



Legislation Details (With Text)

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File created: 5/17/2022 **In control:** Economic Development Committee
On agenda: 6/6/2022 **Final action:** 6/9/2022

Title: To authorize the Director of the Department of Development to amend the AGREEMENT for the second time to assign the AGREEMENT to ComRef Rickenbacker West, LLC whereby ComRef Rickenbacker West, LLC will assume the terms and commitments of the AGREEMENT as ENTERPRISE; to revise the notice information; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
6/9/2022	1	CITY CLERK	Attest	
6/8/2022	1	MAYOR	Signed	
6/6/2022	1	COUNCIL PRESIDENT	Signed	
6/6/2022	1	Columbus City Council	Approved	Pass

BACKGROUND: Columbus City Council (COUNCIL), by Ordinance No. 1838-2019, passed July 22, 2019, authorized the City of Columbus (CITY) to enter into a Community Reinvestment Area Agreement (the AGREEMENT) with Pizzuti Land LLC (ENTERPRISE) and the Columbus-Franklin County Finance Authority (FINANCE AUTHORITY), for a real property tax abatement of one-hundred percent (100%) for a period of fifteen (15) consecutive years in consideration of a proposed \$16.5 million investment in real property improvements and the creation of ten (10) net new full-time permanent positions with an associated annual payroll of approximately \$312,000 related to the construction of a new approximately 261,402 square foot speculative industrial warehouse facility (the PROJECT) on Parcel Number 495-234526 located at 1675 Beggrow Street within the City of Columbus and within the City of Columbus Rickenbacker Community Reinvestment Area (the PROJECT SITE). The AGREEMENT was made and entered into effective August 29, 2019 with the PROJECT expected to begin approximately September 2019 and all real property improvements expected to be completed by approximately March 2020 but no later than March 2021. The abatement was to begin no later than 2022 nor extend beyond 2036 (Agreement No. 049-18000-14/19-002).

To provide for the authority to enter into this one-hundred percent (100%), fifteen (15) year AGREEMENT, the Board of Education of the Columbus City School District (the SCHOOL DISTRICT) by its Resolution Number 17-23-447, adopted September 5, 2017, approved the aforementioned terms of the AGREEMENT provided that the ENTERPRISE and the SCHOOL DISTRICT first enter into two (2) compensation agreements (COMPENSATION AGREEMENTS) with these COMPENSATION AGREEMENTS entered into effective September 5, 2017.

The AGREEMENT was subsequently authorized by COUNCIL to be amended for the first time for Assignment & Assumption to remove Pizzuti Land LLC as ENTERPRISE and party to the AGREEMENT to be replaced by Rickenbacker West Owner 2-3, LLC as ENTERPRISE and party to the AGREEMENT whereby Rickenbacker West Owner 2-3, LLC assumed the terms and commitments of ENTERPRISE under the AGREEMENT by Ordinance No. 3017-2019, passed November 25, 2019, with the First Amendment for Assignment & Assumption executed on and made effective as of February 12, 2020 and except as modified and amended by the First Amendment for Assignment & Assumption the AGREEMENT remained in full force and effect.

Additionally, at that time it was confirmed to the CITY by Pizzuti Land LLC that the COMPENSATION AGREEMENTS would not be part of the Assignment & Assumption and that Pizzuti Land LLC would continue to maintain compliance with the COMPENSATION AGREEMENTS.

Subsequently, parcel number 495-300107 was split from parcel number 495-234526 and an application for a Community Reinvestment Area tax abatement was submitted to the CITY by Rickenbacker West Owner 2-3, LLC & the Columbus-Franklin County Finance Authority on or before December 1, 2020 with this application certified by the CITY to the Franklin County Auditor on December 16, 2020 with the abatement currently in effect having commenced January 1, 2021 and for fifteen (15) consecutive years thereafter (2021-2035).

Within the AGREEMENT, Section 22 (Transfer and/or Assignment) states that the “AGREEMENT is not transferable or assignable without the express, written, approval of the CITY” and Section 23 (Notices) states that “any request...to modify any of the terms of this AGREEMENT...shall require the payment to the CITY by the ENTERPRISE of an AMENDMENT FEE in the amount of five-hundred dollars (\$500.00).”

