

## **CITY OF OBERLIN, OHIO**

### **RESOLUTION NO. R17-13 CMS**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ENTERPRISE ZONE AGREEMENT FOR REAL PROPERTY TAX ABATEMENT WITH CREEKSIDE PROPERTIES, LLC AND AGRINOMIX, LLC AND DECLARING AN EMERGENCY**

**WHEREAS, the Council of the City of Oberlin by Ordinance No. 91-23 adopted on May 6, 1991 and as amended by Ordinance 91-76 adopted September 16, 1991 and as affirmed by the Board of County Commissioners of Lorain County, Ohio by Resolution No. 91-591, designated the entire City as an “Enterprise Zone” pursuant to Chapter 5709 of the Ohio Revised Code; and**

**WHEREAS, effective September 21, 1991, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinances Nos. 91-23 and 91-76 contained the characteristics set forth in Section 5709.61 (A) of the Ohio Revised Code and certified the City of Oberlin as an Enterprise Zone under said Chapter 5709; and**

**WHEREAS, the City of Oberlin has continued to encourage development of real property and the acquisition of personal property since the City of Oberlin was designated as an Enterprise Zone; and**

**WHEREAS, Agrinomix is desirous of expanding its facility in the City’s Industrial Park at 300 Creekside Drive with a 19,250 sq. ft. addition of manufacturing space (the Project) provided that the appropriate development incentives are available to support the economic viability of said Project; and**

**WHEREAS, completion of the Project is necessary for the Company to invest in expansion of its operations which will result in the creation of a minimum of three (3) new permanent full-time jobs; and**

**WHEREAS, on August 1, 2017 the City’s Tax Incentive Negotiating Committee met and unanimously voted to recommend that an Agreement be approved consistent with the terms enumerated in the Agreement attached to this Resolution as Exhibit “A”; and**

**NOW THEREFORE, BE IT RESOLVED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:**

**SECTION 1. That the City Manager is hereby authorized and directed to enter into an Enterprise Zone Agreement with Creekside Properties, LLC and Agrinomix, LLC for its expansion project with terms specified in the Agreement attached to this Resolution as Exhibit “A”.**

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, or to provide for the usual daily operation of a municipal department to wit: to approve the execution of an Enterprise Zone Agreement without delay to facilitate the application process to enable construction prior to the onset of inclement weather, and shall take effect immediately upon passage.


PASSED: 1<sup>st</sup> Reading: August 21, 2017 (A)(E)

2<sup>nd</sup> Reading: \_\_\_\_\_

3<sup>rd</sup> Reading: \_\_\_\_\_

ATTEST:

  
\_\_\_\_\_  
BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL

  
\_\_\_\_\_  
RONNIE J. RIMBERT  
PRESIDENT OF COUNCIL

POSTED: 08/22/2017

EFFECTIVE DATE: 08/21/2017

## OHIO ENTERPRISE ZONE AGREEMENT

This Agreement (hereinafter "Agreement") is made and entered into by and between the City of Oberlin, Ohio, a municipal corporation, with its main offices located at Oberlin City Hall, 85 South Main Street, Oberlin, Ohio 44074 (hereinafter "Oberlin" or City), and AgriNomix, LLC, a Delaware Limited Liability Company (hereinafter "Company"), with its main offices located at 300 Creekside Drive, Oberlin, Ohio 44074 and Creekside Properties, LLC a Delaware Limited Liability Company with its primary offices located at 300 Creekside Drive, Oberlin, Ohio 44074 (hereinafter "Property Owner").

### WITNESSETH:

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

WHEREAS, the Company is desirous of building a new business expansion, i.e., construction of a new nineteen thousand two hundred fifty 19,250 square foot addition to their current facility on land currently owned by the Company and/or Property Owner (Lorain County, Ohio permanent parcel number 09-00-077-101-065) to house its expanding manufacturing, assembly, and wholesale distribution of automated farm and garden machinery and equipment for the commercial and residential markets hereinafter "Project" or "Project Site") 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, completion of the Project is necessary for the Company to invest in expansion of operations which will result in the creation of a minimum of three new permanent full-time jobs 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 Oberlin by Ordinance No. 91-23 adopted on May 6, 1991 and as amended by Ordinance 91-76 adopted September 16, 1991 and as affirmed by the Board of County Commissioners of Lorain County, Ohio by Resolution No. 91-591, designating the area as an "Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective September 21, 1991, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinances Nos. 91-23 and 91-76 contained 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 Oberlin with the approval of Board of County Commissioners of Lorain County, Ohio has the appropriate authority for the stated type of project and is desirous of providing the Company and/or Property Owner 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 to the City of Oberlin/Lorain County, and said application (hereinafter "APPLICATION" and attached as Exhibit A); and

