

RESOLUTION NO. 20-45

A Resolution Authorizing the Execution of a Tax Abatement Agreement by and between OEP, Inc., and the City of Commerce Texas, relative to a project in Reinvestment Zone Number 2020-01 in the City of Commerce, Texas

- WHEREAS, OEP, Inc. (hereinafter referred to as "OEP") has submitted to the City of Commerce ("City") an application for economic development incentives for its proposed renovation ("Project") in Reinvestment Zone Number 2020-01 of the City of Commerce; and
- WHEREAS, The Commerce City Council has elected to participate in tax abatements in accordance with TEX. TAX CODE ANN. Chapter 312, and has adopted policy statements, guidelines, criteria and procedures for evaluating and considering applications and agreements for such incentives; and
- WHEREAS, the ultimate goal and public purpose of agreements and programs established under the CITY's economic development policies is to protect and enhance CITY's fiscal ability to provide high quality municipal services for the safety, comfort and enjoyment of CITY residents; and
- WHEREAS, the CITY finds that the administration of a program of incentives to OEP ("Program") in exchange for OEP's completion of the Project proposed by OEP, which would contribute to the retention or expansion of employment in the CITY and would attract major investment, which would contribute to the economic development of the CITY; and
- WHEREAS, the CITY finds that the proposed tax abatement offered to OEP in exchange for OEP's completion of the Project proposed by OEP would increase and preserve the tax base, provide quality employment opportunities in the City, and contribute to the diversity and quality of Commerce's business community; and
- WHEREAS, the CITY has determined that the Program will directly establish a public purpose and that all transactions involving the use of public funds and resources in the establishment and administration of the Program contain sufficient controls to ensure that the public purpose is carried out; and
- WHEREAS, the CITY finds that the Project meets the applicable guidelines, criteria, and minimum requirements previously established by CITY; and
- WHEREAS, based on these findings, CITY proposes to execute a Tax Abatement Agreement relative to allowing OEP a graduated tax abatement of the Added Market Value of the Eligible Real Property annually for a period of

ten (10) years from the tax year beginning January 1, 2021 through and including tax year beginning January 1, 2030;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Commerce, Texas:

I.

That all of the recitals contained in the preamble of this Resolution are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

II.

That the City Manager or his designee is hereby authorized to execute a Tax Abatement Agreement with OEP, Inc. and other necessary required parties. A substantial copy of the Agreement is attached as Exhibit "A".

III.

In authorizing the execution of and in executing the referenced agreement, the City of Commerce, Texas, through its City Council and City officials, hereby exercises a governmental function in accordance with but not limited to Section 101.0215 of the Texas Civil Practices and Remedies Code.

IV.

The effective date of the Tax Abatement Agreement shall be upon the second reading of the ordinance establishing Reinvestment Zone Number 2020-01 on the 27th day of October 2020.

PRESENTED AND PASSED on this the 22nd day of October 2020, by a vote of 4 ayes and 0 nays at a special and called meeting of the City Council of the City of Commerce, Texas.

APPROVED AS TO FORM:

By: Charles R. Anderson
Charles R. Anderson, City Attorney

Wyman Williams
Wyman Williams, Mayor

ATTEST:

Molly Jacobsen
Molly Jacobsen, City Secretary

EXHIBIT "A"

THE STATE OF TEXAS

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COUNTY OF HUNT

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TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement ("AGREEMENT") is entered into by and between the City of Commerce, Texas, a Texas municipality, acting herein by and through its City Manager, (the "City"), and OEP, Inc., a duly organized corporation acting by and through its authorized representative (the "Company").

WITNESSETH

WHEREAS, the City has previously adopted a policy on Economic Development Incentives constituting appropriate guidelines and criteria governing Tax Abatement Agreements to be entered into by the City; and

WHEREAS, CITY has found that providing a program of incentives to OWNER in exchange for OWNER'S construction of improvements to the existing plant would promote local economic development and stimulate business and commercial activity and retain jobs within the City of Commerce; and

WHEREAS, in order to enhance the commercial-industrial economic employment base of the Commerce area for the long-term interest and benefit of the City; and

WHEREAS, in order to attract major investment that would be a benefit to the property and that would contribute to the economic development of the municipality; and

WHEREAS, the contemplated use of the property, as herein defined, the contemplated improvements to the property and the other terms hereof are consistent with encouraging development of the City with the purpose for its creation and are in compliance with the City's policy on Economic Development Incentives and the Resolution adopted by the City and all applicable laws;

NOW, THEREFORE, the parties hereto do mutually understand and agree as follows:

1. The property to be the subject of this AGREEMENT shall be that:

Tract No. 1 (ZURN Legal Description): DESCRIPTION OF A 58.766 Acre Tract of Land situated in Hunt County, Texas, in the Swartout Survey, A-1022 and the Sayle Survey, A-1276.

