

ORDINANCE NO. 21-037

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN ENTERPRISE ZONE AGREEMENT WITH RDMJD, LLC, RELATING TO PROPERTY LOCATED AT 2101 W. PERKINS AVENUE, AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the State of Ohio has provided for the establishment of "Enterprise Zones" pursuant to Sections 5709.61 to 5709.914 of the Ohio Revised Code (the "Act"), and for the provision of tax incentives to private enterprise in order to promote and encourage expansion programs by private enterprise in such Enterprise Zones, and the creation and/or preservation of jobs and economic development in connection therewith; and

WHEREAS, the City Commission, by Resolution No. 05-183 adopted December 27, 2005, designated an area as an Enterprise Zone pursuant Section 5709.61(A)(1)(a) and (f) of the Act; and

WHEREAS, effective April 18, 2006, the Director of Ohio Development Services Agency of the State of Ohio determined that the geographic area designated in said Resolution No. 05-183 contains the characteristics set forth in Section 5709.61(A)(1)(a) and (f) of the Act and certified said area as an Enterprise Zone under the Act; and

WHEREAS, RDMJD, LLC, is a real estate holding company formed in January of 2021 for the purpose of acquiring the property at 2101 W. Perkins Avenue, Sandusky, and leasing to Ahner Commercial & Supply, LLC, which shares common ownership with RDMJD, LLC; and

WHEREAS, Ahner Commercial & Supply, LLC, is a leading distributor and installer of commercial doors, windows and aluminum and glass storefront materials and will use the property for its administrative, assembly, storage and distribution activities; and

WHEREAS, RDMJD, LLC intends to invest over \$150,000 in property improvements, including the construction of two (2) truck doors and two (2) truck docks and will immediately relocate seven (7) full-time employees and create seven (7) new full-time positions at the site within three (3) years; and

WHEREAS, the City received a request for Enterprise Zone tax abatement from RDMJD, LLC, for their redevelopment project; and

WHEREAS, it is recommended to approve a 10-year, 75% real estate tax abatement on the increase to the assessed valuation of the property, based on the investment and the importance of the project to activate a dormant building; and

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WHEREAS, pursuant to Ohio Revised Code §5709.83, the Board of Education of the Sandusky City Schools was notified in writing of the request for tax exemption by letter dated March 5, 2021; and

WHEREAS, this project will have an ongoing positive impact the City's General Fund as 25% of the increase in assessed value will be subject to real estate taxes during the abatement period and the project will help sustain employment in the local economy by creating a minimum of three (3) new full-time employment positions subject to City income tax; and

WHEREAS, approval of a grant through the Economic Development Fund Program for RDMJD, LLC, in the amount of \$15,000.00 is being requested in companion legislation; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the agreement and to ensure the full benefit of the abatement is realized; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This Commission hereby approves the Enterprise Zone Agreement with RDMJD, LLC, pursuant to the terms and conditions contained therein, a copy of which is marked Exhibit "1" attached to this Ordinance and is specifically incorporated as if fully rewritten herein.

Section 2. The City Manager is hereby authorized and directed to execute the Enterprise Zone Agreement with RDMJD, LLC, on behalf of the City in accordance with the terms and conditions as contained in the form of the agreement marked Exhibit "1" attached to this Ordinance and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the terms of this Ordinance.

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Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

MCKENZIE E. SPRIGGS
CLERK OF THE CITY COMMISSION

Passed: March 22, 2021

ENTERPRISE ZONE AGREEMENT

This ENTERPRISE ZONE AGREEMENT (the "Agreement") is made and entered into by and between the City of Sandusky, Ohio, an Ohio municipal corporation with a Commission-Manager form of government with its main offices located at 240 Columbus Avenue, Sandusky, Ohio 44870 (the "City"), and RDMJD, LLC, an Ohio limited liability company, with mailing address of 2435 E. Gill Road, Port Clinton, Ohio 43452 (the "Company").

WITNESSETH:

WHEREAS, the 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, the Company has purchased the property located at 2101 Perkins Avenue, Sandusky, Ohio 44870 and further identified as Permanent Parcel #58-68010.000, which may be amended, consolidated or subdivided, as the case may be. The Company is now desirous of redeveloping the building for administrative, assembly, storage and distribution uses. The Company will invest at least \$150,000.00 into this project (the "Project"), which Project will preserve or create employment opportunities 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 Sandusky City Commission of the City of Sandusky, Ohio by Resolution No. 05-183 adopted April 18, 2006, designated the area as an "Enterprise Zone" pursuant Chapter 5709.61(A)(1)(a) and (f) of the Ohio Revised Code; and

WHEREAS, effective April 18, 2006, the Director of the Ohio Development Services Agency of the State of Ohio determined that the aforementioned area designated in said Resolution No. 05-183 contains the characteristics set forth in Section 5709.61(A)(1)(a) and (f) of the Ohio Revised Code and certified said area as an Enterprise Zone under said Chapter 5709; and

