

OHIO ENTERPRISE ZONE AGREEMENT

This agreement made and entered into by and between the (Insert city/township), Portage County, Ohio, a (City/Township), with its main offices located at, Ohio _____ (hereinafter referred to as name of City/Township) and the County of Portage, an Ohio County, with its main offices located at 449 S. Meridian Street, Ravenna, Ohio 44266 (hereinafter referred to as Portage County) and (insert name of enterprise(s)), an (Ohio) Corporation with its main offices located at _(address)_, (City), (Zip code) (hereinafter referred to as "name of enterprise"), WITNESSETH;

Note (Delete this paragraph when finished with 1st paragraph)

All businesses and/or individuals required to make an investment, to create or retain jobs, or to receive a tax benefit under this agreement must be identified and be a party to this agreement. This includes all lessor/lessee and assignor/assignee situations.

WHEREAS, (Insert City/Township) and Portage County have encouraged the development of real property and the acquisition of personal property located in the area designated as an Enterprise Zone; and

WHEREAS, _(Name enterprise)_ is desirous of _(general description of project)_ i.e.,

(Delete this paragraph when finished with description) NOTE

Description must outline purpose of project - to either establish, expand, renovate, consolidate, or occupy a facility to preserve or create employment opportunities. Choose the correct description. Make sure everyone knows what the project is. This clause should aver the determination that the proposed project is eligible to receive tax incentives under the Ohio Enterprise Zone Program.

construction of a new (20,000 sf) twenty-thousand square foot facility to consolidate operations and permit expansion of its product lines (hereinafter referred to as the "PROJECT") within the boundaries of the aforementioned Enterprise Zone, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the Council/Board of (Insert City/Township), Ohio by (Resolution/Ordinance) No. _____ adopted _____ and by the Board of Commissioners of Portage County by Resolution No.

_____ adopted _____, designated the area as an "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective (date of zone certification), the Director of Development of the State of Ohio determined that the aforementioned area designated in said (Ordinance/Resolution) No. _____ contains the characteristics set forth in the Ohio Revised Code Section 5709.61(A) and certified said area as an Enterprise Zone under said Chapter 5709; and

WHEREAS, (Insert City/Township) and Portage County having the appropriate authority for the stated type of project is desirous of providing (insert name of enterprise(s)) with incentives available for the development of the PROJECT in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, (insert name of enterprise(s)) has submitted a proposed agreement application (herein attached as Exhibit A) to (Insert City/Township) said application (hereinafter referred to as "APPLICATION"); and

WHEREAS, (insert name of enterprise(s)) has remitted the required state application fee of \$750.00 made payable to the Ohio Department of Development with the application to be forwarded with the final agreement; and

WHEREAS, (Authorized official) of (Insert City/Township) has investigated the application of (insert name of enterprise(s)) and has recommended the same to the Council/Trustees of (Insert City/Township) and the Board of Portage County Commissioners on the basis that (insert name of enterprise(s)) is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and improve the economic climate of (Insert City/Township) and Portage County; and

WHEREAS, the project site as proposed by (insert name of enterprise(s)) is located in the (insert name of school district) School District and the Maplewood Career Center School District, and the Board of Education of the _____ School District and Maplewood Career Center School District have been notified in accordance with Ohio Revised Code Section 5709.83 and been given a copy of the APPLICATION; and

WHEREAS, the _____ Board of Education by Resolution No. _____ approved on _____ waived the forty-five (45) business day notification period and approved a 100% tax exemption for (insert name of business(s)) provided that (insert name of business(s)) fulfill all of its obligations specified in the Enterprise Zone Agreement and Compensation Agreements.

WHEREAS, pursuant to the Ohio Revised Code Section 5709.62(C), 5709.63(A) or 5709.632 and in conformance with the format required under the Ohio Revised Code Section 5709.631, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained; NOW

THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

Delete this paragraph when description is completed

NOTE:

The agreement must include "a description of the investments to be made by the applicant enterprise(s) or by another party at the facility whether or not the investments are exempted from taxation, including existing or new building size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement that will not be exempted from taxation; the value of inventory at the facility, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility, and the value of inventory held at the facility prior to the execution of the agreement that will not be exempted from taxation".

