

ORDINANCE NO. 2015- 65

AN ORDINANCE CONSENTING TO THE EXECUTION OF AN AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF SANDUSKY COUNTY, OHIO AND SANDCO INDUSTRIES PROVIDING FOR A SEVENTY-FIVE (75%) PERCENT TAX ABATEMENT INCENTIVES BY A PROGRAM OF ABATEMENT OF REAL PROPERTY OVER A PERIOD OF TEN (10) YEARS TO PROMOTE JOB EXPANSION WITHIN THE CITY OF CLYDE, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, this Council did on December 7, 1993, pass Ordinance No. 1993-100 requesting that the City of Clyde, Ohio be included in an Enterprise Zone proposal to be submitted at said time by Sandusky County, Ohio, and

WHEREAS, said Enterprise Zone has been created pursuant to Section 5709 of the Ohio Revised Code, including the said City of Clyde therein, and

WHEREAS, Sandco Industries desires to submit an agreement to Sandusky County, Ohio pursuant to Chapter 5709 of the Ohio Revised Code, a copy of which is attached hereto as "Exhibit A", which agreement provides for certain tax incentives given by Sandusky County in return for the creation of new business and employment positions within the City of Clyde, Ohio, and

WHEREAS, Clyde City Council is desirous of encouraging the retention and creation of new business and jobs within the municipality and as part of the process under Chapter 5709 must authorize and consent to the Board of County Commissioners entering into said agreement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Clyde, State of Ohio:

SECTION 1. That this Council does hereby consent to the approval by the Board of County Commissioners of Sandusky County, Ohio, Enterprise Zone Agreement the same as or substantially similar to the agreement attached hereto and marked "Exhibit A".

SECTION 2. That this Council further determines that all formal actions of this Council relative to the passage of this Ordinance was taken at an open meeting of Council; that all deliberations of this Council and of its committees, if any, which resulted in formal action was taken in meetings open to the public in full compliance with the applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

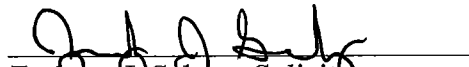
SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, welfare and safety of the residents of the City of Clyde, Ohio and for the further reason that the immediate adoption of the same will facilitate the creation of jobs within the municipality, therefore enhancing the local economy, therefore, this Ordinance shall take effect and be in force immediately upon its passage.

PASSED: 12-1-15


G. Scott Black, Mayor

ATTEST: Janet R. Dickman
Clerk of Council

APPROVED AS TO FORM:


Zachary J. Selvey, Solicitor

ATTACHMENT

ENTERPRISE ZONE AGREEMENT
SANDCO INDUSTRIES

This agreement made and entered into by and between the County of Sandusky, Ohio (hereinafter referred to as "COUNTY"), Sandco Industries (hereinafter referred to as "SANDCO"), and the City of Clyde, (hereinafter referred to as "CITY") WITNESSETH;

WHEREAS, The COUNTY has encouraged the development of real property and the acquisition of personal property located in the area designated as an Enterprise Zone; and

WHEREAS, SANDCO is desirous of the construction of a new (31,000 sq. ft.) thirty-one thousand square foot manufacturing facility that will assist in doubling their floor space and to assist in meeting their current and future customer base, (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 Board of County Commissioners of Sandusky, Ohio by Resolution adopted November [add day here], 2015, designated the area as an "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Effective August 24th, 1989, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Resolution, adopted August 8th, 1989, contains the characteristics set forth in Section 5709.61(A) of the Ohio Revised Code and certified said area as an Enterprise Zone under said Chapter 5709; and

WHEREAS, COUNTY is desirous of providing SANDCO with incentives available for the development of the PROJECT in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, SANDCO has submitted a proposed agreement application (herein attached as Exhibit A) to COUNTY said application (hereinafter referred to as "APPLICATION"); and

WHEREAS, SANDCO has remitted the required state application fee of \$750.00 made payable to the Ohio Development Services Agency with the application to be forwarded with the final agreement; and

WHEREAS, The ENTERPRISE ZONE MANAGER of SANDUSKY COUNTY has investigated the application of SANDCO and has recommended the same to the Board of Commissioners of Sandusky County on the basis that SANDCO is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and improve the economic climate of COUNTY; and

WHEREAS, The project site as proposed by **SANDCO** is located in the **CLYDE-GREEN SPRINGS SCHOOLS** and **VANGUARD CAREER CENTER DISTRICTS** have been notified in accordance with Section 5709.83 and been given a copy of the **APPLICATION**; and

WHEREAS, Pursuant to Section 5709.62 (C) and in conformance with the format required under Section 5709.631 of the Ohio Revised Code, 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:

SECTION 1. **SANDCO** shall invest \$1,800,000 in new construction of a (31,000 sq. ft.) thirty-one thousand square foot facility at Parcel #32-60-00-005-301, 309 Premier Drive, Ohio, to house **SANDCO'S** administrative office and their manufacturing operations that will enhance their current operations. In addition, **SANDCO** will purchase \$100,000 for new equipment and furnishings. Said equipment/furnishings will be installed at the new location. The **PROJECT** will begin November 16th, 2015 and all acquisition, construction and installation will be completed by December 31, 2016. The total investment of this **PROJECT** is establishing a new facility that represents a new investment of \$1,800,000 in the City of Clyde, Ohio.

