



Legislation Text

File #: 2303-2017, Version: 1

BACKGROUND: The need exists to amend and restate the Job Creation Tax Credit Agreement between the City of Columbus and Ascena Retail Group, Inc. The City of Columbus ("CITY") entered into a Job Creation Tax Credit Agreement effective September 26, 2013 (hereinafter "AGREEMENT") with Ascena Retail Group, Inc. ("GRANTEE"). Columbus City Council ("COUNCIL"), by Ordinance Number 1517-2013, passed July 1, 2013, authorized the CITY to enter into the AGREEMENT which granted a non-refundable tax credit (the "City Tax Credit") allowed against the tax imposed under Section 361.09, "Net Profits" of the Columbus City Codes of sixty percent (60%) of the new income tax revenue received by the CITY for a calendar year from New Employees, as defined in Section 4 of the AGREEMENT, commencing January 1, 2014 and continuing for seven (7) consecutive years through December 31, 2020) (the "Incentive Term"). The City Tax Credit amount was based on GRANTEE'S proposed investment of approximately \$200,000 to relocate its shared services real estate professionals division from out-of-state to Columbus thereby creating 15 new full-time permanent positions with an estimated annual payroll of approximately \$1.93 million (the "PROJECT") at GRANTEE'S offices located at 3344 Morse Crossing Columbus, Ohio 43219, (the "PROJECT SITE"). Pursuant to Ordinance Number 2377-2016, passed October 3, 2016, the AGREEMENT was subsequently authorized to be amended to reflect the following changes to the PROJECT: (i) add additional Grantees, (ii) change the amount of estimated capital expenditure, (iii) change the number of new jobs to be created and the commensurate new job payroll and (iv) include the addition of a new job retention component. Section 2 of Ordinance 2377-2016 required that the amendment was to be signed by the GRANTEE within ninety (90) days of passage of the ordinance, otherwise the ordinance and the authorized amendment would be null and void. The amendment was never executed; hence Ordinance 2377-2016 is null and void.

Following the expiration of the ninety (90) day window set forth in Section 2 of Ordinance 2377-2016, the CITY and the GRANTEE engaged in extensive discussions resulting in a letter dated August 15, 2017 to the CITY from the GRANTEE (the "August 15, 2017 Letter") in which the GRANTEE respectfully requested an amendment to the AGREEMENT to 1) increase the scope of the original project, 2) extend the term by one year, and 3) add related entities as additional grantees.

In the August 15, 2017 Letter, GRANTEE advised the CITY that it is preparing to expand their Columbus operations by co-locating the entity Catherines into the Lane Bryant home office to establish a new home office for their Plus Fashion Segment which would result in a total capital investment of \$3.2 million in leasehold improvements, computer and software costs, add 274 full-time retained jobs with an annual payroll of approximately \$24.7 million and add 130 new full-time jobs with an annual payroll of approximately \$11.8 million. GRANTEE also acknowledged the offer by the CITY to extend the original length of the incentive term by one (1) year to assist in making the CITY a more cost viable option for the Plus Fashion Segment home office. Finally, GRANTEE requested that the following five (5) entities be added as Grantees on the AGREEMENT: Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc.

As a result of the discussions between the CITY and GRANTEE regarding the proposed changes in scope to the PROJECT, the need now exists to amend and restate the AGREEMENT to address the following new terms: (i) the addition of Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc. as additional grantees to the AGREEMENT, (ii) the addition of a job retention commitment of 274 full-time jobs with a commensurate payroll of approximately \$24.7 million, (iii) the revision of the job creation goal from 15 new full-time permanent positions to 130 with a commensurate annual payroll of approximately \$11.8 million and (iv) the revision of the total capital investment to approximately \$3.2 million. Additionally, there is also a need to further revise the AGREEMENT as follows: Add new language to current Section 3 (Job Creation or Retention) and amend the AGREEMENT to reflect that the current Sections 4 through 14 will become new Sections 4 through 15 in accordance with the new format of the CITY's current Job Creation Tax Credit Agreement.

This legislation is requested to be considered as an emergency in order to amend and restate the AGREEMENT to add the additional entities as grantees, add the job retention and commensurate payroll commitment, revise the job creation goal and commensurate new job payroll, and amend the total capital investment of the PROJECT as described in the AGREEMENT in as expedient a manner as possible so as to allow for the inclusion of the employees located at these additional entities for the reporting and compliance purposes.

FISCAL IMPACT: No funding is required for this legislation

To authorize the Director of the Department of Development to amend and restate the Job Creation Tax Credit Agreement with Ascena Retail Group, Inc. to add Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc. as additional grantees to the Agreement, revise the total capital investment from \$200,000.00 to approximately \$3.2 million, add a job retention commitment of 274 full-time jobs with a commensurate payroll of approximately \$24.7 million, and revise the job creation goal from 15 new full-time permanent positions to 130 with a commensurate annual payroll of approximately \$11.8 million; and to declare an emergency.

