

JOHNSON COUNTY COMMISSIONERS COURT

Filed For Record 1-14



JAN 28 2013

Becky Williams
County Clerk, Johnson County Texas

BY aw DEPUTY

JERRY D. STRINGER
Commissioner Pct. #3

DON BEESON
Commissioner Pct. #4

RICK BAILEY
Commissioner Pct. #1

ROGER HARMON
County Judge

Alison Hitchcock
Assistant to Commissioner's Court

KENNY HOWELL
Commissioner Pct. #2

THE STATE OF TEXAS

§
§
§

COUNTY OF JOHNSON

ORDER #2013-05

TAX ABATEMENT AGREEMENT WITH TECHNICAL CHEMICAL COMPANY

BE IT REMEMBERED, at a regular meeting of the Commissioners' Court of Johnson County, held on the 28th day of January, 2013, on motion made by Commissioner Don Beeson, and seconded by Commissioner Jerry Stringer, the following Order was adopted:

WHEREAS, the City of Cleburne has designated a parcel of property located within the City's jurisdiction as described in Attached Exhibit "A" which is known as the Reinvestment Zone 02-2012 established by City Order ORR11-2012-56 pursuant to V.T.C.A., Tax Code, Chapter 312; and

WHEREAS, Dudley Holdings LLC by and through its subsidiaries, including, but not limited to 2005 Dudley R.M. Holdings LP and Technical Chemical Company (all hereinafter referred to collectively as Technical Chemical Company) owns the property located within said Reinvestment Zone; and

WHEREAS, Johnson County is authorized pursuant to Section 312.402 of V.T.C.A., Tax Code to enter into a Tax Abatement Agreement with Technical Chemical Company.; and

WHEREAS, Technical Chemical Company is proposing to build a new facility on the property increasing the improvement value by \$13,500,000.00 and also to hire 20 new employees, said improvements detailed in Attached Exhibit "B"; and

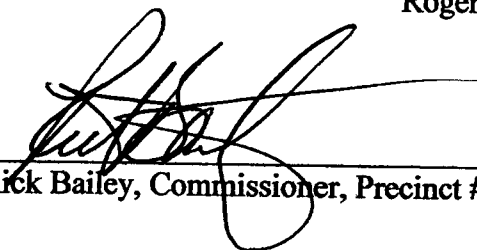
WHEREAS, the Johnson County Commissioners' Court has adopted a policy that establishes the criteria that the County will use to evaluate tax abatement requests; and

WHEREAS, the criteria for the Tax Abatement Agreement between Johnson County and Technical Chemical Company will provide for an Abatement of fifty percent of the increased value over a 5 year period;

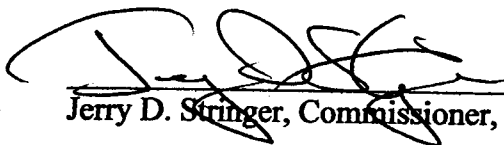
NOW THEREFORE BE IT ORDERED, ADJUDGED AND DECREED, that the Commissioners Court hereby and herewith authorizes the County Judge to execute an abatement agreement between Johnson County and Technical Chemical Company consistent with both the aforesaid terms as to amount of improvements and the level and term of the abatement and the guidelines and criteria previously adopted by the Commissioners' Court.

SO ORDERED IN OPEN COURT this 28th day of January, 2013

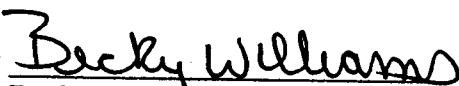

Roger Harmon, Johnson County Judge

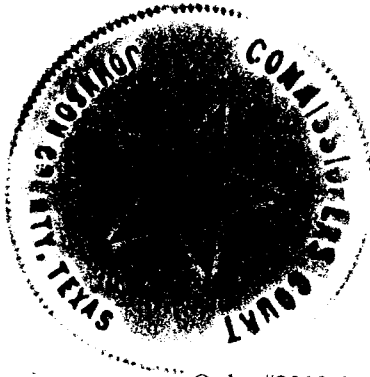

Rick Bailey, Commissioner, Precinct #1


Kenny Howell, Commissioner, Precinct #2


Jerry D. Stringer, Commissioner, Precinct #3


Don Beeson, Commissioner, Precinct #4

ATTEST: 
Becky Williams, County Clerk



TAX ABATEMENT AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF JOHNSON §

WHEREAS, the City of Cleburne, Texas (the "City") adopted Ordinance No. ORR11-2012-56 designating Texas Reinvestment Zone No. 02-2012 , City of Cleburne (referred to herein as the "Zone") under the provisions Title 3, Subtitle B, of Chapter 312 of V.T.C.A., Tax Code; and

WHEREAS, the City desires to enter into an agreement ("Agreement") with Dudley Holdings LLC by and through its subsidiaries, including, but not limited to 2005 Dudley R.M. Holdings LP and Technical Chemical Company (all hereinafter referred to collectively as Technical Chemical Company), as owner of the leasehold interest and/or the owner of the taxable real property for the abatement of ad valorem taxes pursuant to Section 312.204 of V.T.C.A., Tax Code and Ordinance No. ORR11-2012-56 (the "Ordinance") of the City; and

WHEREAS, Johnson County, herein after referred to as the County, has determined that the proposed improvements, as described in this Agreement, are to be constructed by Technical Chemical Company, meet the requirements for eligibility for tax abatement under V.T.C.A. Tax Code and the "Ordinance"; and

WHEREAS, it is reasonably likely that this Agreement will contribute to the retention, expansion and creation of primary employment and will attract major investment in the Zone that would be a benefit to property within the Zone and that would contribute to the economic development of the County; and

WHEREAS, the County has determined that the Improvements are practical and are of benefit to the area within the Zone and to the County; and

WHEREAS, Commissioners Court of Johnson County, Texas (the "Commissioners Court") finds that the terms of this Agreement meet the applicable requirements of the Guidelines and Criteria for the Johnson County Tax Abatement Policy Statement, adopted by the Commissioners Court; and

WHEREAS, this Agreement shall become effective upon the approval by Johnson County and the execution of said agreement by both the County and Technical Chemical Company;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and mutual promises stated herein, agree as follows:

Section 1. The real property, improvements thereto, and related items of tangible personal property, which are described in Section 2 hereof, shall be those constructed on the property constituting the Zone as described by the following legal description; That tract or parcel of land located at 400 Commerce Blvd., Cleburne, Texas, and more particularly described on Exhibit "A" and shown on Exhibit "B" that are attached hereto and incorporated by reference herein for all purposes.