SECTION 2. **SANDCO** agrees retain one hundred sixty-eight (168) fulltime jobs at their Clyde, Ohio facility over the next ten (10) years and create three (3) fulltime and ten (10) part time jobs. Ohio Revised Code Section 5709.631 (B) (7) (12) requires the **SANDCO** repay the amount of all forgone property taxes if, during any three-year (3) period, if **SANDCO** fails to retain at least seventy-five (75%) percent of the number of employees positions estimated to be retained under the agreement during that period. The County may terminate or modify the exemptions from taxation granted under this agreement for violation of this section. **SANDCO** agrees to keep the existing payroll of \$468,000. The County may terminate or modify this agreement if and when Ohio grants **SANDCO** Ohio Real Property Tax Remission during the period of this agreement with required repay of forgone property taxes.

SECTION 3. **SANDCO** agrees to submit an employment plan annually, which established provisions for new or retained employees with good faith efforts made to employ persons living in Sandusky County, Ohio by consulting with the Ohio Department of Jobs and Family Services. The County has a policy to ensure recipients of enterprise zone tax benefits practice nondiscriminatory hiring in its operations. By executing this agreement, **SANDCO** are committed to the following nondiscriminatory hiring practices acknowledging that no individual may be denied employment based solely on race, religion, sex, disability, color, national origin or ancestry.

SECTION 4. The **COUNTY** hereby grants **SANDCO** a seventy-five (75%) percent tax exemption for a period of ten (10) years on the assessed value of the real property investment first used in their at the Clyde facility located at Parcel #32-60-00-005-301 309 Premier Drive, Ohio, as a result of this agreement.

SECTION 5. **SANDCO** agrees to pay annual fee equal to the greater of one (1%) percent of the dollar value of incentives offered under the agreement or five hundred

(\$500) dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand (\$250,000) dollars, the fee shall not exceed two thousand five hundred (\$2,500) dollars. The fee shall be payable to the County and shall be used by the County 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 purpose of performing the duties prescribed under that section. The County may waive any or all of the annual fees; however the County must still comply with provisions of 5709.68 thru 5709.85 of the Revised Code.

SECTION 6. SANDCO shall pay such Commercial Activity Tax (CAT) and shall file all tax reports and returns as required by law. If SANDCO fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the years for which such taxes are charged or such reports or returns are required to be filed and thereafter.

SECTION 7. SANDCO hereby certifies that at the time this agreement is executed, SANDCO, do not owe any delinquent real or tangible personal property taxes to any taxing authority, SANDCO are liable under Chapter 5727., 5733., 5735., 5739., 5741., or 5753. of the Revised Code. If such delinquent taxes pursuant to a delinquent tax contract 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 petition has been filed against SANDCO for the purposes of certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under chapter of the Revised Code governing payment of those taxes.

SECTION 8. The COUNTY shall perform all such acts and deeds as may be necessary or appropriate to effect. Claim, reserve and maintain the personal property tax exemption provided in Section 4 hereinabove including without limitation, joining in execution of all documentation providing any necessary certificates required in connection with said tax exemption.

SECTION 9. "If for any reason the enterprise zone designation expires, the Director of Ohio Development Service Agency (ODSA) **REVOKES CERTIFICATION OF THE ZONE.** If the COUNTY revokes the designation of the zone, entitlements granted under the agreement shall continue for the number of years specified under this agreement, unless SANDCO materially fails to fulfill its obligations under this agreement and the COUNTY terminates or modifies the exemptions from taxation granted under this agreement."

SECTION 10. "If SANDCO materially fails to fulfill its obligations under this agreement, (other than with respect to the number of employees positions estimated to be created or retained under this agreement), or if the COUNTY determines that the certification as to delinquent taxes required by this agreement is fraudulent, the COUNTY may terminate or modify the exemptions from taxation granted under this agreement."

SECTION 11. SANDCO shall provide to the Sandusky County Tax Incentive Review Board any information reasonably required by the board of evaluate the enterprise's

Compliance with the agreement, including returns or annual reports filed pursuant to section 5711.02 or 5727.08 of the Ohio Revised Code.

SECTION 12. SANDCO and the CITY acknowledge this agreement must be approved by formal action of the legislative authority of the COUNTY as a condition for the agreement to take effect. This agreement takes effect upon such approval.

SECTION 13. This agreement is not transferable or assignable without the express, written approval of the COUNTY.

SECTION 14. Exemptions from taxation granted under this agreement shall be revoked if it is determined that SANDCO or any successor enterprise, or any related member, as defined in Section 5709.61 of the Ohio Revised Code, has violated the prohibition against entering into this agreement under division (E) of Section 3735.61 or Section 5709.63 or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those Sections.

SECTION 15. SANDCO shall, within thirty (30) days of the execution of this agreement pay an administrative application review fee of two hundred (\$200) dollars to the administrative agent of the COUNTY, Sandusky County Economic Development Corporation. In addition, a seven hundred fifty dollar (\$750) State Application Fee made payable by SANDCO to the Ohio Development Service Agency (ODSA), 77 High Street, Columbus, Ohio 43216, shall be forwarded by the COUNTY with this document.

IN WITNESS WHEREOF, the County of Sandusky, Ohio, by its Board of Commissioners, and pursuant to Resolution No. _____, has caused this instrument to be executed this ____ day of November, 2015.

WITNESS: SANDUSKY COUNTY
BY: _____

WITNESS: SANDCO INDUSTRIES
BY: _____

APPROVED AS TO FORM:

BY: _____
Norman Solze, Assistant Sandusky County Prosecutor

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