In communication to the CITY by ENTERPRISE on March 23, 2022, the CITY was advised by ENTERPRISE that they would soon be in contract to sell the real property and the improvements per the AGREEMENT. On April 8, 2022 the CITY was contacted by Heitman, a real estate investment firm based out of Chicago to advise the CITY that Heitman was under contract to “acquire Rickenbacker West II” and requested information related to the process of assignment and assumption. Subsequent communication with Heitman resulted in a letter and an Economic Development Incentive Application (the APPLICATION) being received from ComRef Rickenbacker West, LLC c/o Heitman Capital Management LLC on April 21, 2022 with the letter advising that they are in contract with ENTERPRISE to purchase “that certain property having a mailing address of 1815 Beggrov Street (Parcel Number 495-300106)” with the closing of the sale scheduled to occur on or before May 20, 2022. On April 29, 2022 the CITY received the aforementioned AMENDMENT FEE and on May 4, 2020, the CITY received notice from ComRef Rickenbacker West, LLC c/o Heitman Capital Management LLC that closing of the aforementioned sale had occurred with the Limited Warranty Deed (the DEED) having been recorded on May 3, 2022 with a copy of the DEED provided to the CITY and requested that the CITY amend the AGREEMENT for assignment and assumption. The APPLICATION and all other pertinent information has been reviewed and vetted.

This legislation is to authorize the Director of Development to amend the AGREEMENT for the second time to (1) remove Rickenbacker West Owner 2-3, LLC as ENTERPRISE and the Columbus-Franklin County Finance Authority as FINANCE AUTHORITY to be replaced by ComRef Rickenbacker West, LLC as ENTERPRISE, whereby Rickenbacker West Owner 2-3, LLC & the Columbus-Franklin County Finance Authority will assign to and ComRef Rickenbacker West, LLC will then assume the terms and commitments of the AGREEMENT as ENTERPRISE and (2) revise the notice information related to ENTERPRISE within Section 23 of the AGREEMENT.

This legislation is presented as an emergency measure in order for this amendment to be legislated prior to the 2022 Tax Incentive Review Council and 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 the Department of Development to amend the AGREEMENT for the second time to assign the AGREEMENT to ComRef Rickenbacker West, LLC whereby ComRef Rickenbacker West, LLC will assume the terms and commitments of the AGREEMENT as ENTERPRISE; to revise the notice information; and to declare an emergency.

WHEREAS, the City of Columbus (CITY) entered into an Community Reinvestment Area Agreement (the “AGREEMENT”) with Pizzuti Land LLC (“ENTERPRISE”) and the Columbus-Franklin County Finance Authority (“FINANCE AUTHORITY”), approved by Columbus City Council (COUNCIL) by Ordinance No. 1838-2019, passed July 22, 2019, with this AGREEMENT made and entered into effective August 29, 2019; and

WHEREAS, the AGREEMENT granted a 100%/15-Year abatement on real property improvements; and

WHEREAS, the incentive was granted in consideration of a proposed \$16.5 million investment in real property improvements and the creation of 10 net new full-time permanent positions with an associated annual payroll of approximately \$312,000 related to the construction of a new approximately 261,402 square foot speculative industrial warehouse facility (the PROJECT) on Parcel Number 495-234526 located at 1675 Beggrow Street within the City of Columbus and within the City of Columbus Rickenbacker Community Reinvestment Area (the PROJECT SITE) with the PROJECT expected to begin approximately September 2019, with all real property improvements expected to be completed by approximately March 2020 but no later than March 2021 and with the abatement to commence no later than 2022 nor extend beyond 2036 (Agreement No. 049-18000-14/19-002); and

WHEREAS, to provide for the authority to enter into this one-hundred percent (100%), fifteen (15) year AGREEMENT, the Board of Education of the Columbus City School District (the SCHOOL DISTRICT) by its Resolution Number 17-23-447, adopted September 5, 2017, approved the aforementioned terms of the AGREEMENT provided that the ENTERPRISE and the SCHOOL DISTRICT first enter into two (2) compensation agreements (COMPENSATION AGREEMENTS) with these COMPENSATION AGREEMENTS entered into effective September 5, 2017; and

WHEREAS, the AGREEMENT was subsequently authorized by COUNCIL to be amended for the first time for Assignment & Assumption to remove Pizzuti Land LLC as ENTERPRISE and party to the AGREEMENT to be replaced by Rickenbacker West Owner 2-3, LLC as ENTERPRISE and party to the AGREEMENT whereby Rickenbacker West Owner 2-3, LLC assumed the terms and commitments of ENTERPRISE under the AGREEMENT by Ordinance No. 3016-2019, passed November 25, 2019, with the First Amendment for Assignment & Assumption executed on and made effective as of April 14, 2021 and except as modified and amended by the First Amendment for Assignment & Assumption the AGREEMENT remained in full force and effect; and

WHEREAS, at that time it was confirmed to the CITY by Pizzuti Land LLC that the COMPENSATION AGREEMENTS would not be part of the Assignment & Assumption and that Pizzuti Land LLC would continue to maintain compliance with the COMPENSATION AGREEMENTS; and

