

Sponsor: Elliott / Omedera

ORDINANCE NO. 36-18

AN ORDINANCE OF THE LEGISLATIVE AUTHORITY OF THE CITY OF JACKSON, OHIO TO AUTHORIZE THE MAYOR TO EXECUTE AN ENTERPRISE ZONE AGREEMENT WITH BF NLA, LLC AND DECLARING AN EMERGENCY.

WHEREAS, BF NLA, LLC, the owner of the Bellisio plant, desires to invest in its property, located in an enterprise zone, for the construction of an administrative training center and freezer and requires an abatement of a percentage of real estate taxes on the improvement; and

WHEREAS, the expected construction is beneficial to the economy and is necessary for the preservation of the public health, safety and welfare of the City and its citizens and immediate passage of this ordinance constitutes an emergency as delay in passage may delay or jeopardize the construction project.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. The legislative authority of the City of Jackson hereby authorizes the Mayor to execute, together with BF NLA, LLC, the Ohio Enterprise Zone Agreement as attached hereto.

Section 2. This matter is hereby declared to be an emergency necessary for the immediate preservation of the public peace, health or safety of the City of Jackson, Ohio for the reasons set forth above. Therefore, this Ordinance shall go into effect upon passage and as provided in Ohio Revised Code Section 731.30.

Section 3. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

It is hereby found and determined that all formal acts of this council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this council and that the deliberations of the council and any of its committees resulted in such formal action, wherein meeting open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 23rd day of July, 2018.



President of Council

ATTEST:

Sherry Ban
Clerk of the Legislative Authority

Approved this 23rd day of July, 2018.

Randy Heath
Mayor

OHIO ENTERPRISE ZONE AGREEMENT

THIS AGREEMENT made and entered into by and between the **City of Jackson, Ohio**, a municipality, with its main offices located at 145 Broadway St., Jackson, Ohio (hereinafter referred to as the City of Jackson, Ohio, and **BF NLA, LLC.**, a Delaware Limited Liability Company with its main offices located at 100 E. Broadway St., Jackson, Ohio, (hereinafter referred to as "Enterprise"), WITNESSETH;

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

WHEREAS, **Enterprise** is desirous to complete a construction project known as **The Freezer** project which includes the construction of a 10,000 pallet automated storage and racking system inside of a (-10) Fahrenheit Cold Storage Freezer. Approximate freezer dimensions are 75' tall x 106' wide and 283' long. Approximately 29,998 square feet. Additionally, a Quality Center of Excellence which will train and educate our employees and customers about who we are and what our mission is. This addition and renovation will influence our company's future growth and brand recognition. The Center of Excellence includes the renovation of 18,048 square feet of existing office space as well as an addition of 6,050 square feet. This includes updating the existing facility to modern day standards, in addition to the modernization of infrastructure. Also includes 70+ person training/classroom facility for increasing knowledge on food safety and safety standards as well as technical skills for maintenance and operating production equipment. Additional square footage is being added to accommodate employees whom are currently located in Temporary Office Trailers on the facility property as well as employees who are housed in other leased properties off campus. **The Freezer** project (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 the **City of Jackson, Ohio**, by Ordinance No. 40-91 adopted June 6, 1991, designated the area as an "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective July 6, 1991, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Resolution No. 3091, 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, the **City of Jackson, Ohio**, having the appropriate authority for the stated type of project is desirous of providing **BF NLA, LLC.** with incentives available for the development of the **PROJECT** in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, **BF NLA, LLC.** has submitted a proposed agreement application (herein attached as Exhibit A) to the **City of Jackson, Ohio**, said application (hereinafter referred to as "APPLICATION"); and

WHEREAS, **BF NLA, LLC.** 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 Mayor of the **City of Jackson, Ohio** has investigated the application of **BF NLA, LLC.** and has recommended the same to the Council of the City of Jackson, Ohio, on the basis that **BF NLA, LLC.** 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 of Jackson, Ohio**; and