BEING a tract parcel of land situated in Hunt County, Texas, being part of the Samuel Swartout Survey, Abstract No. 1022, and the N. A. Sayle Survey, Abstract No. 1276, and being the tract conveyed by Christeene Bullard to the Commerce Industrial Development Association by deed dated December 18, 1980, and recorded in the Deed Records of Hunt County in Volume 863, at Page 881, and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the centerline of a county road with the northerly line in a flare in the right-of-way of State Highway No. 11, said point being at the northwesterly corner of 1.858 acres conveyed by Knight to the State of Texas by deed recorded

in said Deed Records in Volume 497, Page 538, said point also being at the most northerly southwest corner of said Bullard to Commerce Industrial Development Association tract;

THENCE N 1 deg. 05 min. 05 sec. E along said centerline of county road and west line of said Bullard to Commerce tract 1233.92 feet to an iron pin set in the southwesterly right-of-way line of the St. Louis and Southwestern Railroad, for a corner;

THENCE S 42 deg. 02 min. 54 sec. E. along said southwesterly right-of-way line 862.09 feet to an iron rod pin set at the beginning of a curve to the left in said right-of-way line, said curve having a radius of 2914.79 feet and a central angle of 22 deg. 41 min. 21 sec.;;

THENCE in a southeasterly direction along said curve and right-of-way line 1154.27 feet to an iron pin set at the end of said curve;

THENCE S 64 deg. 48 min. 07 sec. E. along said right-of-way line 814.68 feet to an iron pin set at the northeast corner of said Bullard to Commerce Tract, for a corner;

THENCE S 270 deg. 50 min. 54 sec. W. along the easterly line of said Bullard to Commerce tract 1298.68 feet to an iron pin set in the northeasterly right-of-way line of said State Highway No. 11, for a corner;

THENCE N 48 deg. 42 min. 00 sec. W. along said northeasterly right-of-way line 2092.66 feet to a concrete highway monument found at a flare in said right-of-way, for a corner;

THENCE N 11 deg. 30 min. 42 sec. W. along an easterly line of said flare 218.10 feet to an iron pin set, for a corner;

THENCE S 78 deg. 29 min. 18 sec. W. along the northerly line of said flare 40.00 feet to return to the place of BEGINNING and containing 58.766 acres of land of which 0.597 acres, more or less, lie in said county road, being the same property described in that one certain deed dated June 18, 1982 from COMMERCE INUSTRAIL DEVELOPMENT ASSOCIATION to WALLACE MURRAY CORPORATION.

2. The Company agrees and covenants that it will diligently and faithfully, in a good and workmanlike manner, pursue the completion of any improvements necessary to commence operation of its business on the Property. Company further covenants and agrees that all construction of any such improvements will be in accordance with all applicable state and local laws, codes, and regulations or valid waiver thereof. In further consideration, Company shall thereafter, from the date a Certificate of Occupancy is issued by the City of Commerce, Texas until the expiration of the Lease, continuously operate and maintain the Property per the terms of said Lease.
3. The City represents and warrants that the Property does not include any property that is owned by a member of the City Council or Planning and Zoning Commission.
4. The terms and conditions of the AGREEMENT are binding upon the successors and assigns of all parties hereto. However, this AGREEMENT cannot be assigned by Company other than to a wholly owned subsidiary of Company unless written permission is first granted by the City, which permission shall be at the sole discretion of the City.