WHEREAS, the Company 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 Manager of the City of Oberlin and the Lorain County Economic Development Department have investigated the application of the Company and has recommended the same to the Oberlin City Council (and The Board of County Commissioners of Lorain County, Ohio) 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 of Oberlin and Lorain County; and

WHEREAS, on August 7, 2017 the City's Tax Incentive Negotiating Committee (the "Committee") met and voted three (3) yea and one (1) abstention to recommend that an Agreement be approved consistent with the terms enumerated below; and

WHEREAS, the Project site as proposed by the Company is located in the Oberlin City School District and Lorain County Joint Vocation District and such Boards of Education of these school districts have been notified (Exhibits "B" and "C") in accordance with Ohio Revised Code 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, inconsideration 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. The Company and/or Property Owners shall construct and equip a new nineteen thousand two hundred and fifty (19,250) square foot addition to its existing facility located at 300 Creekside Drive, Oberlin, Ohio 44074.

An estimate of the amount to be invested by the enterprise to expand and equip its expanding manufacturing and distribution facility is as follows::

	<u>Minimum</u>	<u>Maximum</u>
A. Acquisition of Building:		
B. Additions/New Construction:	\$630,000	\$820,000
C. Improvements to Existing Buildings:	NA	NA
D. Machinery and Equipment:	\$000,000	\$000,000
E. Furniture and Fixtures:	\$000,000	\$000,000
F. Inventory:	\$000,000	\$000,000
Total New Project Investment	\$630,000	\$820,000

The Company and/or Property Owner shall commence the Project on or after September 1, 2017 and all acquisition, construction and installation will be completed by December 31, 2018, or such later date as may be approved by formal resolution of both the Oberlin City Council and the Board of County Commissioners of Lorain

County, Ohio and agreed to in writing by all parties as an amendment to this Agreement.

2. The total investment of this Expansion Project shall be greater than 10% of the market value of the facility assets owned at the Project Site prior to such expenditures, as provided in Exhibit A.
3. The Company shall create within a time period not exceeding three (3) years after the commencement of operation the hiring of three new full-time employees based on the following schedule: ; in year one (1), one new full-time employee, in year two (2), one new full-time employee, and in year three (3) one new full-time employee.

Jobs by Year after construction	New Full-Time Positions	New Temporary/Part-Time Positions
Year 1	1	0
Year 2	1	0
Year 3	1	0

The increase in the number of employees will result in approximately \$150,000 of additional annual full-time payroll for the Company. The retention of 37 existing full-time permanent jobs and the current additional temporary and part-time positions will result in a retained payroll of approximately \$1,928,545.

The Company and/or Property Owner shall create within a time period not exceeding 36 months after the commencement of construction of the aforesaid facility, the equivalent of three (3) 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 the Company and/or Property Owner will retain its current staff of 37 full-time permanent jobs at their Oberlin facility.

The Company and/or Property Owner's schedule for hiring is as follows: create - 0 - new jobs during construction; 1 new full-time permanent job in the first year after project completion; 1 new full-time permanent job in year two after project completion; and 1 new full-time permanent job in year three after project completion. The job creation period begins not later than January 1, 2019 and all jobs will be in place by December 31, 2022.

The Company currently has 37 full-time permanent employees, 2 part-time permanent employees and 2 full-time temporary employees at the project site. In total, the Company has 37 full-time permanent employees, 2 part-time permanent employees and 2 full-time temporary employees in the State of Ohio.

4. The Company shall provide to the proper Tax Incentive Review Council any information reasonably required by the Council to evaluate the Company's compliance with this Agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code, employment records or any other records that may be

reasonably requested by the Council or its designated representative(s).

5. The Company and/or Property Owner agrees to deliver to the City annually, but not later than sixty (60) days after the end of each calendar (fiscal) year for which abatement is claimed, a certificate listing all Project elements, their estimated costs and states of completion as well as actual or estimated capitalization dates for each project element.

This provision expires and no further reporting shall be required upon presentation of a final capitalization report being delivered to the City of Oberlin showing all project costs through project completion.

For purposes of this Section an internal project capitalization report from the Company is an acceptable reporting format.

