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Hearing Date: 12/28/2020

Today's Date: 12/28/2020

Agency: Development Services Agency

Rule Number(s): 122:28-1-01 through 122:28-1-05

If no comments at the hearing, please check the box. ☒

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Christopher Knezevic, Vorys, Sater, Seymour and Pease LLP – Comments to 122:28-1-01; 122:28-1-02; and 122:28-1-04

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Hearing Summary Report

Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

122:28-1-01: Comments on definitions and use of term 'exempt property' in the rules. 122:28-1-02 comments regarding the potential interpretation of some phrasing in the rule. 122:28-1-04 comments in regard to the interaction of a portion of the rule and Ohio Revised Code 122.175(J), as well as a request to include periods to cure breach by a grantee of an exemption agreement.

Hearing Summary Report

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

122:28-1-01 Definitions –

The comments to exempt property were not incorporated into the rule because the suggested additional clause is addressed in other rules, as are the services described in O.R.C. 122.175(B).

The terms successors and assigns were not incorporated into the definition of original grantee. Inclusion of the concept would potentially forgo future Tax Credit Authority approval of a different tax payer receiving a tax benefit.

122:28-1-02 Computer Data Center Equipment –

The word primarily was not removed from the introductory sentence because its inclusion, in agreement with the definition of computer data center in O.R.C. 122.175(A)(1)(c) allows for a computer data center and the property purchased for a computer data center to have more than one use, so long as the primary use of the location is a computer data center and the property computer data center business.

In Paragraph (C), the words ‘of the original grantee or the supplemental grantee’ were not removed from the phrase “or maintaining the computer data center business of the original grantee or the supplemental grantee” because operating a data center business is a requirement to be eligible for the data center tax exemption for both the original grantee and any supplemental grantee under Section 122.175(C) of the O.R.C.

122:28-1-04 Remedies –

A cure period was not included in paragraph (C) nor were its contents made a subset of Paragraph (B). Paragraph (B) addresses the specific failures of compliance covered in Section 122.175(J) of the O.R.C. and the procedures and considerations required of the director and Tax Credit Authority in the event of such a failure by a grantee. Paragraph (C) addresses a grantee’s general failure to comply with a condition or requirement of an exemption agreement not otherwise set forth in the O.R.C. and provides what abilities to amend an agreement the director may have in response. A violation of Paragraph (C) by a grantee would follow any applicable cure period in the grantee’s exemption agreement.