, a letter to the CITY from The Daimler Group, Inc. on behalf of AirSide Three LLC, dated April 30, 2018 confirmed that AirSide Three LLC has sold its real estate ownership interest in the project to BVK US II Columbus, LLC with the sale having occurred on April 26, 2018; and

WHEREAS, due diligence has been undertaken by the CITY in that BVK US II Columbus, LLC has agreed to fully assume the terms and commitments of the **ENTERPRISE** pursuant to the **AGREEMENT**, has submitted an updated Economic Development Incentive Application and that this application and all other pertinent information has been reviewed and vetted; and

WHEREAS, an amendment for assignment and assumption is needed to remove AirSide Three LLC as **ENTERPRISE** and party to the **AGREEMENT** and to be replaced with BVK US II Columbus, LLC as **ENTERPRISE** and party to the **AGREEMENT**; 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 to the **AGREEMENT** with AirSide Three LLC for the purpose of removing AirSide Three LLC as **ENTERPRISE** and party to the **AGREEMENT** to be replaced by BVK US II Columbus, LLC as **ENTERPRISE** and party to the **AGREEMENT** so that this amendment to the **AGREEMENT** might be fully executed prior to the 2018 Tax Incentive Review Council (the “TIRC”) so that the TIRC might be advised of this amendment;

NOW, THEREFORE

BE IT ORDAINED BY THE COUNCIL OF COLUMBUS

Section 1. That the Director of the Department of the Department of Development is hereby authorized to amend the Enterprise Zone Agreement for assignment and assumption with AirSide Three LLC, to remove AirSide Three LLC as **ENTERPRISE** and party to the **AGREEMENT** to be replaced by BVK US II Columbus, LLC as **ENTERPRISE** and party to the **AGREEMENT**, whereby BVK US II Columbus, LLC will assume the terms and commitments of the **AGREEMENT**.

Section 2. That this **FIRST AMENDMENT** for assignment and assumption to the City of Columbus Enterprise Zone Agreement be signed by BVK US II Columbus, LLC 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 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.