6. Subject to compliance by the Company and Property Owner in all material respects with its obligations under this Agreement the City of Oberlin hereby grants to the Company and/or Property Owner a tax exemption for eligible real property improvements made to the Project Site pursuant to Sections 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code for the increased appraised valuation of property improved as a result of construction and completion of the Project as follows:

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

The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. Each appraisable improvement will receive a ten (10) year exemption period.

No real property exemption shall commence after January 1, 2019 or extend beyond December 31, 2028.

7. It is the responsibility of the Company or Property Owner to file, as appropriate, tax form DTE 24 or any other appropriate tax forms with the Lorain County Auditor to effect and maintain the real property exemption granted under this Agreement.

8. The Company and/or Property Owner hereby agrees to pay Lorain County, Ohio an annual fee equal to the greater of 1% of the dollar value of the tax exemption approved under this Agreement or five hundred dollars (\$500), and further agrees that in any year in which the value of the approved tax exemption exceeds two hundred fifty thousand dollars (\$250,000), the fee paid to the Lorain County shall not exceed two thousand five hundred dollars (\$2,500). The fee shall be made payable to Lorain County once per year for each year the Agreement is effective on the day and in the form of a Company check. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with O.R.C. Section 5709.68 and by the Council created under O.R.C. Section 5709.85 exclusively for the purposes of performing the duties prescribed under that Section.
9. The Company and/or Property Owner 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 are required by law. If the Company and/or Property Owner fails 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.
10. The City of Oberlin 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.
11. 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 Oberlin and/or Lorain County Board of Commissioners revokes the designation of the zone, entitlements granted under this Agreement shall continue for the number of years specified under the Agreement, unless Company and or Property Owner materially fails to fulfill its obligations under this Agreement or City of Oberlin and/or Lorain County Board of Commissioners terminates or Lorain County Board of Commissioners modifies the exemptions from taxation granted under this Agreement.
12. If the Company and or Property Owner materially fails to fulfill its obligations under this Agreement, or if the City of Oberlin and/or Lorain County Board of Commissioners determines that the certification as to delinquent taxes required by this Agreement is fraudulent, the City of Oberlin and/or Lorain County Board of Commissioners may terminate or modify all exemptions from taxation granted under this Agreement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this Agreement.

The Company and/or Property Owner will be found in default of its obligations under this agreement if it does not substantially meet its investment and job creation/retention goals and remain in operation at those levels at the Project Site for a minimum of five years from the date of this Agreement. The penalty for facility closing or substantial reduction in investment and/or employment will be a finding of default and shall require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement.

13. 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 and/or Property Owner is not equal to or greater than seventy-five percent of the number of employee positions estimated to be created or retained under this agreement during that three-year period, with an estimated payroll of approximately \$1,928,545, the Company and or Property Owner shall repay the amount of taxes 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 of Oberlin and/or Lorain County Board of Commissioners may terminate or Lorain County Board of Commissioners may modify the exemptions from taxation granted under this agreement.
14. The Company and Property Owner hereby certifies that at the time this Agreement is executed, Company and Property Owner do not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, does not owe delinquent taxes for which the Company and or Property Owner is liable under Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753 of the Revised Code, or, if such delinquent taxes are owed, the Company and or Property Owner currently is paying all 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 Company and or Property Owner. 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 Ohio Revised Code governing payment of those taxes.
15. The Company and or Property Owner 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 monies to the state or a state agency for the administration or enforcement of any environmental laws of the state; and (3) any other monies to the state or 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.
16. The Company and Property Owner and the City of Oberlin acknowledge that this Agreement must be approved by formal action of the legislative authority of the City of Oberlin and Lorain County as well as final approval by the State of Ohio as a



condition for the Agreement to take effect. This Agreement takes effect upon such approvals.