WHEREAS, the City having the appropriate authority for the stated type of project is desirous of providing the Company with incentives available for the development of the Project in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, the Company has submitted a proposed agreement application (herein attached as Exhibit A) to the City (the "Application"); and

WHEREAS, the Company has remitted the required state application fee of \$750.00 made payable to "Treasurer of the State of Ohio" with the application to be forwarded with the final agreement; and

WHEREAS, the Chief Development Officer of the City has investigated the application of the Company and has recommended the same to the Sandusky City Commission on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and improve the economic climate of the City; and

WHEREAS, the project site as proposed by the Company is located in the Sandusky City School District and the Board of Education of the Sandusky City Schools 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 agree as follows:

1. The Company shall redevelop the property for administrative, assembly, storage and distribution uses. The Company estimates an anticipated real estate investment for the Project of \$150,000.00. The Project represents a significant new investment on the site. The construction is expected to be completed by December 31, 2022.

2. The Company shall create or cause to be created the equivalent of seven (7) new full-time job opportunities by December 31, 2021.

The Company, and its affiliated entities, currently has no full-time permanent employees, no part-time permanent employees, seven full-time temporary employees, and no part-time temporary employees at the Project site. In total, the Company, and its affiliated entities will have seven full-time permanent employees, no part-time permanent employees, no full-time temporary employees, and no part-time temporary employees in the State of Ohio.

This total increase in the number of employees over the entire job creation period will result in approximately \$150,000.00 (dollars) of additional annual payroll for the Company or made possible by the Company. The following is an itemization by the type of new jobs created: permanent full-time \$150,000.00, permanent part-time \$0 temporary full-time \$0 and temporary part-time \$0.

3. The Company 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. The Company will use its best efforts to hire employees from Erie County, with a preference to residents of the City. Furthermore, the Company shall use Erie County contractors for work related to the Project to the greatest extent possible.

5. The City hereby grants the Company a tax exemption for real property improvements made to the Project site pursuant to Section 5709.62 of the Ohio Revised Code for ten (10) years and shall be in the following amounts:

<u>Year of Tax Exemption</u>	<u>Tax Exemption Amount</u>
YR 1	75%

YR 2	75%
YR 3	75%
YR 4	75%
YR 5	75%
YR 6	75%
YR 7	75%
YR 8	75%
YR 9	75%
YR 10	75%

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 2022 nor extend beyond 2032.

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

6. The Company shall pay an annual monitoring fee equal to two hundred dollars (\$200.00).

The fee shall be made payable to the City once per year, due no later than April 15th of each year. The fee is to be paid to the Director of Finance by check made out to the City of Sandusky. 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 Ohio Revised Code and by the Tax Incentive Review Council created under section 5709.85 of the Ohio Revised Code exclusively for the purposes of performing the duties prescribed under that section.

7. The Company 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 the Company 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.

8. The 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.

9. If for any reason the Enterprise Zone designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or the City revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless the Company materially fails to fulfill its

obligations under this agreement and the City terminates or modifies the exemptions from taxation granted under this agreement.

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

11. In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by the Company is not equal to or greater than seventy-five per cent of the number of employee positions estimated to be created or retained under this agreement during that three-year period, the Company 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 City may terminate or modify the exemptions from taxation granted under this agreement.

12. The Company hereby certifies that at the time this agreement is executed, the Company 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 the Company is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753. of the Revised Code, or, if such delinquent taxes are owed, the Company 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 the Company. 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. The Company 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. The Company and the City acknowledge that this agreement must be approved by formal action of the legislative authority of the City as a condition for the agreement to take effect. This agreement shall take effect upon the later of the date of such legislative approval or the date all parties have signed this agreement.

15. 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, the Company is committing to following non-discriminating hiring practices acknowledging that no individual

may be denied employment solely on the basis of race, religion, sex, sexual orientation, gender identity or expression, disability, color, national origin, or ancestry.

16. Exemptions from taxation granted under this agreement shall be revoked if it is determined that the Company, 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 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.

17. The Company 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 the Company has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, the Company 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.

18. This agreement is not transferrable or assignable without the express, written approval of the City.

[Signature page follows.]

IN WITNESS WHEREOF, the City of Sandusky, Ohio, by Eric Wobser, its City Manager, and pursuant to Ordinance No. _____, has caused this instrument to be executed this ____ day of _____, 2021 and RDMJD, LLC, by Rosalyn Ahner, its Member, has caused this instrument to be executed on this ____ day of _____, 2021.

CITY OF SANDUSKY, OHIO

By: _____
Eric Wobser, City Manager

RDMJD, LLC,
An Ohio limited liability company

By: _____
Rosalyn Ahner, Member

Approved as to form:

By: _____
Director of Law

Date: _____, 2021

EXHIBIT A

[Attach Application]

DRAFT