WHEREAS, Columbus City Council approved a Job Creation Tax Credit Agreement (the “AGREEMENT”) with Ascena Retail Group, Inc. (also referred to as the “GRANTEE”) by Ordinance No. 1517-2013 on July 1, 2013, made and entered into effective September 26, 2013; and

WHEREAS, the AGREEMENT granted a non-refundable tax credit in an amount of sixty percent (60%) of the new municipal income tax revenues generated by new employees at the project site to commence on January 1, 2014 for a period of seven (7) consecutive taxable years; and

WHEREAS, in the AGREEMENT, GRANTEE committed to making an investment of approximately \$200,000 to relocate its shared services real estate professionals division from out-of-state to Columbus thereby creating 15 new permanent full-time positions with an estimated annual payroll of approximately \$1.93 million at 3344 Morse Crossing Columbus, Ohio 43219 (the “PROJECT SITE”); and

WHEREAS, the AGREEMENT was subsequently authorized to be amended to add additional Grantees, to change the amount of estimated capital expenditure, the number of new jobs to be created, the commensurate new job payroll as well as the addition of a new job retention component, all as related to the project by Ordinance Number 2377-2016, passed October 3, 2016; and

WHEREAS, as per Section 2 of Ordinance 2377-2016, the amendment was to be signed by the GRANTEE within ninety (90) days of passage of the ordinance, or the ordinance and the authorized amendment would be null and void; and

WHEREAS, the amendment was never executed; hence Ordinance 2377-2016 is null and void; and

WHEREAS, following considerable additional discussion and correspondence between the CITY and the GRANTEE following the expiration of the ninety (90) day window set forth in Section 2 of Ordinance 2377-2016, a letter was received by the CITY from the GRANTEE dated August 15, 2017 in which the GRANTEE respectfully requested an amendment to the AGREEMENT to 1) increase the scope of the original project, 2) extend the term by one year, and 3) add related entities as additional grantees; and

WHEREAS, the August 15, 2017 Letter indicated that the GRANTEE is preparing to expand their Columbus operations by co-locating the entity Catherines into the Lane Bryant home office to establish a new home office for their Plus Fashion Segment which would result in a total capital investment of \$3.2 million in leasehold improvements, computer and software costs, add 274 full-time retained jobs with an annual payroll of approximately \$24.7 million and add 130 new full-time jobs with an annual payroll of approximately \$11.8 million; and

WHEREAS, the August 15, 2017 Letter also acknowledged the offer by the CITY to extend the original length of the incentive term by one (1) year to assist in making the CITY a more cost viable option for the Plus Fashion Segment home

office and also requested that the following five (5) entities be added as Grantees on the AGREEMENT: Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc.; and

WHEREAS, there is a need to amend and restate the AGREEMENT to (i) add the following new grantees to the AGREEMENT: Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc., (ii) add a job retention commitment of 274 full-time jobs with a commensurate payroll of approximately \$24.7 million, (iii) revise the job creation goal from 15 new full-time permanent positions to 130 with a commensurate annual payroll of approximately \$11.8 million, (iv) revise the total capital investment to approximately \$3.2 million, (v) add new language to current Section 3 (Job Creation or Retention) of the AGREEMENT and (vi) revise the AGREEMENT to reflect that current Sections 4 through 14 will become new Sections 4 through 15 following accordance with the format of the CITY's current Job Creation Tax Credit Agreement (collectively the "Updated Terms"); and

WHEREAS, an emergency exists in the usual daily operation of the Columbus Department of Development in that it is immediately necessary to amend and restate the AGREEMENT with Ascena Retail Group, Inc. to reflect the Updated Terms, (i.e., add five (5) new entities as additional grantees to the AGREEMENT, to add a job retention commitment with commensurate payroll, to revise the job creation goal and commensurate payroll, to revise the amount of total capital investment in the PROJECT, to add new language to current Section 3 (Job Creation or Retention) of the AGREEMENT and revise the AGREEMENT from current Section 4 through current Section 14 to become new Sections 4 through 15 to follow the format of the CITY's current Job Creation Tax Credit Agreement) so as to allow for the inclusion of the employees located at these additional entities for the reporting and compliance purposes, 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 Director of the Department of Development is hereby authorized to amend and restate the Job Creation Tax Credit Agreement with Ascena Retail Group, Inc. to add Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc. as additional grantees to the AGREEMENT.

Section 2. That the Director of the Department of Development is hereby authorized to amend and restate the Job Creation Tax Credit Agreement with Ascena Retail Group, Inc. to add a job retention commitment of 274 full-time jobs with a commensurate payroll of approximately \$24.7 million.

Section 3. That the Director of the Department of Development is hereby authorized to amend and restate the Job Creation Tax Credit Agreement with Ascena Retail Group, Inc. revise the job creation goal from 15 new full-time permanent positions with a commensurate annual payroll of \$1.93 million to 130 new full-time permanent positions with a commensurate annual payroll of approximately \$11.8 million.

Section 4. That the Director of the Department of Development is hereby authorized to amend and restate the Job Creation Tax Credit Agreement with Ascena Retail Group, Inc. to revise the total capital investment in the PROJECT from \$200,000 to approximately \$3.2 million.

Section 5. That the Director of the Department of Development is hereby authorized to amend and restate the Job Creation Tax Credit Agreement with Ascena Retail Group, Inc. to add new language to current Section 3 (Job Creation or Retention) of the AGREEMENT and revise the AGREEMENT from current Section 4 through current Section 14 to become new Sections 4 through 15 to reflect the format of the CITY's current Job Creation Tax Credit Agreement.

Section 6. That the amended and restated City of Columbus Job Creation Tax Credit Agreement be signed by Ascena Retail Group, Inc., Lane Bryant, Inc., Lane Bryant Purchasing Corp., Catherines, Inc., Catherines Stores Corp., and ASNA Plus Fashion, Inc. within ninety (90) days of passage of this ordinance, or this

ordinance and the incentive authorized herein shall be null and void.

Section 7. 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.