

August 3, 2023

ECONOMIC DEVELOPMENT COMMITTEE

August 7, 2023

Council Chambers

Following Finance Committee

Committee and Council Meetings can be viewed by accessing YouTube

AGENDA

1. Consider **Ordinance No. 23-73** A RESOLUTION CONSENTING TO AN ENTERPRISE ZONE ABATEMENT AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF LICKING COUNTY, OHIO AND THE HEATH-NEWARK-LICKING COUNTY PORT AUTHORITY AND AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE CITY OF NEWARK, OHIO AND DECLARING AN EMERGENCY.
 - 1.
2. Other items at the discretion of the chair.

RESOLUTION NO. 23-73

BY: _____

A RESOLUTION CONSENTING TO AN ENTERPRISE ZONE ABATEMENT AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF LICKING COUNTY, OHIO AND THE HEATH-NEWARK-LICKING COUNTY PORT AUTHORITY AND AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE CITY OF NEWARK, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Newark, Ohio by Resolution No.88-62 adopted on July 5, 1988 and amended by Resolution19-72 adopted on October 21, 2019, designated the area as an "Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code; and

WHEREAS, the State of Ohio, by and through the Director of Development has determined that effective August 16, 1988 the City of Newark exhibits the characteristics set forth in ORC Section 5709.61 to qualify as an Enterprise Zone and did certify the City of Newark as an Enterprise Zone under ORC Section 5709.63; and

WHEREAS, Enterprise Zone Abatement Agreements are negotiated between the applicant and the Board of County Commissioners though the agreement must be approved by this Council before the agreement can be approved by the Board of County Commissioners; and

WHEREAS, The Heath-Newark-Licking County Port Authority has submitted an Enterprise Zone Abatement proposal in the manner prescribed by the Director of Development of the State of Ohio setting forth a plan to establish and occupy a facility in the City of Newark Enterprise Zone and to hire new employees or to preserve employment opportunities for existing employees within such Zone and has requested that it be granted one or more of the tax abatement incentives set forth in ORC Section 5709.62 in exchange for implementation of the proposed plan; and,

WHEREAS, the Enterprise Zone Abatement proposal submitted by Heath-Newark-Licking County Port Authority includes a plan to establish, expand, renovate, and/or occupy a facility with a total New Project Investment of approximately \$800,000.00 - \$1,500,000 to renovate existing buildings and land; and,

WHEREAS, the investment intended to be made by Heath-Newark-Licking County Port Authority pursuant to the proposed Enterprise Zone Abatement plan represents a significant and eligible investment within the City of Newark, Ohio pursuant to ORC Section 5709.63; and,

WHEREAS, Heath-Newark-Licking County Port Authority appears to be qualified by financial responsibility and business experience to create and preserve employment

opportunities within the Enterprise Zone and to improve the economic climate within the City of Newark, Ohio; and,

WHEREAS, the Resolution was addressed in a regular session of the Economic Development Committee of this Council which voted to forward the same on to full Council for consideration and adoption.

WHEREAS, due to the timeline for this project and for the immediate preservation of the public peace, health, safety, or welfare, this legislation must be expedited as an emergency pursuant to Article 4.06 of the Charter of the City of Newark;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:

Section 1: This Council does consent to the proposed Enterprise Zone Abatement Agreement and hereby authorizes the Mayor and the Director of Public Service to execute such agreement to be negotiated between Heath-Newark-Licking County Port Authority and the Board of County Commissioners of Licking County, Ohio, based upon the terms and conditions as set forth in the proposed agreement attached hereto and marked Exhibit "A".

Section 2: The Clerk of Council is hereby directed to transmit a certified copy of this Resolution along with the attached proposed Enterprise Zone Agreement to the Board of County Commissioners of Licking County, Ohio.

Section 3: This Resolution shall become effective immediately as an emergency pursuant to Article 4.07 of the Charter of the City of Newark, Ohio for the immediate preservation of the public peace, health, safety, and welfare

Adopted this ____ day of _____, 2023.

