



Legislation Text

File #: 1519-2019, **Version:** 1

BACKGROUND: Columbus City Council (COUNCIL), by Ordinance No. 1902-2015, passed July 27, 2015, authorized the City of Columbus (CITY) to enter into an Community Reinvestment Area Agreement (the AGREEMENT) with N.P. Limited Partnership (ENTERPRISE) for a tax abatement of one-hundred percent (100%) for a period of ten (10) years in consideration of a proposed \$24 million investment in real property improvements, the creation of 708 full-time jobs with an associated annual payroll of approximately \$45,489,000 upon full build-out and occupancy and the relocation of 177 employees currently employed within the CITY related to the construction of a series of buildings containing speculative office space (either primarily or as one component of mixed-use buildings) totaling approximately 177,000 square feet along with two associated 600 space parking structures (the "PROJECT") on one newly expanded parcel, 318-431-01-017-000 (recently combined from the two adjacent parcels 318-431-01-017-000 and 318-431-01-013-003), zip code 43240 in Delaware County within the City of Columbus and within the Old State Road Community Reinvestment Area (The PROJECT SITE). The AGREEMENT was made and entered into effective October 23, 2015 (CRA #049-00960-06/15-001) with the abatement to commence no later than tax year 2026 nor extend beyond tax year 2035. Pursuant to Ordinance No. 1256-2016, passed May 16, 2016, the First Amendment for Assignment and Assumption to the AGREEMENT (the "FIRST AMENDMENT") was entered into on June 30, 2016 to amend the AGREEMENT to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC ("Pointe I"), and to assign certain benefits and obligations from Pointe I to the Columbus-Franklin County Finance Authority ("Finance Authority"). Pointe I and the Finance Authority submitted an application for abatement related to the first phase of the PROJECT ("PHASE I") to the CITY on July 16, 2018, and the City certified to the Delaware County Auditor (the "AUDITOR") that the project described in the application met the necessary requirements for exemption and granted a 10-year, 100% exemption to the applicable improvements on Parcel Number 318-431-01-017-006, to commence January 1, 2018 with the term of the abatement to run through 2027.

In a letter dated April 29, 2019 and subsequent discussion and email communication with representatives of ENTERPRISE, the CITY has been advised that the PROJECT SITE now consists of three parcels, two parcels related to PHASE I and a third parcel related to the second phase of the PROJECT ("PHASE II"). Additionally, ENTERPRISE advised the City (i) of the final scope of PHASE I and the proposed scope of PHASE II; (ii) that a new entity, The Pointe at Polaris Phase II, LLC ("Pointe II"), will be the entity that will own the PHASE II parcel and so needs to be added as ENTERPRISE and party to the AGREEMENT; (iii) that the obligations and commitments of Pointe I, Pointe II and the Finance Authority should be clarified; and (iv) that one or more office tenants that are expected to occupy space upon completion of the improvements related to PHASE II may not desire to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to the PHASE II real property improvements.

This legislation is to authorize the Director of Development to amend the AGREEMENT for the second time to (i) add The Pointe at Polaris Phase II, LLC as a party to the AGREEMENT as ENTERPRISE, (ii) to clarify the obligations and commitments of all parties to the AGREEMENT and (iii) to allow for the exclusion from the CRA exemption that portion of the PROJECT SITE, as identified on the application for abatement, or on an amended application for abatement, to be occupied by office tenants on the PHASE II parcel that elect not to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to PHASE II real property improvements.

This legislation is being presented as an emergency measure in order for this second amendment to be legislated in as expedient manner as possible so that this amendment to the AGREEMENT might be fully executed so that all parties to the AGREEMENT are able to continue to move forward with the real property improvements as described in the AGREEMENT.

FISCAL IMPACT: No funding is required for this legislation.

To authorize the Director of Development to amend the Community Reinvestment Area Agreement with The Pointe at Polaris Phase I, LLC and the Columbus-Franklin County Finance Authority to (i) add The Pointe at Polaris Phase II, LLC as a party to the Agreement, (ii) to clarify the obligations and commitments of all parties to the Agreement and (iii) to allow for the exclusion from the CRA exemption that portion of the project site to be occupied by office tenants on the Phase II parcel that elect not to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to Phase II real property improvements; and to declare an emergency.

