

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A NEW CITY JOBS CREATION TAX CREDIT AGREEMENT WITH OECONNECTION LLC AND DECLARING AN EMERGENCY

BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into a New City Jobs Creation Tax Credit Agreement with OEConnection LLC, a copy of which Agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

SECTION 2. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to provide for new employment opportunities in the Village at the earliest possible time; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: March 18, 2003


President of Council


Mayor

Dated: 3/20/2003

ATTEST:

Clerk of Council

NEW CITY JOBS CREATION TAX CREDIT AGREEMENT

THIS AGREEMENT is made and entered into this 4th day of April, 2003 by and between the Village of Richfield, Ohio, a municipal corporation (the "Village") and OEConnection LLC, a Delaware limited liability company (the "Company")

RECITALS

The Company has its corporate offices located at 3900 Kinross Lakes Parkway, Richfield, Ohio 44286. The Company is seeking to lease the facilities located at 4150 Highlander Drive, Richfield, Ohio.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties, intending to be legally bound, agree as follows:

1. Findings and Conclusions of the Village.

A. The Village hereby finds that:

a. The Company has the financial responsibility and business experience to create and preserve employment opportunities in the Village and to improve the economic climate of the Village, County, State and surrounding areas.

b. The Company proposes to lease approximately 18,500 square feet in the Village and invest in associated equipment, furniture, fixtures and leasehold improvements valued at approximately \$1.4 million (the "Project").

c. The Project (i) will create jobs in the State, Village and County, (ii) is economically sound and will increase opportunities for employment and strengthen the economy of these areas and (iii) receive the tax credits provided in O.R.C. Sections 122.17 and 718.08 are major factors in the Company's decision to undertake the Project in the State and Village.

d. For the purposes of this Agreement, a "Qualified New Employee" means any new full-time employee hired within seven (7) years of the "Beginning Date" which the Company projects to be thirty-one (31) full-time employees at the Project.

e. For the purposes of this Agreement, the "Beginning Date" is January 1, 2004.

B. The Village has reviewed the Project and the Project has been approved by the Village.

C. The Village has submitted parts of the Economic Development Incentive Package to its Village Council (the "Council") for its review and approval and all parts submitted have been approved.

2. The Project

Subject to the conditions contained in this Agreement, the Company shall develop the Project at 4150 Highlander Drive, Richfield, Ohio (the "Premises")

The value of the equipment, leasehold improvements and associated fixed assets which will be acquired is approximately \$1.4 million. The Project shall commence on or about April 1, 2003.

3. Creation of New Jobs.

The Company shall use its best efforts within seven (7) years after the Beginning Date to create or cause to be created approximately thirty-one (31) new full-time, permanent jobs in support of growth of the Company and the Project. The estimated payroll of the thirty-one (31) new jobs is estimated to be approximately \$2,085,525.00.

It is estimated that this Project and the Company's operations will generate additional revenue for the Village and other governmental entities. The Project will have a significant economic impact upon the Village, State, County and all surrounding communities and assist these governmental bodies in their on-going efforts to improve the quality of life, health, education and economic opportunity in northeast Ohio.

4. New Job Tax Credits.

A. The Village acknowledges that Substitute Senate Bill No. 363 (the "Legislation") was enacted by the General Assembly of the State and signed by the Governor of the State and this Legislation authorizes credits against corporate franchise, state income tax and municipal income tax for businesses that create new jobs in Ohio and that the Project will create approximately thirty-one (31) jobs by the Company. To stimulate this job creation and to enhance the economic growth and stability of the Village, State, County and surrounding areas, the Village and the State hereby find that (i) the Project will create new jobs in the Village and State; (ii) the Project is economically sound and will benefit the people of Ohio and the Village by increasing opportunities for employment and strengthen the economy of the State and the Village; and (iii) receiving the corporate franchise or corporate income tax credits and the municipal income tax credits provided by the Legislation is a major factor in the Company's decision to develop the Project in the Village and the State.

B. The Company has submitted an application to the Tax Credit Authority (the "Authority") of the State. The application has been reviewed by the Authority and the Authority has granted the Company a new job creation tax credit (the "Tax Credit") of fifty-five percent (55%) of the new income tax revenue received by the State from new employees hired by the Company as a result of the development of the Project and its operations in the Village for seven (7) years. The Tax Credit shall relate to all Qualified New Employees at the Premises hired as a result of the development of the Project with the first year of the credit being the year commencing January 1, 2004 and for seven (7) consecutive fiscal years of the Company thereafter (the "Tax Credit Period").

The Company shall submit annually to the Finance Director (the "Village Finance Director") and to the Village, copies of the State Department of Development Director's certificate of verification; provided, however, failure by the Company to submit a copy of the certificate does not invalidate a claim for the Tax Credit.

The Company agrees that if no application to the Tax Credit Authority of the State is made or if the Authority does not grant the Tax Credit as referenced in the preceding paragraph, then this Agreement is null and void and the Village shall have no further obligation to grant a New Jobs Tax Credit to the Company.