5. It is understood and agreed between the parties that the Company, in performing its obligations hereunder, is acting independently, and the City assumes no responsibility or liability in connection herewith to third parties and Company agrees to indemnify and hold harmless the City therefrom; it is further understood and agreed among the parties that the City, in performing its obligations hereunder, is acting independently, and the Company assumes no responsibility or liability in connection therewith to third parties and the City agrees to indemnify and hold harmless the Company therefrom.
6. The Company further agrees that the City, its agents and employees, shall have reasonable right of access to the property to inspect the improvements in order to insure that the construction of any such improvements are in accordance with this AGREEMENT, and all applicable state and local laws and regulations or valid waiver thereof. After completion of the improvements, the City shall have the continuing right to inspect the Property to ensure that it is thereafter maintained and operated in accordance with this AGREEMENT during the term of the AGREEMENT.
7. Subject to the terms and conditions of this AGREEMENT, and subject to the rights and holders of any outstanding bonds of the City, ad valorem real property taxes of the Added Market Value to the Eligible Property improvements on the Property shall be entitled to a real property exemption for the Agreement and for the time equal to the following schedule:

TAX ABATEMENT SCHEDULE

<u>YEAR</u>	<u>VALUE TO BE ABATED</u>
1	100%
2	90%
3	80%
4	70%
5	60%
6	50%
7	40%
8	30%
9	20%
10	10%

8. City may declare Company in default of Abatement Agreement if: (1) Company fails to comply with any term of Abatement Agreement or (2) Company allows ad valorem taxes on any Eligible Property or Ineligible Property, or any property located thereon, to become delinquent, or (3) ceases operations on the Real Property for a continuous period of one

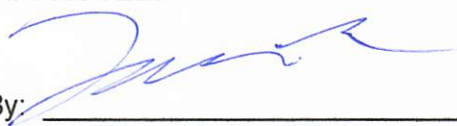
hundred eighty (180) days before the expiration of the term of the Abatement without the prior written consent of the City, except that (i) a temporary shutdown of the facility, with assurance of the resumption of operations, for the purpose of facility modification, expansion, improvement, retooling or similar purpose, (ii) in the event the facility is being actively marketed, the City shall not unreasonably withhold consent to a reasonable extension to such period to permit the sale of the facility to another operator, or (iii) the closure of the facility pending settlement of insurance, casualty or condemnation claims. Such exceptions are subject to further extension for force majeure.

9. City shall notify Company of any default in writing specifying the default. Company shall have ninety (90) days from the date of the notice to cure any default. If Company fails to cure the default within ninety (90) days from receipt of notice, City may terminate Abatement Agreement by written notice.
10. If Abatement Agreement is terminated by City, Company agrees that they are liable for and will pay to the Hunt County Tax Office of the receipt of the tax statement:
 1. The full amount of the taxes abated for the calendar year in which any default on the terms of the Abatement Agreement occurs and will thenceforth be responsible for the taxes for all future years, but not retroactively on years prior to default.
 2. This section only applies to the taxes abated by City, and the City makes no representation of agreement on behalf of the other Taxing Entities.
11. This paragraph is required by Chapter 2264, TEXAS GOVERNMENT CODE and governs over any conflicting provisions of the Abatement Agreement. Company is prohibited from knowingly employing undocumented worker as that term is defined in Section 2264.001, TEXAS GOVERNMENT CODE. If Company is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered a default of the Abatement Agreement, from which no cure provisions shall apply. In such event, City shall provide written notice to Company of the default and the Abatement Agreement shall automatically terminate on the 30th day after the date of the notice of default from City to Company. In the event of termination under this paragraph, Company shall repay to City the amount of all property taxes abated under the Abatement Agreement, plus interest on the abated amount at the rate provided for in the TEXAS TAX CODE for delinquent taxes.
12. In the event that an agreement regarding abatement of taxes is reached between Company and other taxing entities, including but not limited to Hunt County Hospital District and/or Hunt County, the terms and conditions of Event of Default Sections (a)-(f) above shall apply to each respective entity as is appropriate.
13. This AGREEMENT was authorized by resolution of the City Council at a special meeting scheduled and held on the 22nd day of October 2020, authorizing the City Manager to execute the AGREEMENT on behalf of the City.
14. This AGREEMENT was entered into by OEP, Inc., by a representative authorized to execute the AGREEMENT on behalf of the Company.

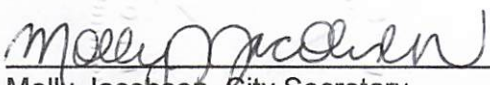
15. This AGREEMENT shall constitute a valid and binding AGREEMENT between the City and OEP, Inc. when executed in accordance herewith, regardless of whether any other taxing unit executes a similar agreement for abatement.

This AGREEMENT is performable in Hunt County, Texas, and will become effective upon the second reading of the Ordinance establishing Reinvestment Zone No. 2020-01 on October 27, 2020. Witness our hands this 22nd day of October 2020.

APPROVED:

By: 
Ned Muse, Acting City Manager

ATTEST:


Molly Jacobsen, City Secretary

OEP, INC.