WHEREAS, the project site as proposed by **BF NLA, LLC.** is located in the Jackson City School District and the Gallia-Jackson-Vinton Joint Vocational School District and the Board of Education of each 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), 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. **BF NLA, LLC** shall construct a 10,000 pallet automated storage and racking system inside of a (-10) Fahrenheit Cold Storage Freezer. Approximate freezer dimensions are 75' tall x 106' wide and 283' long. Approximately 29,998 square feet. Additionally, a Quality Center of Excellence which will train and educate our employees and customers about who we are and what our mission is. This addition and renovation will influence our company's future growth and brand recognition. The Center of Excellence includes the renovation of 18,048 square feet of existing office space as well as an addition of 6,050 square feet. This includes updating the existing facility to modern day standards, in addition to the modernization of infrastructure. Also includes 70+ person training/classroom facility for increasing knowledge on food safety and safety standards as well as technical skills for maintenance and operating production equipment. Additional square footage is being added to accommodate employees whom are currently located in Temporary Office Trailers on the facility property as well as employees who are housed in other leased properties off campus. construct purchase three parcels of real estate and building that will allow the immediate installation of a new employee access road to the plant employee parking area. This will safely separate truck and trailer traffic from employee personnel traffic which will improve the flow of traffic tow and from the facility.

Parcel Nos. H14-007-00-012-00; H14-007-00-013-00, H14-007-00-014-00, H14-007-00-015-00 and H14-007-00-007-00

The PROJECT will begin August 8, 2018, and be completed August 28, 2020, provided a tax exemption is provided.

The PROJECT will represent an estimated significant new investment of \$31,937,754.00.

2. **BF NLA, LLC**. will use its best efforts to retain the 1,143 existing full-time equivalent jobs at the Jackson, Ohio, facility and will add \$476,125.00 additional payroll due to increase in labor skills.

BF NLA, LLC currently has 1,143 full-time permanent employees at the project site. In total, **BF NLA, LLC** has 1,143 full-time permanent employees in the State of Ohio.

The retention of the existing jobs will maintain the current annual payroll of (\$42,145,823.00) Forty-two Million One Hundred Forty-five Thousand Eight Hundred Twenty-three Dollars with a significant increase due to skilled labor.

3. "**BF NLA, LLC**. 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 Jackson, Ohio 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.

75% on all furniture and fixtures, machinery, equipment and inventory acquired as part of PROJECT as defined in Section 1 of this agreement. Each identified project improvement will receive a ten year exemption period.

The minimum investment for tangible personal property to qualify for the exemption is \$10,000,000.00 to purchase machinery and equipment first used in business at the facility as a result of the project, 750,000.00 to purchase furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$0 for new inventory. The maximum investment tangible personal property to qualify for exemption is \$13,500,000.00 to purchase machinery and equipment first used in business at the facility as a result of the project, \$1,200,000.00 for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$0 for new inventory. The exemption commences the first year for which the tangible personal property would first be taxed were that property not exempted from taxation. No exemption shall commence after tax year 2020 nor extend beyond tax return year 2030. In no instance shall any tangible personal property be exempted from taxation for more than ten return years.

No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property. If there are no minimum or maximum investment dollar amounts specified for a type of tangible personal property in the above statement or the dollar amounts are designated in the statement as not applicable, the exemption shall apply only as specified in the project as defined in Section 1 of this agreement.

5. **City of Jackson, Ohio** hereby grants **BF NLA, LLC**. 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 2020 nor extend beyond 2030."

<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>

YR 8
YR 9
YR 10

75%
75%
75%

BF NLA, LLC 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. **BF NLA, LLC.** 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 **City of Jackson, Ohio** once per year for each year the agreement is effective on the days and in the following form: check or certified check. The fee is to be paid to Jackson City Treasurer and made out to the City of Jackson, 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. "**BF NLA, LLC.** 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. **BF NLA, LLC.** 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 of Jackson, Ohio,** 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 City of Jackson, Ohio, revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless **BF NLA, LLC.** materially fails to fulfill its obligations under this agreement and **City of Jackson, Ohio,** terminates or modifies the exemptions from taxation granted under this agreement."