The Company shall also submit to the Village Finance Director the following information to verify such Village Tax Credits.

1. An annual, cumulative, alphabetical list of all new employees, employed at the Premises, pursuant to this Agreement with the following information:

- a. name;
- b. address;
- c. social security number;
- d. hire date;
- e. the individual gross wages for the applicable year for FICA purposes of each new employee; and
- f. the individual amount of Village withholding tax withheld from each new employee's wage.

2. A calculation of the Village Tax Credit for the applicable year shall be determined as follows:

The Total Amount of Village of Richfield Income Tax Withheld From
New Employees During the Applicable Tax Year

X

The Applicable Tax Credit Percentage (13.25%)

=

The Tax Credit for the Applicable Tax Year

The Village and all its departments acknowledge that all this information is confidential and agree that it shall be used only for the computation and verification of the Village Tax Credit. The Village agrees that it shall not disclose this information to any person(s) not needing this information for such computation or verification.

C. The Village acknowledges that the Authority has granted the Tax Credit described in paragraph B above. Pursuant to approval by Village Council (Resolution No. 26-2003,

passed March 16, 2003) and in compliance with the Legislation, the Village grants a New Jobs Tax Credit of thirteen and 25/100 percent (13.25%) (the "Village Tax Credit") of the Village's income tax revenue derived from the wages of the Qualified New Employees employed by the Company at the Premises as a result of the Project for a period of seven (7) years. The parties agree that should the Village Tax Credit reduce the Company's Village Income Tax liability below zero in any year during the period the Village Tax Credit, the Village shall refund the difference of the Company's unused Village Tax Credit to the Company in each of such years.

The parties further agree that the Company may rely on the calculation described in paragraph B above, and that no further certificate or otherwise is required to be received from the Village in order to claim the Village's Tax Credit on the Company's Village income tax return.

The Village hereby grants the Company the Village Tax Credit commencing with the year beginning January 1, 2004 and for seven (7) consecutive fiscal years thereafter.

D. The Village and the Company agree to take any and all action necessary or appropriate to effect, claim, preserve and maintain the tax credits described in this Agreement, including without limitation, joining in the execution of all applications, agreements and other documents and providing any necessary certifications or designations required in connection with the new Tax Credit and the Village Tax Credit.

5. The Company agrees that it should move its operations, close the facility or be placed in receivership or bankruptcy, this contract shall be automatically terminated and the Village shall have no further obligation to grant a New Jobs Tax Credit to the Company.

6. Miscellaneous.

A. Successors and Assigns. The terms and provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns (including successive as well as immediate successors and assigns).

B. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

C. Waiver. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of such party thereafter to enforce each and every provision. No waiver of any breach of or noncompliance with this Agreement shall be held to be a waiver of any other or subsequent breach or noncompliance.

D. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.

E. Provisions Severable. If any provision of this Agreement or the application of any such provision to any such person or any circumstance shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision of this Agreement or the application of such provisions to any other person or circumstance, all of which other provisions shall remain in full force and effect; and, if any provision of this Agreement is capable of two constructions, one of which would render the provision invalid, then such provision shall have the meaning which renders it valid.

F. Captions. The captions contained in this Agreement were included only for convenience or reference and do not define, limit, explain or modify this Agreement or its interpretation, construction or meaning and are in no way to be construed as a part of this Agreement.

G. Assignment. The Company shall have the right to assign this Agreement to any of its successors or assigns.

H. Notifications. Any notices, statements, acknowledgments, consents, approvals, certificates or requests required to be given on behalf of any party to this Agreement shall be made in writing addressed as follows and sent by registered or certified mail, return receipt requested:

If to the Village: Village of Richfield
4410 West Streetsboro Road
P. O. Box 387
Richfield, OH 44286-0387
Attention: Mayor

with a copy to: Charles T. Riehl, Esq.
Walter & Haverfield LLP
1300 Terminal Tower
Cleveland, OH 44113-2235

If to the Company: OEConnection LLC
3900 Kinross Lakes Parkway
Richfield, OH 44286
Attn: Paul R. Johnson

or at such other address as may be specified by any party, from time to time, by prior written notification.

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed by their duly authorized representatives to be effective as of the date first above written.

Signed in the presence of:

Jo Ann Maspin

Sammy Lang

Steven P. Durbin

Paul R. Johnson

APPROVED AS TO FORM:

[Signature]

Law Director, Village of Richfield

VILLAGE OF RICHFIELD

By: Donald H. Larsen
Its Mayor

And: Elaine Lakovic
Its Finance Director

OECONNECTION LLC

By: Paul R. Johnson
Paul R. Johnson, Vice President, CAO

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PASSED: March 18, 2003

[Signature]
President of Council

[Signature]
Mayor

Dated: 3/20/2003

ATTEST:
[Signature]
Clerk of Council

I, Carole Gibson Clerk of Council of the Village of Richfield, Ohio, hereby certify that the foregoing is a true and correct copy of Resolution No. 26-2003 ^{as amended} adopted by the Council on March 18, 2003
[Signature]
4-1-2003