By: _____

**PUBLIC NOTICE OF CITY COUNCIL MEETING FOR
CONSIDERATION OF A TAX ABATEMENT AGREEMENT FOR
PROPERTY LOCATED IN THE CITY OF COMMERCE, TEXAS**

The City Council of the City of Commerce, Texas (the "City"), following creation of Reinvestment Zone 2020-01, in the City of Commerce, Texas, will consider entering into a Tax Abatement Agreement, as follows:

1. The name of the property owner is OEP, INC. and the applicant for the Tax Abatement Agreement is OEP, INC.
2. The name of the reinvestment zone shall be Reinvestment Zone No. 2020-01 and the location is 116 Maple Street, Commerce, Texas and more particularly as shown on file and open for public inspection in the office of the City Secretary at Commerce City Hall, 1119 Alamo Street, Commerce, Texas 75428.
3. The improvements to be included in the Tax Abatement Agreement generally consist of renovations and improvements to existing facility to be used primarily for manufacturing, warehousing and distribution and related improvements.
4. The estimated costs of the improvements are \$1,423,000.00.
5. Pursuant to the Texas Open Meetings Act (the "Act"), the City will consider approval of the Tax Abatement Agreement at 6:00 p.m. on October 22, 2020 in the City Council chambers in the City Hall, 1119 Alamo Street, Commerce, Texas 75428.

This Notice shall remain continuously posted for at least 30 days prior to the meeting and shall be posted in the same manner as required by the Act for a City Council meeting.

**PUBLIC NOTICE OF CITY COUNCIL MEETING FOR
CONSIDERATION OF A TAX ABATEMENT AGREEMENT FOR
PROPERTY LOCATED IN THE CITY OF COMMERCE, TEXAS**

The City Council of the City of Commerce, Texas (the "City"), following creation of Reinvestment Zone 2020-01, in the City of Commerce, Texas, will consider entering into a Tax Abatement Agreement, as follows:

1. The name of the real property owner of the location which is the subject of the Agreement is OEP, Inc. and the applicant for the Tax Abatement Agreement is HUARU GROUP HOLDING, INC.
2. The name of the reinvestment zone shall be Reinvestment Zone No. 2020-01 and the location is 116 Maple Street, Commerce, Texas and more particularly as shown on file and open for public inspection in the office of the City Secretary at Commerce City Hall, 1119 Alamo Street, Commerce, Texas 75428.
3. The improvements to be included in the Tax Abatement Agreement generally consist of new machinery and equipment to be installed in an existing facility to be used primarily for manufacturing, warehousing and distribution and related improvements.
4. The estimate costs of the improvements are \$6,000,000.00.
5. Pursuant to the Texas Open Meetings Act (the "Act"), the City will consider approval of the Tax Abatement Agreement at 6:00 p.m. on October 22, 2020 in the City Council chambers in the City Hall, 1119 Alamo Street, Commerce, Texas 75428.

This Notice shall remain continuously posted for at least 30 days prior to the meeting and shall be posted in the same manner as required by the Act for a City Council meeting.

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS
HUNT COUNTY
CITY OF COMMERCE

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We, the undersigned officers of the City of Commerce, Texas, hereby certify as follows:

1. The City Council of the City convened in regular meeting on the 15th day of December, 2020, at the regular designated meeting place, and the roll was called of the duly constituted officers and members of the City Council, to-wit:

Wyman Williams, Mayor
Anthony Henry, Place 1
Beckey Thompson, Place 2
Stephanie Muller, Place 3
Gene Lockhart, Place 4 and Mayor Pro Tem

Molly Jacobsen, City Secretary

and all of said persons were present, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written resolution entitled

RESOLUTION DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND RESOLVING OTHER MATTERS RELATING TO THE SUBJECT

was duly introduced for the consideration of the City Council (the "Resolution"). It was then duly moved and seconded that the Resolution be adopted and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

NAY: None

ABSTAIN: None

2. A true, full and correct copy of the Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Resolution has been duly recorded in the City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of said Meeting pertaining to the adoption of the Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; that each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

3. The Mayor of the City has approved and hereby approves the Resolution; that the Mayor and the City Secretary of the City have duly signed the Resolution; and that the Mayor and the City Secretary of the City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of the Resolution for all purposes.

SIGNED this December 15, 2020.



Molly Jacobsen
City Secretary, City of Commerce, Texas



Wyman Williams
Mayor, City of Commerce, Texas