

RESOLUTION NO. 2015- 1952

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO ENTER INTO AN ENTERPRISE ZONE AGREEMENT BETWEEN THE CITY OF FREMONT AND ALKON CORPORATION, AND DECLARING AN EMERGENCY.

WHEREAS, Alkon Corporation has submitted a proposed Enterprise Zone Agreement for a real property tax exemption to the Enterprise Zone Coordinator for the City of Fremont; and

WHEREAS, the Tax Incentive Review Committee for the City of Fremont has approved the proposed terms; and

WHEREAS, the Board of Education of Fremont City Schools and Vanguard-Sentinel Career & Technology Centers received a copy of the application 14 days prior to any City Council action; and

WHEREAS, the Enterprise Zone Coordinator for the City has submitted to the Mayor an Enterprise Zone Agreement between the City of Fremont and Alkon Corporation, attached as Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FREMONT, STATE OF OHIO:

SECTION 1. That the terms of the Enterprise Zone Agreement are hereby approved; and

SECTION 2. That the Mayor is hereby authorized and directed to enter into the Enterprise Zone Agreement between the City of Fremont and Alkon Corporation.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Revised Code of Ohio.

SECTION 4. The immediate operation of the provisions of this resolution is necessary for the immediate preservation of the public peace, health, safety, and welfare of the citizens of the City of Fremont. Said emergency being the need to timely enter into the Enterprise Zone Agreement to meet the requirement that it be in place prior to Alkon Corporation beginning construction.

This resolution, provided it receives a two-thirds yea or nay vote of all the members elected to the Fremont City Council, is hereby declared to be an emergency measure and this resolution shall be in full force and effect from and after its passage by the Council of the City of Fremont, approval by the Mayor, and publication and posting as required by law.

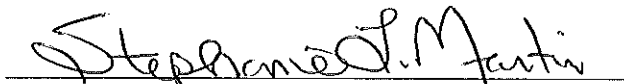



Dallas L. Leake
President of Council

PASSED: 4-16-15

Effective date: 4-16-15

YEAS: 6 NAYS: 0


Stephanie D. Martin, City Council Clerk
James H. Ellis III, Mayor

Res443

Approved as to form:

A handwritten signature in black ink, appearing to be 'JFM', written over a horizontal line.

James F. Melle, Director of Law
City of Fremont, Ohio

OHIO ENTERPRISE ZONE AGREEMENT

This agreement made and entered into by and between the City of Fremont, Ohio, a municipal corporation (hereinafter referred to as "City"), 323 South Front Street, Fremont, Ohio 43420, and Alkon Corporation, an Ohio Corporation with its main offices located 728 Graham Drive, Fremont, Ohio 43420 (hereinafter referred to as "Alkon"), WITNESSETH;

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

WHEREAS, Alkon is desirous of expanding its business at 728 Graham Drive which includes construction of a new 18,000 square foot addition connected to the existing facility, allowing for the addition of new manufacturing equipment to preserve and create employment opportunities (hereinafter referred to as the "Project"), provided that the appropriate development incentives are available to support the economic viability of said Project. Said Project is within the boundaries of the aforementioned Enterprise Zone and is eligible to receive tax incentives under the Ohio Enterprise Zone Program; and

WHEREAS, the Council of the City of Fremont Ohio by Ordinance No. 89-2598 adopted July 20, 1989, designated the area as an "Urban Jobs and Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective August 15, 1989 the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance No. 89-2598 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, City having the appropriate authority for the stated type of project is desirous of providing Alkon with incentives available for the development of the Project in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Alkon submitted a proposed agreement application (herein attached as Exhibit A) to City (said application is hereinafter referred to as the "Application"); and

WHEREAS, Alkon 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 City has investigated the application of Alkon and has recommended the same to the Council of the City of Fremont on the basis that Alkon is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and improve the economic climate of City of Fremont; and

WHEREAS, the Project site as proposed by Alkon is located in the Fremont City School District and the Vanguard-Sentinel Career and Technology Centers School District and the Boards of Education of the school districts have been notified in accordance with Section 5709.83 and been given a copy of the Application; and

WHEREAS, pursuant to Sections 5709.62(C), 5709.63(A) or 5709.632 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:

