

RESOLUTION No. 2533

**A RESOLUTION EXPRESSING SUPPORT FOR THE ENTERPRISE  
ZONE AGREEMENT BETWEEN THE BOARD OF COMMISSIONERS OF  
DEFIANCE COUNTY, OHIO AND ARPS DAIRY, INC.**

**WHEREAS**, Council supported the designation of the area encompassing Permanent Parcel No. I060022A00600 as part of an Enterprise Zone in Resolution No. 2076 on December 1, 1987; and

**WHEREAS**, Arps Dairy, Inc. desires to relocate its operations and make an investment into the property located at 136 Fox Run, Defiance, OH 43512; and

**WHEREAS**, the company pledges to create five (5) new permanent full-time jobs within three (3) years and retain twenty-eight (28) existing positions inside of the City; and

**WHEREAS**, Arps Dairy, Inc., owner of the above-described property has agreed to make an annual donation of ten percent (10%) of the annual real property tax savings from the Enterprise Zone Agreement for ten years to the Northeastern Local School District and two percent (2%) of the annual real property tax savings from the Enterprise Zone Agreement for ten years to the Four County Career Center; and

**WHEREAS**, an Ohio enterprise zone tax exemption agreement between the Board of Commissioners of Defiance County, Ohio and Arps Dairy, Inc. will support this economic endeavor through reduced property taxation for this \$2,000,000.00 investment covered by the Enterprise Zone Agreement ("Agreement"); and

**WHEREAS**, Council finds that the agreement facilitates the investment and retention of a dairy operation inside of the City and further improves the economic vitality of the region.

**Now therefore**, be it Resolved by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** Council hereby expresses support for the Arps Dairy, Inc. relocation project and the enterprise zone agreement which provides the company with a property tax exemption on certain real property improvements at eighty percent (80%) for a period of ten (10) years.

**Section 2:** It is found and determined that all legislative actions pertaining to the adoption of this Resolution were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 3:** This Resolution shall be effective on the earliest date permitted by law.

Passed: July 25, 2023

David McMaster  
President of Council

Attest: Lisa Elders, Clerk

Approved: July 25, 2023

Michael McCann  
Mayor

# ENTERPRISE ZONE AGREEMENT

*BETWEEN*

*DEFIANCE COUNTY*  
*AND*  
*Arps Dairy, Inc.*

\_\_\_\_\_ 2023

## *ENTERPRISE ZONE AGREEMENT*

This agreement made and entered into this \_\_\_ day of \_\_\_\_\_ 2023 between the Board of Commissioners for Defiance County, Ohio (hereinafter called "Defiance County"), and Arps Dairy, Inc. located in Defiance, Ohio (hereinafter called "the Enterprises").

WHEREAS, Defiance 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, the Enterprises are desirous of making investment in the relocation and an expansion of a manufacturing building at 136 Fox Run Defiance, Ohio, and the creation of employment and retainment in the Zone, provided the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the Defiance County Commissioners, by resolution found in Journal #65, page 246-248, adopted February 11, 1988, and by resolution #2076, adopted by the City of Defiance on December 1, 1987, designated the area as an Enterprise Zone pursuant to Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective February 22, 1988, the Director of Development of the State of Ohio determined that the aforementioned area designated in said resolution found in Journal #65, page 246-248, 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, Defiance County, having the appropriate authority for the stated type of project is desirous of providing the Enterprise with the incentives available for the development of the project in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, the Enterprises have submitted a proposed agreement application (hereinafter referred to as "APPLICATION", and herein attached as Exhibit A) to Defiance County; and

WHEREAS, the Enterprises have 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 Defiance County has investigated the application of the Enterprises and has recommended the same to the County Board of Commissioners of Defiance County on the basis that the Enterprise are qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and improve the economic climate of Defiance County; and

WHEREAS, pursuant to Section 5709.62, 5709.63 (A), or 5709.632 and in conformance with the format required under 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 thereof, the parties herein agree as follows:

1. Arps Dairy, Inc. shall relocate their operations from 220 N. Clinton Street to 136 Fox Run and shall make building improvements of Two Million Dollars (\$2,000,000). Arps Dairy plans to invest Five Hundred Thousand (\$500,000) in moving expenses, and One Million Dollars (\$1,000,000) into equipment for their operations. The purchase of their facility was One Million and Nine Hundred Thousand Dollars (\$1,900,000). They also have budgeted Five Hundred Thousand Thirty-Five Thousand (\$535,000) for contingencies and new trucks and trailers. The total investment is Five Million Nine Hundred Thirty-Five Thousand Dollars (\$5,935,000) plus or minus 20%.

**Only the investment of Two Million Dollars (\$2,000,000)** in the building improvements are covered in this Enterprise Zone agreement. No tax exemption is requested or granted on the machinery and equipment investment.

The PROJECT will begin August 2023, and all aspects of the project will be concluded by December 2024.

2. Arps Dairy, LLC will create five (5) permanent, full-time jobs over a three-year period. Twenty-Eight (28) existing positions will be retained. New payroll for the project will be Two-Hundred Thousand Dollars (\$200,000).

