



Legislation Details (With Text)

File #: 3324-2019 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 12/16/2019 **In control:** Economic Development Committee

On agenda: 1/27/2020 **Final action:** 1/30/2020

Title: To authorize the Director of Development to amend the AGREEMENT for the second time for Assignment & Assumption to remove GPT Charter Street Owner LLC as OWNER, ENTERPRISE and party to the AGREEMENT to be replaced by 2701 Charter Street, LLC as OWNER, ENTERPRISE and party to the AGREEMENT whereby 2701 Charter Street, LLC as OWNER will assume the terms and commitments of the AGREEMENT as ENTERPRISE and party to 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
1/30/2020	1	CITY CLERK	Attest	
1/29/2020	1	MAYOR	Signed	
1/29/2020	1	MAYOR	Signed	
1/27/2020	1	COUNCIL PRESIDENT	Signed	
1/27/2020	1	Columbus City Council	Approved	Pass

BACKGROUND: Columbus City Council (COUNCIL), by Ordinance No. 1277-2016, passed June 6, 2016, authorized the City of Columbus (CITY) to enter into an Enterprise Zone Agreement (the AGREEMENT) with Micro Electronics, Inc. (TENANT) and Lightning Propco I, LLC (OWNER) (together, “ENTERPRISE”), for a real property tax abatement of fifty percent (50%) for a period of eight (8) consecutive years in consideration of a proposed \$2.97 million investment in real property improvements, the retention of 104 existing full-time permanent positions with an associated annual payroll of approximately \$3,005,612 and the creation of 5 new full-time permanent positions with an associated annual payroll of approximately \$130,000 related to the expansion of the OWNER’s existing 262,636 square foot facility by approximately 43,380 square feet which TENANT was to continue to occupy as part of an amended long-term lease agreement located at 2701 Charter Street on Parcel Number 560-241826 within the City of Columbus and within the Columbus Central Enterprise Zone (The PROJECT SITE). The AGREEMENT was made and entered into effective October 11, 2016 with the abatement to commence no later than 2017 nor extend beyond 2024.

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.”

The AGREEMENT was subsequently Amended for the First Time for Assignment & Assumption (The FIRST AMENDMENT) whereby Lightning Propco I, LLC assigned the benefits of the AGREEMENT to GPT Charter Street Owner LLC as OWNER, assuming the commitments of the AGREEMENT as ENTERPRISE and party to the AGREEMENT, authorized by COUNCIL by Ordinance 1874-2017, passed July 24, 2017, with this FIRST AMENDMENT executed August 11, 2017, effective as of the day and year first written in the AGREEMENT.

The Final Determination of the Tax Commissioner regarding the application for exemption of real property from taxation

that was filed by GPT Charter Street Owner LLC on June 29, 2019 was issued on December 26, 2018 whereby the abatement was processed by the Franklin County Auditor on February 27, 2019, beginning in the first year for which the real property would first be taxable were that property not exempted from taxation for a period of eight (8) years, such period not to exceed eight (8) years with that term being from 2017 to 2024.

In a letter on behalf of GPT Charter Street Owner LLC (“GPT”) dated November 12, 2019 and received by the CITY the same date, the CITY was advised of the proposed and pending sale of the PROJECT SITE by GPT to 2701 Charter Street, LLC and requested that the AGREEMENT be Amended for the Second Time for Assignment & Assumption whereby GPT would assign the benefits of the AGREEMENT to 2701 Charter Street, LLC as OWNER and assume the commitments of the AGREEMENT as ENTERPRISE and party to the AGREEMENT. Due diligence has been undertaken by the CITY in that 2701 Charter Street, 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 2701 Charter Street, LLC had acquired ownership of the PROJECT SITE on November 21, 2019.

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 second time for Assignment & Assumption to remove GPT Charter Street Owner LLC as OWNER, ENTERPRISE and party to the AGREEMENT to be replaced by 2701 Charter Street, LLC as OWNER, ENTERPRISE and party to the AGREEMENT whereby 2701 Charter Street, LLC assumes the terms and commitments of the AGREEMENT as OWNER, ENTERPRISE and party to the AGREEMENT and to add language requiring an Amendment Fee for future Grantee-initiated Amendments.