1. (Insert name of enterprise) shall (specific description of project) i.e., construct, open and operate a

new ~~twenty-thousand (20,000)~~ square foot facility at (full address) , _____, Ohio, to house its office, ~~manufacturing and warehouse operation and to permit consolidation of its operations and expansion of its~~ product lines. Said facility shall be constructed on part of Lot # _____ as the same is known and designed on the Auditors revised list of lots in the _____ ward of City/Township of Portage County, Ohio.

In addition, (insert name of enterprise) will purchase and install \$ _____ (written amount) dollars in new machinery, equipment and inventory.

The PROJECT will involve a total investment by (insert name of enterprise) of (\$ _____) (written amount) dollars, at the _____ (location) site. Included in this investment are (\$ _____) (written amount) dollars for construction of the facility, (\$ _____) (written amount) dollars to purchase first used machinery and equipment and (\$ _____) (written amount) dollars for new inventory.

<u>Real Property Investment</u>	<u>Minimum Amount</u>	<u>Project Amount</u>	<u>Maximum Amount</u>
Land	\$ _____	\$ _____	\$ _____
Building (Acquisition)	\$ _____	\$ _____	\$ _____
Building (Construction)	\$ _____	\$ _____	\$ _____
Total Real Prop. Investment	\$ _____	\$ _____	\$ _____

PLEASE NOTE: Ohio Revised Code 5709.631 (B)(2), No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property.

<u>Personal Property Investment</u>	<u>Minimum Amount</u>	<u>Project Amount</u>	<u>Maximum Amount</u>
Machinery/Equipment	\$ _____	\$ _____	\$ _____
Furniture/Fixtures	\$ _____	\$ _____	\$ _____
Inventory	\$ _____	\$ _____	\$ _____
Total Personal Prop. Invest.	\$ _____	\$ _____	\$ _____

The minimum investment for tangible personal property to qualify for the exemption is \$ _____ to purchase machinery and equipment first used in business at the facility as a result of the project, \$ _____ for furniture and fixtures and other non-inventory personal property first used in business at the facility as a result of the project, and \$ _____ for new inventory. The maximum investment for tangible personal property to qualify for exemption is \$ _____ to purchase machinery and equipment first used in business at the facility as a result of the project and \$ _____ for furniture and

fixtures and other non-inventory personal property first used in business at the facility as a result of the project, and \$ _____ for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year _____ nor extend beyond tax return year _____. In no instance shall any tangible personal property be exempted from taxation for more than ten return years unless under division (D)(2) of section 5709.62 or under division (C)(1)(b) of section 5709.63 of the Revised Code, the board of education approves exemption for a number of years in excess of ten, in which case the tangible personal property may be exempted from taxation for that number of years, not to exceed fifteen return years.

Delete the following paragraph when completed.

NOTE:

Projects involving existing inventory must state a base level - the required amount to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into. This must be done for all projects expanding at the current site.

The PROJECT will begin approximately (specific date), _____. and all acquisition, construction and installation will be completed by approximately (specific date), _____. Any changes to the beginning and completion dates must be agreed to by formal resolution and amended agreement.

****Must State****

Project eligibility determination.

The total investment of this EXPANSION project is greater than 10% of the market value of the facility assets already owned at the site prior to such expenditures as evidenced in Exhibit A. RENOVATION projects must exceed 50% and OCCUPYING a vacant facility must exceed 20%. Projects establishing a new facility must represent a "significant" new investment.

2. (Insert name of enterprise) shall create within a time period not exceeding _____ months after the commencement of construction of the aforesaid facility, the equivalent of (number of jobs) new full-time permanent job opportunities, (number of jobs) new part-time permanent job opportunities, (number of jobs) full-time temporary job opportunities and (number of jobs) part-time temporary job opportunities, (and/or), (business) shall retain (number of jobs) existing full-time equivalent jobs at the (location) facility.