President of Council

ATTEST:

Clerk of Council

DATE FILED WITH THE MAYOR: _____

DATE APPROVED BY MAYOR: _____

MAYOR

APPROVED AS TO FORM:

DIRECTOR OF LAW

**OHIO ENTERPRISE ZONE AGREEMENT
BETWEEN HEATH-NEWARK-LICKING CO. PORT AUTHORITY,
THE CITY OF NEWARK, OHIO AND LICKING COUNTY, OHIO**

This agreement made and entered into by and between the CITY OF NEWARK, OHIO an incorporated municipality with its main offices located at 40 W. MAIN STREET, NEWARK, LICKING COUNTY, OHIO, LICKING COUNTY, a political subdivision of the State of Ohio, with its main offices located at 20 S. SECOND STREET, NEWARK, OHIO (hereinafter referred to as "CITY OF NEWARK & LICKING COUNTY"), and HEATH-NEWARK-LICKING CO. PORT AUTHORITY, an OHIO Corporation with its main offices located at 851 Irving Wick Dr. W, Heath, Ohio 43056 , (hereinafter referred to as "ENTERPRISE "), WITNESSETH;

WHEREAS, CITY OF NEWARK & LICKING 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, HEATH-NEWARK-LICKING CO. PORT AUTHORITY is desirous of expanding their operation at 1401 Mt. Vernon Road and 1425 Mt. Vernon Rd. within the City of Newark & Licking County to speculative redevelopment targeting manufacturing or other economic base employers (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 of CITY OF NEWARK, OHIO by Resolution No. 88-62 adopted JULY 5, 1988, designated the area as an "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code; and

WHEREAS, the BOARD OF COMMISSIONERS FOR LICKING COUNTY, Ohio by Resolution adopted July 19, 1988, adopted the City of Newark's request designating the area as an "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code; and

WHEREAS, THE COUNCIL OF THE CITY OF NEWARK by Resolution 19-72 adopted October 21, 2019 & LICKING COUNTY by RESOLUTION No. 102-163A adopted November 19, 2019, expanded the "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code to include real property previously annexed by the City of Newark but excluded within the original resolution; and

WHEREAS, August 16, 1988, the Director of Development of the State of Ohio determined that the aforementioned area designated by the Council of the City of Newark in RESOLUTION No. 88-62 and by Licking County in Resolution No. _____, 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, December 10, 2019, the Director of Development of the State of Ohio determined that the aforementioned expansion designated by the Council of the City of Newark in Resolution 19-72 and Licking County in RESOLUTION No. 102-163A 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 OF NEWARK & LICKING COUNTY having the appropriate authority for the stated type of project is desirous of providing HEATH-NEWARK-LICKING CO. PORT AUTHORITY with incentives available for the development of the PROJECT in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, HEATH-NEWARK-LICKING CO. PORT AUTHORITY has submitted a proposed agreement application (herein attached as Exhibit A) to CITY OF NEWARK & LICKING COUNTY said application (hereinafter referred to as "APPLICATION"); and

WHEREAS, HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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 Executive Director of GROW Licking County CIC has investigated the application of HEATH-NEWARK-LICKING CO. PORT AUTHORITY and has recommended the same to the Council and Board of Commissioners of CITY OF NEWARK & LICKING COUNTY on the basis that HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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 NEWARK & LICKING COUNTY; and

WHEREAS, pursuant to Section 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. HEATH-NEWARK-LICKING CO. PORT AUTHORITY shall invest approximately \$800,000 - \$1,500,000 to redevelop existing buildings into speculative space for the attraction of manufacturing or other economic base employers with STEM skilled jobs. The facility will create at least 1 full-time position over the course of three years with an average wage of \$25.00/hour. Said facility shall be constructed on part of Parcel Number 054-269934-00.002 and 054-269934-00.003., as designated by the Licking County Auditor's Office and located within the City of Newark, Ohio.

In addition, HEATH-NEWARK-LICKING CO. PORT AUTHORITY invest \$800,000 – \$1,500,000 in improvements to the existing buildings at the site.

The PROJECT will begin by August 31, 2023 and all acquisition, construction and installation will be completed by September 1, 2026.

The total investment of this new facility represents a significant new investment within Newark & Licking County, as evidenced in Exhibit A.

2. HEATH-NEWARK-LICKING CO. PORT AUTHORITY shall create within a time period not exceeding 36 months after the completion of construction and occupancy of the aforesaid facility, the equivalent of 1 new full-time permanent job.

This increase in the number of employees will result in approximately \$52,000 (fifty-two thousand) dollars of additional annual payroll by the expected tenant(s) of the facility.

3. HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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 OF NEWARK & LICKING COUNTY hereby grants a tax exemption pursuant Section 5709.62, 5709.63 or 5709.632 for eligible new tangible personal property including inventory (if applicable) acquired in conjunction with the PROJECT and will only apply to the limits expressed in the project description as defined in Sections 1 and 4 of this agreement.