This legislation is presented as an emergency measure 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 AGREEMENT for the second time for Assignment & Assumption to remove GPT Charter Street Owner LLC as OWNER, ENTERPRISE and party to the AGREEMENT to be replaced by 2701 Charter Street, LLC as OWNER, ENTERPRISE and party to the AGREEMENT whereby 2701 Charter Street, LLC as OWNER will assume the terms and commitments of the AGREEMENT as ENTERPRISE and party to 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 Micro Electronics, Inc. (TENANT) and Lightning Propco I, LLC (OWNER) (together, “ENTERPRISE”), approved by Columbus City Council (COUNCIL) on June 6, 2016 by Ordinance No. 1277-2016 with this AGREEMENT made and entered into effective October 11, 2016; and

WHEREAS, the AGREEMENT granted a 50%/8-Year abatement on real property improvements; and

WHEREAS, the incentive was granted in consideration of an approximately \$2.97 million investment in real property improvements, the retention of 104 employees and the creation of 5 full-time jobs with an annual payroll of approximately \$130,000 related to the expansion of the OWNER’s existing 262,636 square foot facility by approximately 43,380 square feet which TENANT was to continue to occupy as part of an amended long-term lease agreement located at 2701 Charter Street on Parcel Number 560-241826 within the City of Columbus and within the Columbus Central Enterprise Zone (The PROJECT SITE) with the abatement to commence no later than 2017 nor extend beyond 2024.

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 AGREEMENT was subsequently Amended for the First Time for Assignment & Assumption (The FIRST AMENDMENT) whereby Lightning Propco I, LLC assigned the benefits of the AGREEMENT to GPT Charter Street Owner LLC as OWNER, assuming the commitments of the AGREEMENT as ENTERPRISE and party to the AGREEMENT, authorized by COUNCIL by Ordinance 1874-2017, passed July 24, 2017, with this FIRST AMENDMENT executed August 11, 2017, effected as of the day and year first written in the AGREEMENT; and

WHEREAS, the Final Determination of the Tax Commissioner regarding the application for exemption of real property from taxation that was filed by GPT Charter Street Owner LLC on June 29, 2019 was issued on December 26, 2018 whereby the abatement was processed by the Franklin County Auditor on February 27, 2019, beginning in the first year for which the real property would first be taxable were that property not exempted from taxation for a period of eight (8) years, such period not to exceed eight (8) years with that term being from 2017 to 2024; and

WHEREAS, in a letter on behalf of GPT Charter Street Owner LLC (“GPT”) dated November 12, 2019 and received by the CITY the same date, the CITY was advised of the proposed and pending sale of the PROJECT SITE by GPT to 2701 Charter Street, LLC and requested that the AGREEMENT be Amended for the Second Time for Assignment & Assumption whereby GPT would assign the benefits of the AGREEMENT to 2701 Charter Street, LLC as OWNER and assume the commitments of the AGREEMENT as ENTERPRISE and party to the AGREEMENT; and

WHEREAS, due diligence has been undertaken by the CITY in that 2701 Charter Street, 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 2701 Charter Street, LLC had acquired ownership of the PROJECT SITE on November 21, 2019; 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 seek an Amendment for Assignment and Assumption to the AGREEMENT with Micro Electronics, Inc. & GPT Charter Street Owner LLC to (1) remove GPT Charter Street Owner LLC as OWNER, ENTERPRISE and party to the AGREEMENT to be replaced by 2701 Charter Street, LLC as OWNER, ENTERPRISE and party to the AGREEMENT whereby 2701 Charter Street, LLC will assume the terms and commitments of the AGREEMENT as OWNER, ENTERPRISE and party to the AGREEMENT and (2) to add language requiring an Amendment Fee for future Grantee-initiated Amendments; 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 Micro Electronics, Inc. & GPT Charter Street Owner LLC (the AGREEMENT) to remove GPT Charter Street Owner LLC as OWNER, ENTERPRISE and party to the AGREEMENT to be replaced with 2701 Charter Street, LLC as OWNER, ENTERPRISE and party to the AGREEMENT whereby 2701 Charter Street, LLC will assume the terms and commitments of the AGREEMENT as OWNER, ENTERPRISE and party to the AGREEMENT.

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 SECOND AMENDMENT FOR ASSIGNMENT AND ASSUMPTION to the City of Columbus Enterprise Zone Agreement be signed by Micro Electronics, Inc. and 2701 Charter Street, 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.