(Insert name of enterprise) schedule for hiring is as follows:

	Year 1	Year 2	Year 3	Other
Full-Time Perm:	_____	_____	_____	_____
Part-Time Perm:	_____	_____	_____	_____
Full-Time Temp:	_____	_____	_____	_____

City/Township and Portage County when hiring new employees under the agreement.

4. City/Township and Portage County hereby grants a tax exemption pursuant to Section 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code for eligible new tangible Personal Property including inventory (if applicable) acquired in conjunction with the PROJECT and will only apply to the investment limits expressed in the project description as defined in Sections 1 and 4 of this agreement.

<u>Property to be Exempted</u>	<u>Estimated Costs</u>
(Machinery/equipment)	\$ _____
(Furniture/fixtures)	\$ _____
(Inventory)	\$ _____

<u>Year of Tax Exemption</u>	<u>Tax Exemption Amount</u>
YR 1	%
YR 2	%
YR 3	%
YR 4	%
YR 5	%
YR 6	%
YR 7	%
YR 8	%
YR 9	%
YR 10	%

Each identified project improvement will receive a _____ year exemption period. The exemption commences the first year for which the tangible Personal Property would first be taxable were that property not exempted from taxation. No exemption shall commence after December 31, ____ nor extend beyond December 31, _____.

5. City/Township and Portage County hereby grant (insert name of enterprise) a tax exemption for Real Property improvements made to the PROJECT site pursuant to Section 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code and shall be in the following amounts:

<u>Property to be Exempted</u>	<u>Estimated Costs</u>
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<u>(New Construction)</u> Year of Tax Exemption	\$ _____ Tax Exemption Amount
YR 1	%
YR 2	%
YR 3	%
YR 4	%
YR 5	%
YR 6	%
YR 7	%
YR 8	%
YR 9	%
YR 10	%

Each identified project improvement will receive a _____year exemption period. The exemption commences the first year for which the Real Property would first be taxable were that property not exempted from taxation. No exemption shall commence after December 31, 20__ nor extend beyond December 31, 20__. Thereafter these tax exemptions shall cease to exist.

(Insert name of business) must file the appropriate tax forms (DTE 24) with the County Auditor and (#913EX) with the State Department of Taxation to effect and maintain the exemptions covered in the agreement. The #913EX Ohio tax form **must** be filed annually.

Delete the following 3 blue paragraphs if a waiver is not required.

NOTE: Waiver Requirement

If the Director of Development had to issue a waiver under section 5709.633 of the revised code as a condition for the agreement to be executed, the agreement shall include the following statement:

6. **"Continuation of this agreement is subject to the validity of the circumstances upon which (insert name of enterprise) applied for, and the Director of the Ohio Department of Development issued, the waiver pursuant to Section 5709.633 of the Ohio Revised Code. If, after formal approval of this agreement by City/Township and Portage County, the Director or City/Township and/or Portage County discovers that such a circumstance did not exist, (insert name of enterprise) shall be deemed to have materially failed to comply with this agreement."**

The formal waiver document shall be incorporated as an exhibit to this agreement and must state the specific conditions enumerated in Section 5709.633 of the Ohio Revised Code upon which the waiver was issued.

7. (Insert name of enterprise) shall pay an annual fee of \$500.00 (five-hundred dollars). The fee shall be made payable to Portage County once per year for each year the agreement remains in effect or is required to be reviewed. The fee is to be paid by check and made out to the Portage County Treasurer. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with section 5709.68 of the revised code and by the tax incentive review council created under section 5709.85 of the revised code exclusively for the purposes of performing the duties prescribed under that section.

8. (Insert name of enterprise) shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If (Insert name of enterprise) fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

9. City/Township shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

10. If for any reason the Enterprise Zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or City/Township or Portage County revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless (insert name of enterprise) materially fails to fulfill its obligations under the Enterprise Zone Agreement or the Compensation Agreement, or the City/Township or Portage County terminates or modifies the exemptions from taxation granted under this agreement.