If Arps Dairy, LLC fails to maintain at least 75% of the number of employee positions estimated to be created under this agreement after the project completion date, Arps Dairy, LLC is required to repay the amount of forgone property taxes abated during the period of which employment was less than 75% of the promised retention amount.

Arps Dairy, LLC shall give preference to residents of the zone within which the agreement applies relative to residents of the state who do not reside in the zone when hiring new employees under this agreement.

3. The Enterprises shall provide to the Defiance County Tax Incentive Review Council any information reasonably required by the Council to evaluate the Enterprises' compliance with the agreement, including returns filed pursuant to Section 5711.02 and 5727.08 of the Ohio Revised Code if requested by the council. All requests from the council shall be made by certified mail and the Enterprises shall respond to the information requests within ten business days of receipt of the certified letter.

4. Defiance County hereby grants Arps Dairy, LLC. a tax exemption pursuant to Section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code for real property improvements made at the City of Defiance, PROJECT site located at parcel # 1060022A00600 and shall be in the following amounts:

80% which requires consent of the Northeastern Local School District and the Four County Career Center School District Boards of Education, on real property and affixed improvements as part of the PROJECT, for a period of ten (10) years. The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation and shall continue for the full 10-year period.

The minimum investment for the affixed improvements and real property to qualify for the exemption is \$4,748,000. The maximum investment for real property to qualify for the exemption is \$7,122,000 at the facility as a result of the project.

The Enterprises must file the appropriate tax forms (DTE 24) to the county auditor and/or state department of taxation to affect the exemptions covered in this agreement.

5. The Commissioners, having reduced the minimum annual review fee as prescribed by law, has determined that The Enterprises shall pay an annual review fee equal to the greater of one percent (1%) of the dollar value of the annual tax exemption from this agreement, or One Hundred Dollars (\$100.00). The fee shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) per year. The fee shall be paid once per year for each year the agreement is in effect, upon completion of the annual review of said agreement, and upon receipt of an invoice from the Enterprise Zone Manager or his designee.
6. The Enterprises 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 Enterprises fail to pay such taxes or file such reports and returns, 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.
7. Defiance 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 Department of Development revokes certification of the Zone, or Defiance County revokes the designation of the Zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless the Enterprise materially fails to fulfill its obligations under this agreement and Defiance County terminates or modifies the exemptions from taxation granted under this agreement.
9. If the Enterprises materially fails to fulfill its obligations under this agreement, or if Defiance County determines that the certification as to delinquent taxes

required by this agreement is fraudulent, Defiance County may terminate or modify the exemptions from taxation granted under this agreement.

10. The Enterprises hereby certify that at the time this agreement is executed, the Enterprises do not owe any delinquent real or tangible personal property taxes to any taxing authority in the State of Ohio, or do not owe delinquent taxes for which the Enterprise are liable under Chapter 5733., 5735., 5739., 5741, 5743., 5747., or 5753., of the Ohio Revised Code, or, if such delinquent taxes are owed, the Enterprises currently are 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 Enterprises. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the last day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.
11. Defiance County has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminatory hiring in its operations. By executing this agreement, the Enterprises are committing to following non-discriminatory hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.
12. Exemptions from taxation granted under this agreement shall be revoked if it is determined that the Enterprises, any successor Enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) have violated the prohibitions 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.
13. The Enterprises affirmatively covenant that they do 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 Enterprises affirmatively covenants that they have not made 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 Enterprises has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, the Enterprises shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to ORC Section 9.66 (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 (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 Section 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. The Enterprises agree to maintain corporate membership with the Defiance County Community Improvement Corporation for the duration of this agreement.
16. This agreement is not transferable or assignable without the expressed, written approval of Defiance County.
17. The Enterprises shall use the Defiance County landfill for refuse, pursuant to the Defiance County Enterprise Zone guidelines according to the Compensation/Donation agreement as contained in Appendix No. 2 incorporated into this Agreement by attachment hereto.
18. The Enterprises and Defiance County acknowledge that this agreement must be approved by formal action of the legislative authority of Defiance County as a condition for the agreement to take effect. This agreement takes effect upon such approval.

**IN WITNESS WHEREOF**, the parties have each caused this agreement to be executed by their authorized representatives as of the date and year first written above.

Mick Pocratsky, David Kern, and Dana Phipps, County Commissioners for Defiance County, Ohio, acknowledge that they are authorized to sign the foregoing instrument, acting in their capacity as County Commissioners and for the purposes herein stated.

WITNESS: \_\_\_\_\_

**BOARD OF COUNTY  
COMMISSIONERS**

\_\_\_\_\_  
Mick Pocratsky

\_\_\_\_\_  
Dana Phipps

\_\_\_\_\_  
David Kern

A RESOLUTION to adopt the foregoing agreement was duly passed at a public meeting per RC 121.22 on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Emily Meyers, Acting Clerk

The legal form of the within  
Instrument is hereby approved.