10. "If **BF NLA, LLC.** materially fails to fulfill its obligations under this agreement, or if the **City of Jackson, Ohio** determines that the certification as to delinquent taxes required by this agreement is fraudulent, the **City of Jackson, Ohio** may terminate or modify the exemptions from taxation granted under this agreement."

11. "**BF NLA, LLC.** hereby certifies that at the time this agreement is executed, **BF NLA, LLC.** 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 **BF NLA, LLC.** is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of

the Revised Code, or, if such delinquent taxes are owed, **BF NLA, LLC.** 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 **BF NLA, LLC.** 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."

12. **BF NLA, LLC.** 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.

13. "**BF NLA, LLC.** and the **City of Jackson, Ohio** acknowledge that this agreement must be approved by formal action of the legislative authority of the **City of Jackson, Ohio,** as a condition for the agreement to take effect. This agreement takes effect upon such approval."

14. "The **City of Jackson, Ohio** has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, **BF NLA, LLC.** 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.

15. "Exemptions from taxation granted under this agreement shall be revoked if it is determined that **BF NLA, LLC.,** 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."

16. **BF NLA, LLC.** 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 **BF NLA, LLC.** has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, **BF NLA, LLC.** 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.

17. "This agreement is not transferrable or assignable without the express, written approval of the **City of Jackson, Ohio.**"

IN WITNESS WHEREOF, the **City of Jackson, Ohio,** by Randy Heath, its Mayor, and pursuant to Ordinance No. 36-18 has caused this instrument to be executed this 23rd day of July, 2018, and **BF NLA, LLC.** by Mike Evans, its Senior Vice President, has caused this instrument to be executed on this 23rd day of July, 2018.

The City of Jackson, Ohio

By _____
Randy Heath, Mayor

BF NLA, LLC

By _____
Mike Evans, Senior Vice President

Approved as to form:

Joseph D. Kirby, Attorney City of Jackson

OHIO DEVELOPMENT SERVICES AGENCY
OHIO ENTERPRISE ZONE PROGRAM

EXHIBIT A

PROPOSED AGREEMENT for Enterprise Zone Tax Incentives between Jackson County, City of Jackson, & Jackson City School Districts, located in the County of JACKSON and BF NLA LLC (Bellisio Foods, Inc.).

- 1a. Name of business, home or main office address, contact person, and telephone number (attach additional pages if multiple enterprise participants).

<u>BF NLA LLC</u> enterprise name	<u>Matt Ballinger</u> contact person
<u>678-339-2017</u> telephone number	<u>3480 Preston Ridge Rd, Ste 575</u> <u>Alpharetta, GA 30005</u> address

- 1b. Project site:

<u>Ryan Wright</u> contact person	<u>612-490-8913</u> telephone number
<u>100 E Broadway St, Jackson, Ohio 45640</u> address	

- 2a. Nature of business (manufacturing, distribution, wholesale or other).
Food Manufacturing Plant
- 2b. List primary 6 digit NAICS # 311900 - Other Food Manufacturing.
Business may list other relevant SIC numbers.
SIC# 2038 FROZEN SPECIALTIES

- 2c. If a consolidation, what are the components of the consolidation? (must itemize the location, assets, and employment positions to be transferred)
 N/A
-
- 2d. Form of business of enterprise (corporation, partnership, proprietorship, or other).
 Limited Liability Corporation
-
3. Name of principal owner(s) or officers of the business (attach list if necessary).
 Mike Evans, Senior Vice President Ryan Wright, Vice President
-
4. Is business seasonal in nature? Yes___ No X
- 5a. State the enterprise's current employment level at the proposed project site:
 1,143 Jobs to be retained
-
- 5b. Will the project involve the relocation of employment positions or assets from one Ohio location to another? Note that relocation projects are restricted in non-distress based Ohio Enterprise Zones. A waiver from the Director of the Ohio Department of Development is available for special limited circumstances. The business and local jurisdiction should contact ODOD early in the discussions.