The minimum investment for tangible personal property to qualify for the exemption is \$800,000-\$1,500,000 for building improvements for this proposed project. 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 2025 nor extend beyond tax return year 2034. In no instance shall any tangible personal property be exempted from taxation for more than ten return years.

5. CITY OF NEWARK & LICKING COUNTY hereby grants HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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:

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 2025 nor extend beyond 2034.

<u>Year of Tax Exemption</u>	<u>Tax Exemption Amount</u>
<u>YR 1</u>	<u>75%</u>
<u>YR 2</u>	<u>75%</u>
<u>YR 3</u>	<u>75%</u>
<u>YR 4</u>	<u>75%</u>
<u>YR 5</u>	<u>75%</u>
<u>YR 6</u>	<u>75%</u>
<u>YR 7</u>	<u>75%</u>
<u>YR 8</u>	<u>75%</u>
<u>YR 9</u>	<u>75%</u>
<u>YR 10</u>	<u>75%</u>

HEATH-NEWARK-LICKING CO. PORT AUTHORITY must file the appropriate tax forms (DTE 23) with the County Auditor and (#913) with the State Department of Taxation to effect and maintain the exemptions covered in the agreement. The #913 Ohio tax form **must** be filed annually.

6. HEATH-NEWARK-LICKING CO. PORT AUTHORITY shall pay an annual fee equal to the greater of one percent of the dollar value of incentives offered under the agreement or five hundred dollars: provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars.

The fee shall be made payable to the Licking County once per year for each year the agreement is effective on the days and in the following forum: certified check The fee is to be paid to Licking County Treasurer and made out to Licking County, Ohio. 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.

7. CITY OF NEWARK & LICKING COUNTY 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."

8. If for any reason the Enterprise Zone designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or CITY OF NEWARK & LICKING COUNTY revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless HEATH-NEWARK-LICKING CO. PORT AUTHORITY materially fails to fulfill its obligations under this agreement and CITY OF NEWARK & LICKING COUNTY terminates or modifies the exemptions from taxation granted under this agreement."

9. If HEATH-NEWARK-LICKING CO. PORT AUTHORITY materially fails to fulfill its obligations under this agreement, or CITY OF NEWARK & LICKING COUNTY determines that the certification as to delinquent taxes required by this agreement is fraudulent, CITY OF NEWARK & LICKING COUNTY may terminate or modify the exemptions from taxation granted under this agreement."

10. HEATH-NEWARK-LICKING CO. PORT AUTHORITY hereby certifies that at the time this agreement is executed, HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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 HEATH-NEWARK-LICKING CO. PORT AUTHORITY is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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 HEATH-NEWARK-LICKING CO. PORT AUTHORITY. 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."

11. HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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.

12. HEATH-NEWARK-LICKING CO. PORT AUTHORITY and CITY OF NEWARK & LICKING COUNTY acknowledge that this agreement must be approved by formal action of the legislative authority CITY OF NEWARK & THE LICKING COUNTY BOARD OF COMMISSIONERS as a condition for the agreement to take effect. This agreement takes effect upon such approval.

13. CITY OF NEWARK & LICKING COUNTY has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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.

14. "Exemptions from taxation granted under this agreement shall be revoked if it is determined that HEATH-NEWARK-LICKING CO. PORT AUTHORITY, 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."

15. HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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 HEATH-NEWARK-LICKING CO. PORT AUTHORITY has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, HEATH-NEWARK-LICKING CO. PORT AUTHORITY 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.

16. This agreement is not transferrable or assignable without the express, written approval of CITY OF NEWARK & LICKING COUNTY.

**REMAINDER INTENTIONALLY LEFT BLANK
EXECUTION PAGE TO FOLLOW**

IN WITNESS WHEREOF, the following have caused this instrument to be executed on the dates so indicated: LICKING COUNTY, by its Board of County Commissioners, pursuant to Commissioners' Resolution Number _____ on the ____ day of _____, _____; the CITY OF NEWARK, by its COUNCIL, pursuant to Resolution Number _____ on the ____ day of _____, _____; and HEATH-NEWARK-LICKING CO. PORT AUTHORITY, by Rick Plat, its President on the ____ day of _____, _____.

Approved as to legal form only:

LICKING COUNTY

Board of Licking County Commissioners

Licking County Prosecutor

by _____
Commissioner _____

Commissioner _____

Commissioner _____

Approved as to form:

CITY OF NEWARK, OH

Law Director

by _____

HEATH-NEWARK-LICKING CO. PORT AUTHORITY

by _____

its _____

EXHIBIT A

APPLICATION FOR ENTERPRISE ZONE ASSISTANCE