17. The City of Oberlin and Lorain County has developed a policy to ensure that recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this Agreement, the Company and or Property Owner 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.
18. Exemptions from taxation granted under this Agreement shall be revoked if it is determined that the Company and or Property Owner, 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 Sections 5709.62, 5709.63 or 5709.623 of the Ohio Revised Code prior to the time prescribed by that division or either of those Sections.
19. The Company and/or Property Owner 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 and or Property Owner has knowingly made a false statement to the state or local political subdivision to obtain the Enterprise Zone incentives, the Company and or Property Owner shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to O.R.C. Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the state, any state agency or political subdivision pursuant to O.R.C. 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 O.R.C. Section 2921.13(D)(I), which is punishable by a fine of not more than \$1,000.00 and/or a term of imprisonment of not more than six months.
20. This Agreement is not transferable or assignable without the express written approval of the City of Oberlin and Lorain County.
21. Any notices, statements, acknowledgments, consents, approvals, certificates or requests on behalf of either party shall be made in writing and addressed as follows:

AS TO AGRINOMIX AND CREEKSIDE PROPERTIES, LLC:  
AgriNomix, LLC  
Attention: Robert Lando  
300 Creekside Drive

Oberlin, Ohio 44074

AS TO THE CITY OF OBERLIN:

The City of Oberlin, Ohio  
Attention: City Manager  
85 South Main Street  
Oberlin, Ohio 44074

WITH COPY TO:

The City of Oberlin, Ohio  
Attention: Director of Development  
85 South Main Street  
Oberlin, Ohio 44074

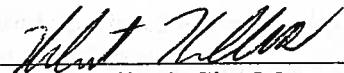
AS TO LORAIN COUNTY:

Lorain County Community Development  
Attention: Director of Development  
226 Middle Avenue – 5<sup>th</sup> Floor  
Elyria, Ohio 44035

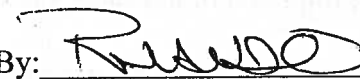
or to such other contact or address as may be specified by such notice from time to time in writing.

IN WITNESS WHEREOF, the City of Oberlin by Robert Hillard, it's City Manager pursuant to Resolution No. R17-13 CMS, and AgriNomix, LLC by Robert Lando, its Managing Member, and Creekside Properties, LLC by Robert Lando, its Managing Member have caused this agreement to be executed on this 25 day of August, 2017.

THE CITY OF OBERLIN, OHIO

By:   
Robert Hilard, City Manager

AGRINOMIX, LLC

By:   
Robert Lando, Managing Member

CREEKSIDE PROPERTIES, LLC


By:   
Robert Lando, Managing Member

Consent of Lorain County: Subject to the conditions set forth above, and pursuant to Resolution number 17-553 adopted by the Lorain County Commissioners on August 23, 2017 the County hereby consents to the Agreement

**THE BOARD OF COUNTY  
COMMISSIONERS OF LORAIN COUNTY  
OHIO**

By: Jeri Kohoski

APPROVED AS TO FORM:

  
\_\_\_\_\_  
(Law Director)

JG  
Final





10c. State proposed schedule for hiring (itemize by full and part-time and permanent and temporary employees): **Year 1: 1 permanent full-time**  
**Year 2: 1 permanent full-time**  
**Year 3: 1 permanent full-time**

11a. Estimate the amount of annual payroll such new employees will add \$ **150,000** (new annual payroll must be itemized by full and part-time and permanent and temporary new employees). **Year 1: \$60,000**  
**Year 2: \$45,000**  
**Year 3: \$45,000**

11b. Indicate separately the amount of existing annual payroll relating to any job retention claim resulting from the project: \$     N/A

12. Market value of the existing facility as determined for local property taxation.  
**\$2,500,000**

13a. Business's total current investment in the facility as of the proposal's submission.  
**\$3,800,000**

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):  
**\$4,000,000; PPT no longer applies**

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:	\$	\$
B.Additions/New Construction:	<b>\$ 630,000</b>	<b>\$ 820,000</b>
C.Improvements to existing buildings:	\$	\$
D.Machinery & Equipment:	\$	\$
E.Furniture & Fixtures:	\$	\$
F.Inventory:	\$	\$
<b>Total New Project Investment:</b>	<b>\$</b>	<b>\$</b>

15. a. Business requests the following tax exemption incentives:    75    % for    10    years covering real **property** and/or personal property including inventory    -    as described above. Be specific as to type of assets, rate, and term.  
**We are requesting a 75% tax exemption on the warehouse addition for 10 years.**

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

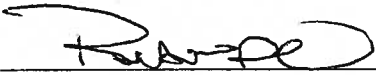
A tax incentive would aid in keeping AgriNomix LLC a viable business in the  
City of Oberlin. The expansion will create several new jobs and will  
generate thousands of dollars in payroll tax revenue.

Submission of this application expressly authorizes (name of the local jurisdiction) and/of (name of county) 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.

**AgriNomix LLC/Creekside Properties LLC      7/20/17**

Name of Enterprise	Date
	<b>Robert Lando, Managing Member</b>
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.