WHEREAS, the City of Columbus (CITY) entered into a Community Reinvestment Area Agreement (the “AGREEMENT”) with N.P. Limited Partnership, approved by Columbus City Council (COUNCIL) on July 17, 2015 by Ordinance No. 1902-2015 with this AGREEMENT made and entered into effective October 23, 2015; and

WHEREAS, the AGREEMENT granted a 100%/10-Year abatement on real property improvements; and

WHEREAS, the incentive was granted in consideration of a \$24 million investment in real property improvements, the relocation of 177 employees currently employed within the CITY and the creation of 708 full-time jobs with an annual payroll of approximately \$45,489,000 upon full build-out related to the construction of a series of buildings containing speculative office space (either primarily or as one component of mixed-use buildings) totaling approximately 177,000 square feet along with two associated 600 space parking structures as of the original effective date of the AGREEMENT on one newly expanded parcel, 318-431-01-017-000 (combined from the two adjacent parcels 318-431-01-017-000 and 318-431-01-013-003), zip code 43240 in Delaware County within the City of Columbus and within the Old State Road Community Reinvestment Area with the abatement to commence no later than tax year 2026 nor extend beyond tax year 2035; and

WHEREAS, pursuant to Ordinance No. 1256-2016, passed May 16, 2016, COUNCIL authorized the First Amendment for Assignment and Assumption to the AGREEMENT (the “FIRST AMENDMENT”) which was entered into on June 30, 2016 to amend the AGREEMENT to assign all of the benefits and obligations from N.P. Limited Partnership to The Pointe at Polaris Phase I, LLC (“Pointe I”), and to assign certain benefits and obligations from Pointe I to the Columbus-Franklin County Finance Authority (“Finance Authority”); and

WHEREAS, Pointe I and the Finance Authority submitted an application for abatement related to the first phase of the PROJECT (“PHASE I”) to the CITY on July 16, 2018, and the City certified to the Delaware County Auditor (the “AUDITOR”) that the project described in the application met the necessary requirements for exemption and granted a 10-year, 100% exemption to the applicable improvements on Parcel Number 318-431-01-017-006, to commence January 1, 2018 with the term of the abatement to run through 2027; and

WHEREAS, in a letter dated April 29, 2019 and subsequent discussion and email communication with representatives of ENTERPRISE, the CITY has been advised that the PROJECT SITE now consists of three parcels, two parcels related to PHASE I and a third parcel related to the second phase of the PROJECT (“PHASE II”); and

WHEREAS, ENTERPRISE advised the City (i) of the final scope of PHASE I and the proposed scope of PHASE II; (ii) that a new entity, The Pointe at Polaris Phase II, LLC (“Pointe II”), will be the entity that will own the PHASE II parcel and so needs to be added as ENTERPRISE and party to the AGREEMENT; (iii) that the obligations and commitments of Pointe I, Pointe II and the Finance Authority should be clarified; and (iv) that one or more office tenants that are expected to occupy space upon completion of the improvements related to PHASE II may not desire to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to the PHASE II real property improvements; and

WHEREAS, a second amendment to the AGREEMENT is needed to (i) add The Pointe at Polaris Phase II, LLC as ENTERPRISE and party to the AGREEMENT, (ii) to delineate through assignment and assumption which certain sections of the AGREEMENT will be the responsibility of the parties comprising the ENTERPRISE; and (iii) that for portions of the improvements made to the PHASE II parcel to be occupied by office tenants who choose not to receive

any of the benefits that may be associated with the forgone tax associated with a tax abatement related to real property improvements on the PHASE II parcel, the ENTERPRISE agrees to identify in the application for abatement, or in an amended application for abatement, the square footage of the improvements to the PHASE II parcel that shall be excluded from the abatement and that any such office tenant occupying aforementioned excluded office space square footage would not be required to provide information on the number of employees, wages, and municipal income tax withholding of all employees of tenants; and

WHEREAS, an emergency exists in the usual daily operation of the Department of Development in that it is immediately necessary to authorize this amendment so that all parties to the AGREEMENT are able to continue to move forward with the real property improvements as described in the AGREEMENT, thereby preserving the public health, peace, property and safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF CITY OF COLUMBUS:

SECTION 1. That the Director of Development is hereby authorized to amend the Community Reinvestment Area Agreement with The Pointe at Polaris Phase I, LLC and the Columbus-Franklin County Finance Authority (the AGREEMENT) to add The Pointe at Polaris Phase II, LLC as ENTERPRISE and party to the AGREEMENT.

SECTION 2. That the Director of Development is hereby authorized to delineate through assignment and assumption which certain sections of the AGREEMENT will be the responsibility of all parties comprising the ENTERPRISE.

SECTION 3. That the Director of Development is hereby authorized to amend the AGREEMENT to allow for the exclusion from the CRA exemption that portion of the PROJECT SITE, as identified on the application for abatement, or on an amended application for abatement, to be occupied by office tenants on the PHASE II parcel that elect not to receive any of the benefits that may be associated with the forgone tax associated with a tax abatement related to PHASE II real property improvements.

SECTION 4. That this SECOND AMENDMENT FOR ASSIGNMENT AND ASSUMPTION to the City of Columbus Community Reinvestment Area Agreement be signed by The Pointe at Polaris Phase I, LLC, The Pointe at Polaris Phase II, LLC and the Columbus-Franklin County Finance Authority 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.