



## Legislation Details (With Text)

**File #:** 2075-2022      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 7/6/2022      **In control:** Economic Development Committee

**On agenda:** 7/18/2022      **Final action:** 7/20/2022

**Title:** To authorize the Director of the Department of Development to dissolve the Job Creation Tax Credit Agreement with Designer Brands Inc., DSW Shoe Warehouse, Inc., DSW Information Technology LLC, DSW Leased Business Division LLC, Brand Card Services LLC & eTailDirect LLC (collectively, "GRANTEE") and to notify as necessary the local and state tax authorities, and to declare an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
7/20/2022	1	CITY CLERK	Attest	
7/19/2022	1	MAYOR	Signed	
7/18/2022	1	COUNCIL PRESIDENT	Signed	
7/18/2022	1	Columbus City Council	Approved	Pass

**BACKGROUND:** The City of Columbus ("CITY") entered into a Job Creation Tax Credit Agreement (the "AGREEMENT") with DSW Inc., DSW Shoe Warehouse, Inc., DSW Information Technology LLC, DSW Leased Business Division LLC, Brand Card Services LLC & eTailDirect LLC (collectively, and hereinafter referred to as "GRANTEE") effective March 20, 2017. Columbus City Council ("COUNCIL") approved the AGREEMENT by Ordinance Number 2912-2016, adopted December 5, 2016, and granted a non-refundable tax credit allowed against the tax imposed under Section 362.06, "Income Subject to Net Profit Tax" of the Columbus City Codes of fifty-five percent (55%) of the new income tax revenue received by the CITY for a calendar year from New Employees, commencing January 1, 2018 and for five (5) consecutive years thereafter (i.e., January 1, 2018 through December 31, 2022 for a 5-year credit) based on an investment of approximately \$3.6 million in building improvements on vacant commercial space consisting of approximately 82,000 square feet within a repurposed aircraft hangar at 4314 East Fifth Avenue, the retention of 840 new full-time jobs with an annual payroll of approximately \$71.32 million and the creation of 100 new full-time permanent positions with an estimated annual payroll of approximately \$8.32 million (the "PROJECT") at 810 DSW Drive, 4150 and 4314 East Fifth Avenue, Columbus, Ohio 43219 (the "PROJECT SITE"). The AGREEMENT was made and entered into to be effective March 20, 2017.

Subsequently, the AGREEMENT was amended (the "First Amendment") by Ordinance Number 2293-2019, approved by COUNCIL on September 16, 2019 that authorized (i) the Director of the Department of Development to update the legal name of DSW Inc. to Designer Brands Inc. and (ii) added language to the AGREEMENT stating that any requested amendment or modification to any of the terms of the 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 \$250.00. The First Amendment was made and entered into to be effective February 3, 2020.

In a letter from the GRANTEE received by the CITY on June 24, 2022, the GRANTEE requested that the City of Columbus dissolve its current AGREEMENT with the CITY. Unfortunately, the GRANTEE indicated that the

coronavirus ("COVID-19") severely disrupted their business causing adverse impacts on operations and financial performance, particularly in 2020. The business impacts were driven by the shutdown of stores in response to government mandates. Due to the prolonged nature of COVID-19 and its many ripple effects, the GRANTEE job creation fell short in both calendar year ends 2020 and 2021. Additionally, the GRANTEE incurred staggering net operating losses in its fiscal year 2020 impacting its tax position in the CITY. As a result, the GRANTEE did not utilize the 2020 tax credit certificate issued in the amount of \$101,415 and will not be able to use any of the tax credit for calendar 2021 because of the GRANTEE's net operating loss. The GRANTEE is voluntarily seeking to cancel the AGREEMENT effective immediately. There is a need to dissolve this AGREEMENT between the CITY and GRANTEE related to the effects of COVID-19.

This legislation is presented as an emergency measure in order for this dissolution to be legislated in the most expedient manner as possible so that this dissolution of this AGREEMENT can be reported to the necessary local and state agencies prior to the issuance of the tax credit certificate.

#### **FISCAL IMPACT:**

No funding is required for this legislation.

