



Legislation Details (With Text)

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Title: To authorize the Director of Development to amend the Enterprise Zone Agreement with Columbus Equipment Company & CEC Real Estate Performance, LLC for the second time to revise language in Section 3 of the Agreement to state that "no real property exemption shall commence after 2016 nor extend beyond 2025"; and to declare an emergency.

Sponsors:

Indexes:

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Attachments:

Date	Ver.	Action By	Action	Result
1/30/2020	1	CITY CLERK	Attest	
1/29/2020	1	MAYOR	Signed	
1/27/2020	1	COUNCIL PRESIDENT	Signed	
1/27/2020	1	Columbus City Council	Approved	Pass

BACKGROUND: The need exists to amend the Enterprise Zone Agreement between the City of Columbus and Columbus Equipment Company & CEC Real Estate Performance, LLC. Columbus City Council (COUNCIL), by Ordinance No. 1349-2013, passed June 17, 2013, authorized the City of Columbus (CITY) to enter into an Enterprise Zone Agreement (the AGREEMENT) with Columbus Equipment Company (ENTERPRISE) for a tax abatement of seventy-five percent (75%) for a period of ten (10) years in consideration of an approximate \$2 million investment in real property improvements, the retention of 74 existing full-time jobs and the creation of two (2) full-time permanent positions with an annual payroll of approximately \$80,000 related to the renovation of an approximately 16,000 square foot vacant commercial building located at 2325 Performance Way, Columbus, OH 43207, parcel number 010-102565, within the Columbus City School District and within the City of Columbus Enterprise Zone. The AGREEMENT was made and entered into effective August 12, 2013 (EZA #023-13-04). The AGREEMENT stated that construction on the improvements (the PROJECT) was expected to begin July, 2013 and that all real property improvements were expected to be completed by December 2014 and that no real property exemption was to commence after 2015 nor extend beyond 2024; however, due to delays, the project began in 2015 and was completed by the end of February 2016. The AGREEMENT was subsequently authorized by COUNCIL to be amended for the first time to add CEC Real Estate Performance, LLC as OWNER alongside Columbus Equipment Company as ENTERPRISE by Ordinance No. 0207-2018, passed January 22, 2018, thereby allowing CEC Real Estate Performance, LLC as OWNER to successfully file the DTE-24 for the abatement per Section 6 of the AGREEMENT.

The CITY was advised by the Franklin County Auditor (the AUDITOR) in November 2019 that the Ohio Department of Taxation (TAXATION) issued their FINAL DETERMINATION on the DTE filed by OWNER. In that FINAL DETERMINATION, TAXATION stated that the abatement should begin "in the first year for which the real property would first be taxable were that property not exempted from taxation for a period of 10 years" and the AUDITOR has indicated that this first year would be Tax Year 2016 so that the aforementioned 10 year period would run from 2016 through 2025. The CITY was also advised by OWNER in a letter dated December 12, 2019 of the FINAL DETERMINATION and requested that the AGREEMENT be amended to adjust the allowable abatement term. With the AGREEMENT stating that "no real property exemption shall commence after 2015 nor extend beyond 2024" in order for

ENTERPRISE and OWNER to realize a full 10-year abatement term there is a need to amend the AGREEMENT for a second time to allow for the abatement term to begin in 2016 and run through 2025.

This legislation is to authorize the Director of Development to amend the AGREEMENT for the second time to revise language in Section 3 of the AGREEMENT to state that no real property exemption shall commence after 2016 nor extend beyond 2025.

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 so that ENTERPRISE and OWNER will be able to realize the full benefit of the tax abatement and to ensure that ENTERPRISE and OWNER remain 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 Enterprise Zone Agreement with Columbus Equipment Company & CEC Real Estate Performance, LLC for the second time to revise language in Section 3 of the Agreement to state that “no real property exemption shall commence after 2016 nor extend beyond 2025”; and to declare an emergency.

WHEREAS, the City of Columbus (CITY) entered into an Enterprise Zone Agreement (the “AGREEMENT”) with Columbus Equipment Company (ENTERPRISE), approved by Columbus City Council (COUNCIL) on June 17, 2013 by Ordinance No. 1349-2013 with this AGREEMENT made and entered into effective August 12, 2013; and

WHEREAS, the AGREEMENT granted a 75%/10-Year abatement on real property improvements; and

WHEREAS, the incentive was granted in consideration of an approximate \$2 million investment in real property improvements, the retention of 74 existing full-time jobs and the creation of two (2) full-time permanent positions with an annual payroll of approximately \$80,000 related to the renovation of an approximately 16,000 square foot vacant commercial building located at 2325 Performance Way, Columbus, OH 43207, parcel number 010-102565, within the Columbus City School District and within the City of Columbus Enterprise Zone; and

WHEREAS, the AGREEMENT stated that construction on the improvements (the PROJECT) was expected to begin July, 2013 and that all real property improvements were expected to be completed by December 2014 and that no real property exemption was to commence after 2015 nor extend beyond 2024; however, due to delays, the project began in 2015 and was completed by the end of February 2016; and

WHEREAS, the AGREEMENT was subsequently authorized by COUNCIL to be amended for the first time to add CEC Real Estate Performance, LLC as OWNER alongside Columbus Equipment Company as ENTERPRISE by Ordinance No. 0207-2018, passed January 22, 2018, thereby allowing CEC Real Estate Performance, LLC as OWNER to successfully file the DTE-24 for the abatement per Section 6 of the AGREEMENT; and

WHEREAS, the CITY was advised by the Franklin County Auditor (the AUDITOR) in November 2019 that the Ohio Department of Taxation (TAXATION) issued their FINAL DETERMINATION on the DTE filed by OWNER; and

WHEREAS, in that FINAL DETERMINATION, TAXATION stated that the abatement should begin “in the first year for which the real property would first be taxable were that property not exempted from taxation for a period of 10 years” and the AUDITOR has indicated that this first year would be Tax Year 2016 so that the aforementioned 10 year period would run from 2016 through 2025; and

WHEREAS, the CITY was also advised by OWNER in a letter dated December 12, 2019 of the FINAL DETERMINATION and requested that the AGREEMENT be amended to adjust the allowable abatement term; and

WHEREAS, with the AGREEMENT stating that “no real property exemption shall commence after 2015 nor extend beyond 2024” in order for ENTERPRISE and OWNER to realize a full 10-year abatement term there is a need to amend

the AGREEMENT for a second time to allow for the abatement term to begin in 2016 and run through 2025; and

WHEREAS, an amendment is needed to revise language in Section 3 of the AGREEMENT to state that no real property exemption shall commence after 2016 nor extend beyond 2025; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary to seek a second amendment to the AGREEMENT with Columbus Equipment Company & CEC Real Estate Performance, LLC to revise language in Section 3 of the AGREEMENT to state that no real property exemption shall commence after 2016 nor extend beyond 2025; 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 Columbus Equipment Company & CEC Real Estate Performance, LLC to revise language in Section 3 of the AGREEMENT to state that no real property exemption shall commence after 2016 nor extend beyond 2025.

SECTION 2. That this SECOND AMENDMENT to the City of Columbus Enterprise Zone Agreement be signed by Columbus Equipment Company and CEC Real Estate Performance, 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.