1. Alkon shall construct a new 18,000 square foot addition connected to the existing facility, at 728 Graham Drive, Fremont, Ohio, and improve its facility to house new manufacturing equipment. Said facility shall be constructed on part of Inlots 6273 and 6275 as the same is known and designed on the Auditor's revised list of lots in the _____ ward of the City of Fremont, Ohio. The amount to be invested in the Project by Alkon shall be a minimum of \$450,900 to a maximum of \$525,000 for the addition and a minimum of \$65,000 to a maximum of \$80,000 for the improvement to the existing facility. In addition, Alkon will purchase and install new machinery, equipment and fixtures, including, but not limited to, machinery that will form metal into component parts and associated fixtures. The amount to be invested in the said machinery and associated fixtures by Alkon shall be a minimum of \$3,005,000 to a maximum of \$5,510,000.

The Project will begin May 1, 2015 and all acquisition, construction and installation will be completed by October 1, 2015.

2. Alkon shall create within a time period not exceeding 36 months after the commencement of construction of the aforesaid facility, the equivalent of 20 new full-time permanent job opportunities, 0 new part-time permanent job opportunities, 0 full-time temporary job opportunities and 0 part-time temporary job opportunities and Alkon will use its best efforts to retain 109 existing full-time equivalent jobs at the Fremont facility.

Alkon's schedule for hiring is as follows: create 6 new full-time permanent jobs in year one; 7 new full-time permanent jobs in year two; and 7 new full-time permanent jobs in year three. The job creation period begins January 1, 2016 and all jobs will be in place by June 30, 2018.

Alkon currently has 109 full-time permanent employees, 2 part-time permanent employees, and 45 full-time temporary employees at the Project site.

This increase in the number of employees will result in approximately Eight Hundred Thirty-seven Thousand Two Hundred Dollars (\$837,200.00) of additional annual payroll for Alkon. The retention of the existing jobs will maintain the current annual payroll of Five Million Two Hundred Nine Thousand Six Hundred Eighty-seven Dollars (\$5,209,687.00).

3. Alkon shall provide to the proper Tax Incentive Review Council any information reasonably required by the council to evaluate the enterprise's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council.

4. City hereby grants Alkon a tax exemption equal to seventy-five percent (75%) per year for a period of ten (10) years for real property improvements made to the Project site pursuant to Section 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code. 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 before _____, 2015 nor extend beyond 2025. Alkon must file the appropriate tax form (DTE 23) with the County Auditor and maintain the exemption covered in this agreement.
5. Alkon 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 Alkon 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.
6. City 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.
7. If for any reason the Enterprise Zone designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or City revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless Alkon materially fails to fulfill its obligations under this agreement and City terminates or modifies the exemptions from taxation granted under this agreement.
8. If Alkon materially fails to fulfill its obligations under this agreement, or City determines that the certification as to delinquent taxes stated in Section 9 of this agreement is fraudulent, City may terminate or modify the exemptions from taxation granted under this agreement. In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by Alkon is not equal to or greater than seventy-five percent (75%) of the number of employee positions estimated to be created or retained under this agreement during that three-year period, Alkon 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, City may terminate or modify the exemptions from taxation granted under this agreement. (ORC 5709.631(b)(12)).
9. Alkon hereby certifies that at the time this agreement is executed it 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 Alkon is liable under Chapter 5733., 5735, 5739, 5741, 5743, 5747, or 5753 of the Revised Code, or, if such delinquent taxes are owed, Alkon 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 Alkon. 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.

10. Alkon 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.
11. Alkon and City acknowledge that this agreement must be approved by formal action of the legislative authority of City as a condition for the agreement to take effect. This agreement takes effect upon such approval.
12. The City has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Alkon 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.
13. Exemptions from taxation granted under this agreement shall be revoked if it is determined that Alkon, 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.
14. Alkon 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 Alkon has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, Alkon 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.
15. This agreement is not transferrable or assignable without the express, written approval of the City.

IN WITNESS WHEREOF, the City of Fremont, Ohio, by James H. Ellis III, Mayor, and pursuant to Resolution No. 2015-_____, has caused this instrument to be executed this _____ day of _____, 2015 and Alkon Corporation by Mark L. Winter, its President, has caused this instrument to be executed this _____ day of _____, 2015.

City of Fremont

Alkon Corporation

By _____
James H. Ellis III, Mayor

By _____
Mark L. Winter, President

Approved as to form:

James F. Melle, Law Director