 Yes___ No X
- 5c. If yes, state the locations from which employment positions or assets will be relocated and the location to where the employment positions or assets will be located:
 N/A
-
- 5d. State the enterprise's current employment level in Ohio (itemized for full and part-time and permanent and temporary employees):
 1,143 full-time permanent jobs to be retained
-
- 5e. State the enterprise's current employment level for each facility to be affected by the relocation of employment positions or assets:
N/A
- 5f. What is the projected impact of the relocation, detailing the number and type of employees and/or assets to be relocated?
N/A
- 6a. Has the Enterprise previously entered into an Enterprise Zone Agreement with the local

9. Project will begin August 8 , 20 18 and be completed August 28 , 20 20 provided a tax exemption is provided.
- 10a. Estimate the number of new employees the business intends to hire at the facility that is the project site (job creation projection must be itemized by full and part-time and permanent and temporary):
- No new employees, retention of 1,143 full time permanent employees.
- 10b. State the time frame of this projected hiring: N/A
- 10c. State proposed schedule for hiring (itemize by full and part-time and permanent and temporary employees):
- N/A
- 11a. Estimate the amount of annual payroll such new employees will add \$ 476,125 (new annual payroll must be itemized by full and part-time and permanent and temporary new employees).
- Freezer 8: Although no new employees will be added, efficiencies will be gained, and payroll is expected to increase by \$476,125 due to increase in skilled labor. All positions are full time.
- Quality Center of Excellence: Although no new employees will be added, this will become the companies "Quality Center of Excellence" that will train and educate our employees and our customers about who we are and what our mission is. This addition and renovation will influence our company's future growth and brand recognition. Additional training facilities will increase employee knowledge and morale. All positions are full time.
- 11b. Indicate separately the amount of existing annual payroll relating to any job retention claim resulting from the project: \$42,145,823
12. Market value of the existing facility as determined for local property taxation.
- \$23,600,000
- 13a. Business's total current investment in the facility as of the proposal's submission.
- \$350,000,000
- 13b. State the businesses' value of on-site inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year (stated in average \$ value per most recent 12 month period) in which the agreement is entered into (baseline inventory):
- \$19,200,000

14. An estimate of the amount to be invested by the enterprise to establish, expand, renovate or occupy a facility:

	<u>Minimum</u>	<u>Maximum</u>
A.Acquisition of Buildings:	\$ 0	\$ 0
B.Additions/New Construction:	\$ 0	\$ 19,843,300
C.Improvements to existing buildings:	\$ 0	\$ 0
D.Machinery & Equipment:	\$ 0	\$ 12,094,454
E.Furniture & Fixtures:	\$ 0	\$ 0
F.Inventory:	\$ 0	\$ 0
Total New Project Investment:	\$ 0	\$ 31,937,754

15. a. Business requests the following tax exemption incentives: 75 % for 10 years covering real and personal property including inventory as described above. Be specific as to type of assets, rate, and term.

ALL

- b. Business's reasons for requesting tax incentives (be quantitatively specific as possible)

Since its inception, our company has continued to invest substantial monies in this facility and community. It is our position that to sustain our presence in this facility and community, we must invest in technology and automation to gain efficiencies. These investments will allow us to be competitive in our marketplace. We also believe that the community needs to stand with us as we make these investments by providing tax abatement.

Submission of this application expressly authorizes Jackson County, City of Jackson, & Jackson City School Districts to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #7 and to review applicable confidential records. As part of this application, the business may also be required to directly request from the Ohio Department of Taxation or complete a waiver form allowing the Ohio Department of Taxation to release specific tax records to the local jurisdictions considering the incentive request.

Applicant agrees to supply additional information upon request.

The applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefit as well as a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

BF NLA LLC (Bellisio Foods, Inc.)

June 15, 2018

Name of Enterprise

Date

Mike Evans, Senior Vice President

Signature

Typed Name and Title

* A copy of this proposal must be forwarded by the local governments to the affected Board of Education along with notice of the meeting date on which the local government will review the proposal. Notice must be given a minimum of fourteen (14) days prior to the scheduled meeting to permit the Board of Education to appear and/or comment before the legislative authorities considering the request.

** Attach to Final Enterprise Zone Agreement as Exhibit A

Please note that copies of this proposal must be included in the finalized Enterprise Zone Agreement and be forwarded to the Ohio Department of Taxation and the Ohio Development Services Agency within fifteen (15) days of final approval.