WHEREAS, subsequently, parcel number 495-300107 was split from parcel number 495-234526 and an application for a Community Reinvestment Area tax abatement was submitted to the CITY by Rickenbacker West Owner 2-3, LLC & the Columbus-Franklin County Finance Authority on or before December 1, 2020 with this application certified by the CITY to the Franklin County Auditor on December 16, 2020 with the abatement currently in effect having commenced January 1, 2021 and for fifteen (15) consecutive years thereafter (2021-2035); and

WHEREAS, within the AGREEMENT, Section 22 (Transfer and/or Assignment) states that the “AGREEMENT is not transferable or assignable without the express, written, approval of the CITY” and Section 23 (Notices) states that “any request...to modify any of the terms of this AGREEMENT...shall require the payment to the CITY by the ENTERPRISE of an AMENDMENT FEE in the amount of five-hundred dollars (\$500.00);” and

WHEREAS, in communication to the CITY by ENTERPRISE on March 23, 2022, the CITY was advised by ENTERPRISE that they would soon be in contract to sell the real property and the improvements per the AGREEMENT. On April 8, 2022 the CITY was contacted by Heitman, a real estate investment firm based out of Chicago to advise the CITY that Heitman was under contract to “acquire Rickenbacker West II” and requested information related to the process of assignment and assumption. Subsequent communication with Hietman resulted in a letter and an Economic Development Incentive Application (the APPLICATION) being received from ComRef Rickenbacker West, LLC c/o Heitman Capital Management LLC on April 21, 2022 with the letter advising that they are in contract with ENTERPRISE

to purchase “that certain property having a mailing address of 1815 Beggrow Street (Parcel Number 495-300106)” with the closing of the sale scheduled to occur on or before May 20, 2022. On April 29, 2022 the CITY received the aforementioned AMENDMENT FEE and on May 4, 2020, the CITY received notice from ComRef Rickenbacker West, LLC c/o Heitman Capital Management LLC that closing of the aforementioned sale had occurred with the Limited Warranty Deed (the DEED) having been recorded on May 3, 2022 with a copy of the DEED provided to the CITY and requested that the CITY amend the AGREEMENT for assignment and assumption. The APPLICATION and all other pertinent information has been reviewed and vetted; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary to seek an Amendment for Assignment and Assumption to the AGREEMENT with Rickenbacker West Owner 2-3, LLC & the Columbus-Franklin County Finance Authority to (1) remove Rickenbacker West Owner 2-3, LLC as ENTERPRISE and the Columbus-Franklin County Finance Authority as FINANCE AUTHORITY to be replaced by ComRef Rickenbacker West, LLC as ENTERPRISE, whereby Rickenbacker West Owner 2-3, LLC & the Columbus-Franklin County Finance Authority will assign to and ComRef Rickenbacker West, LLC will then assume the terms and commitments of the AGREEMENT as ENTERPRISE and (2) revise the notice information related to ENTERPRISE within Section 23 of the AGREEMENT prior to the 2022 Tax Incentive Review Council 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 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 Council of Columbus finds that the enterprise submitting this proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation.

SECTION 2. That the Director of the Department of Development is hereby authorized to amend the Community Reinvestment Area Agreement with Rickenbacker West Owner 2-3, LLC & The Columbus-Franklin County Finance Authority (the AGREEMENT; Agreement #049-18000-14/19-002; parcel 495-300107) to remove Rickenbacker West Owner 2-3, LLC as ENTERPRISE and to remove The Columbus-Franklin County Finance Authority as FINANCE AUTHORITY to be replaced with ComRef Rickenbacker West, LLC as ENTERPRISE whereby ComRef Rickenbacker West, LLC will assume the terms and commitments of the AGREEMENT as ENTERPRISE.

SECTION 3. That the Director of Development is hereby authorized to amend within Section 23 (Notices) of the AGREEMENT, (1) the “If to the ENTERPRISE” section regarding written communication to Pizzuti Land LLC to ComRef Rickenbacker West, LLC c/o Heitman Capital Management LLC and (2) to remove the “If to the FINANCE AUTHORITY” section.

SECTION 4 That this SECOND AMENDMENT FOR ASSIGNMENT AND ASSUMPTION to the City of Columbus Community Reinvestment Area Agreement be signed by Rickenbacker West Owner 2-3, LLC, The Columbus-Franklin County Finance Authority and ComRef Rickenbacker West, LLC within ninety (90) days of passage of this ordinance, or this ordinance and the incentive authorized herein shall be null and void.

SECTION 5. 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.