\_\_\_\_\_  
by: Russell R. Herman  
Assistant Prosecuting Attorney,  
Defiance County, Ohio

**Arps Dairy, LLC.**



David Reiser acknowledges that he is a Member of Arps Dairy LLC. and is authorized to sign the foregoing instrument on behalf of the company for the purposes stated herein.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By: David Reiser  
Arps Dairy, LLC.

**City of Defiance**

Ryan Mack acknowledges that he is authorized to sign the foregoing instrument of endorsement of the Enterprise Zone Agreement between Defiance County, Ohio, and Arps Dairy, LLC. acting in his capacity as City Administrator of the City of Defiance, Defiance County, Ohio.

**WITNESS:**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By: Ryan Mack,  
City Administrator  
City of Defiance

A RESOLUTION to adopt the foregoing agreement was duly passed at a public meeting of the Defiance City Council, per RC 121.22 on July\_\_\_\_\_, 2023.

\_\_\_\_\_  
By: Lisa Elders, Council Clerk  
City of Defiance

***INFRASTRUCTURE FUND DONATION AGREEMENT***

This agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by and between the **Board of Commissioners of Defiance County, Ohio** (hereinafter called the "Board"), and Arps Dairy, LLC. (hereinafter called "the Enterprises").

WHEREAS, the Enterprises have applied for 80% real property tax abatement for a ten (10) year period on certain real property investment in Defiance County and,

WHEREAS, the Enterprises have benefited and prospered by doing business in Defiance County and desires to support the business environment of the community for the future benefit of themselves and others and,

WHEREAS, the Board and the Enterprises agree that construction of public infrastructure will foster the future growth and prosperity of County businesses to the benefit of County residents;

NOW, THEREFORE, it is hereby agreed to as follows:

1. For good and valuable consideration, to include, but not limited to, the partial funding of public infrastructure projects, the Enterprise agrees to provide an annual donation, for each year of the tax abatement, equal to the greater of 3% of the real property tax savings from their Enterprise Zone abatement agreement or \$100 per year.
2. The annual donation payments will be made payable to the **Defiance County Infrastructure Fund**. The first payment will be made on or before June 1<sup>st</sup> after the year in which the real property improvements has been in place, and the real property taxes would be due. Future payments will be made on or before June 1<sup>st</sup> each year thereafter, for a total of ten years. Payments shall be mailed to the Defiance County Economic Development Office, 1300 E. Second Street, Defiance, OH 43512.
3. In the event that the investments, as described by the Enterprises in the attached description of the PROJECT, are greater or lesser than proposed, the dollar amount of the payment will be adjusted according to the amount of actual investment. In each year, the formula to calculate the donation amount will be the **actual tax savings realized** that year times **three percent**. (3%), subject to an annual minimum of \$100. This formula will remain in effect for each year of the agreement.

**Arps Dairy, LLC**

**IN WITNESS WHEREOF**, the parties have each caused this agreement to be executed by their authorized representatives as of the date and year first written above.

WITNESS:

\_\_\_\_\_  
Arps Dairy, LLC. 2023  
Enterprise Zone Agreement

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David Reiser, Member

Mick Pocratsky, David Kern, and Dana Phipps, County Commissioners for Defiance County, Ohio, acknowledge that they are authorized to sign the foregoing instrument, acting in their capacity as County Commissioners and for the purposes herein stated.

**Board of County  
Commissioners**

WITNESS:

\_\_\_\_\_  
Mick Pocratsky

\_\_\_\_\_  
David Kern

\_\_\_\_\_  
Dana Phipps

A **RESOLUTION** to adopt the foregoing agreement was duly passed at a public meeting per RC 121.22  
on \_\_\_\_\_2023

\_\_\_\_\_  
Emily Meyers, Acting Clerk

The legal form of the within  
instrument is hereby approved.

\_\_\_\_\_  
By: Russell R. Herman  
Assistant Prosecuting Attorney

Arps Dairy, LLC  
Infrastructure Fund Donation

Appendix No. 2

## Compensation/ Donation Agreement Regarding the Use of the Defiance County Landfill

As agreed to in the Ohio Enterprise Zone agreement between Arps Dairy, LLC (the Enterprises) and the **Defiance County Board of Commissioners**, dated, \_\_\_\_\_ 2023; the Enterprises shall use the Defiance County landfill to the greatest extent practicable during the term of this Enterprise Zone agreement.

It is mutually agreed that a public, regulated landfill benefits the residents and businesses of the Defiance County Enterprise Zone through services that promote public health, safety, and prosperity. It is further agreed that the Defiance County landfill helps to retain existing jobs and potentially attract new investment and jobs to the Enterprise Zone. This agreement is entered into under this spirit of thought.

Nothing in this agreement shall subject the Enterprises to fees or rates that are greater than those currently experienced.

\_\_\_\_\_  
David Reiser – Arps Dairy, LLC

**Defiance County Board of Commissioners**

\_\_\_\_\_  
Mick Pocratsky

\_\_\_\_\_  
David Kern

\_\_\_\_\_  
Dana Phipps