To authorize the Director of the Department of Development to dissolve the Job Creation Tax Credit Agreement with Designer Brands Inc., DSW Shoe Warehouse, Inc., DSW Information Technology LLC, DSW Leased Business Division LLC, Brand Card Services LLC & eTailDirect LLC (collectively, "GRANTEE") and to notify as necessary the local and state tax authorities, and to declare an emergency.

**WHEREAS**, the City of Columbus ("CITY") entered into a Job Creation Tax Credit Agreement (the "AGREEMENT") with DSW Inc., DSW Shoe Warehouse, Inc., DSW Information Technology LLC, DSW Leased Business Division LLC, Brand Card Services LLC & eTailDirect LLC (collectively, and hereinafter referred to as "GRANTEE") effective March 20, 2017; and

**WHEREAS**, Columbus City Council ("COUNCIL") approved the AGREEMENT by Ordinance Number 2912-2016, adopted December 5, 2016, and granted a non-refundable tax credit allowed against the tax imposed under Section 362.06, "Income Subject to Net Profit Tax" of the Columbus City Codes of fifty-five percent (55%) of the new income tax revenue received by the CITY for a calendar year from New Employees, commencing January 1, 2018 and for five (5) consecutive years thereafter (i.e., January 1, 2018 through December 31, 2022 for a 5-year credit); and

**WHEREAS**, the incentive was granted in consideration of a proposed investment of approximately \$3.6 million in building improvements on vacant commercial space consisting of approximately 82,000 square feet within a repurposed aircraft hangar at 4314 East Fifth Avenue, the retention of 840 new full-time jobs with an annual payroll of approximately \$71.32 million and the creation of 100 new full-time permanent positions with an estimated annual payroll of approximately \$8.32 million (the "PROJECT") at 810 DSW Drive, 4150 and 4314 East Fifth Avenue, Columbus, Ohio 43219 (the "PROJECT SITE"). The AGREEMENT was made and entered into to be effective March 20, 2017; and

**WHEREAS**, subsequently, the AGREEMENT was amended (the "First Amendment") by Ordinance Number 2293-2019, approved by COUNCIL on September 16, 2019 that authorized (i) the Director of the Department of Development to update the legal name of DSW Inc. to Designer Brands Inc. and (ii) added language to the AGREEMENT stating that any requested amendment or modification to any of the terms of the 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 \$250.00. The First Amendment was made and entered into to be effective February 3, 2020; and

**WHEREAS**, in a letter from the GRANTEE received by the CITY on June 24, 2022, the GRANTEE requested that the City of Columbus dissolve its current AGREEMENT with the CITY. Unfortunately, the GRANTEE indicated that the coronavirus ("COVID-19") severely disrupted their business causing adverse impacts on operations and financial

performance, particularly in 2020. The business impacts were driven by the shutdown of stores in response to government mandates; and

**WHEREAS**, due to the prolonged nature of COVID-19 and its many ripple effects, the GRANTEE job creation fell short in both calendar year ends 2020 and 2021. Additionally, the GRANTEE incurred staggering net operating losses in its fiscal year 2020 impacting its tax position in the CITY. As a result, the GRANTEE did not utilize the 2020 tax credit certificate issued in the amount of \$101,415 and will not be able to use any of the tax credit for calendar 2021 because of the GRANTEE's net operating loss; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Development, in that it is immediately necessary to take action on this agreement in order for this dissolution to be legislated in the most expedient manner as possible so that this dissolution of the AGREEMENT can be reported to the necessary local and state agencies, thereby preserving the public health, peace, safety, and welfare;

**NOW THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF COLUMBUS

**SECTION 1.** That Columbus City Council hereby dissolves the Designer Brands Inc., DSW Shoe Warehouse, Inc., DSW Information Technology LLC, DSW Leased Business Division LLC, Brand Card Services LLC & eTailDirect LLC Job Creation Tax Credit Agreement effective as of January 1, 2021.

**SECTION 2.** That the Director of the Department of Development is hereby authorized and directed to notify the necessary local and state agencies of any changes to the DSW Shoe Warehouse, Inc., DSW Information Technology LLC, DSW Leased Business Division LLC, Brand Card Services LLC & eTailDirect LLC Job Creation Tax Credit Agreement.

**SECTION 3.** For the reasons stated in the preamble hereto, which is made a part hereof, this Ordinance is 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 (10) days after passage if the Mayor neither approves nor vetoes this Ordinance.