11. If (insert name of enterprise), materially fails to fulfill its obligations under this agreement or the Compensation Agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if City/Township or Portage County determines that the certification as to delinquent taxes required by this agreement is fraudulent, City/Township or Portage County may terminate or modify the exemptions from taxation granted under this agreement.

Additionally, if for any year during the term of this agreement (insert name of business) materially fail to fulfill the employment and investment requirements set forth herein, the (insert name of community) and/or Portage County shall have the right to modify the tax exemption/abatements set forth in items #4 and #5 above. If (insert name of company) ceases to operate at this location prior to the expiration of this agreement, the (insert name of community) and/or Portage County shall have the right to terminate this agreement and demand payment and repayment of all taxes exempted/abated pursuant to this agreement.

12. (Insert name of enterprise) hereby certifies that at the time this agreement is executed, (insert name of enterprise) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which (insert name of enterprise) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, (insert name of enterprise) currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against (insert name of enterprise). For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

13. (Insert name of enterprise) affirmatively covenants that it does not owe: (1) any delinquent taxes to

the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

14. (Insert name of enterprise) expressly authorizes City/Township and/or Portage County to contact the Ohio Environmental Protection Agency to confirm statements contained within this agreement and to review applicable confidential records. The business may also be required to directly request from the Ohio Department of Taxation or complete a waiver form allowing the Ohio Department of Taxation to release specific tax records to the local jurisdictions.

15. (Insert name of enterprise) and City/Township and Portage County acknowledge that this agreement must be approved by formal action of the legislative authority of Township Trustees/City Council and the Portage County Board of Commissioners as a condition for the agreement to take effect. This agreement takes effect upon such approval.

16. City/Township have developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, (insert name of enterprise) is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

17. Exemptions from taxation granted under this agreement shall be revoked if it is determined that (insert name of enterprise), any successor enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code

prior to the time prescribed by that division or either of those sections.

18. In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by (insert name of enterprise) is not equal to or greater than seventy-five percent of the number of employee positions estimated to be created or retained under this agreement during that three-year period, (insert name of enterprise) shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the (insert name of community) and Portage County may terminate or modify the exemptions from taxation granted under this agreement.

19. (Insert name of enterprise) affirmatively covenants that it has made no false statements to the State or local political subdivision in the process of obtaining approval for the Enterprise Zone incentives. If any representative of (insert name of enterprise) has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, (insert name of enterprise) shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to ORC Section 9.66 (C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

20. This agreement is not transferable or assignable without the express, written approval of City/Township and the Portage County Board of Commissioners.

IN WITNESS WHEREOF, City/Township of Portage County, Ohio, by its _____, and pursuant to Ordinance No. _____, has caused this instrument to be executed this ____ day of (month), 20(yr) and by the Portage County Board of Commissioners, and pursuant to Resolution No. _____, has caused this instrument to be executed this ____ day of (month), 20(yr) and (insert name of enterprise) by authorized business official, its (title of person), has caused this instrument to be executed on this ____ day of (month), 20(yr).

City/Township

Portage County

By _____
(Title) Date

By _____
Commissioner Date

By _____
(Title) Date

By _____
Commissioner Date

By _____
(Title) Date

By _____
Commissioner Date

(Insert name of Enterprise)

By _____
(Insert Title) Date

Approved as to form:

Law Director

Approved as to form:

David Brode, Assistant Prosecuting Attorney
Portage County Prosecutor's Office

Note: In a multiparty agreement, each party's obligation and benefits should be clearly stated. In addition, all parties to receive a tax benefit should be a signatory party to the agreement.

NOTE:

A copy of this agreement must be forwarded to the Ohio Departments of Taxation and Development within fifteen (15) days of approval to be finalized.

ODOD update 6/9/04
Portage County update 7/12/04