Section 2. Technical Chemical Company has an existing industrial automotive fluids and chemicals packaging and manufacturing facility in Cleburne and desires to expand and enhance its production capability. Products are distributed, sold and used by automotive parts stores, repair facilities and customers in several states. The cost of the proposed improvement is \$13,500,000.00. The facility construction will create approximately 20 new jobs. Technical Chemical Company anticipates that the improvements will be completed by December 2013.

Section 3. For purposes of this Agreement:

- (a) the "Abatement Property" means the Premises, the Improvements and the related items of tangible personal property described in Sections 1 and 2 hereof,
- (b) the "Effective Date of Abatement" means January 1, 2014; and
- (c) the "Abatement Period" means that period commencing on the first day of the Effective Date of Abatement and ending one (5) years thereafter.

Section 4. Subject to the terms and conditions of this Agreement, and subject to the rights of holders of any outstanding bonds of the County, fifty percent (50%) of the appraised value for property tax purposes of the Abated Property (to the extent the appraised value of the Abated Property for each year exceeds its value as of January 1, 2013) shall be abated and exempted from taxation for a period of five (5) years beginning with the first day of the Effective Date of Abatement. As a result, said abatement shall result in a reduction by fifty percent (50%) of the taxes that would otherwise be assessed upon that portion of the appraised value of the Abated Property that for each year of abatement exceeds its value as of January 1, 2013. It is the intent of the parties that the abatement granted hereby shall extend for a period of five (5) years beginning with the first day of the Effective Date of Abatement, and shall apply only to all Improvements and items of tangible personal property constructed or placed on the Premises that resulted from this expansion. To the extent necessary, it is the intent of the parties that this Agreement shall not be amended to include such additional improvements and items of tangible personal property. A separate tax abatement agreement shall be entered into with respect to any additional property. It is also agreed that if the appraised value of the improvements should fall below \$10,000,000.00 the percent abated will be reduced per the table on page four (4) of the Guidelines and Criteria For Johnson County Tax Abatement Policy.

Section 5.

It is agreed that employees of the County shall have access to the premises for inspection to ensure that the Improvements are made according to the conditions of this Agreement and that the Improvements are of substantially the same character as described in Section 2 hereof (subject to the right of Technical Chemical Company, to revise the plans and specifications for the Improvements prior to and during construction). All inspections will be made only after giving Technical Chemical Company, at least twenty-four (24) hours advance notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the project. All inspections will be made with one or more representatives of Technical Chemical Company, and in accordance with Technical Chemical Company's safety standards.

Technical Chemical Company, shall indemnify, hold harmless and defend the County, its members, agents, officials, employees, from and against any and all obligations, claims, suits, damages, and liability, or alleged liability, including, but not limited to liability without fault and liability by virtue of the obligations of Technical Chemical Company, pursuant to this Agreement or the acts or omissions of Technical Chemical Company, its agents, contractors, employees, licensees, or invitees, on or with respect to the Premises, Improvements and/or equipment, including costs of suit, attorney fees and other related costs and expenses of whatever kind or character arising directly or indirectly from any cause whatsoever in connection with or incidental to this Agreement or such acts or omissions, provided, however, that Technical Chemical Company, shall not be required to indemnify and hold harmless any indemnified party for any such injury or harm caused by the gross negligence or willful misconduct of any indemnified party. The indemnity set forth herein shall specifically include, without limitation all actions, damages, claims and liabilities for personal injury, death or property damage occurring on, or arising out of or resulting from the use of premises, improvements and/or equipment by Technical Chemical Company, its sublessee or representative, agents, contractors, employees, licensees or invitees.

Section 6.

- (a) During the Abatement Period, the County may declare a default hereunder by Technical Chemical Company, only if Technical Chemical Company, fails to commence construction of the Improvements within two (2) years from the date this Agreement is executed, fails to construct the Improvements, or refuses or neglects to comply with any of the terms of this Agreement, or if any representation made by Technical Chemical Company, in this Agreement is false or misleading in any material respect, or if Technical Chemical Company, allows its ad valorem taxes owed the County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest.

- (b) Should the County determine Technical Chemical Company, to be in default of this agreement, the County shall notify Technical Chemical Company, in writing prior to the end of the abatement period, and if such default is not cured within one hundred twenty (120) days from the date of such notice (the "Cure Period"), then the Agreement may be terminated; provided, however, that in the case of a default that, for causes beyond Technical Chemical Company's reasonable control, cannot with due diligence be cured within such one hundred twenty day period, the "Cure Period" shall be deemed extended if Technical Chemical Company, (i) shall immediately, upon the receipt of such notice, advise the County of Technical Chemical Company's intention to institute all steps necessary to cure such default, and (ii) shall institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same.
- (c) Except as provided in Subsection (d) below, if Technical Chemical Company, violates any of the terms and conditions of this Agreement and fails to cure during the Cure Period, this Agreement may then be terminated and all taxes previously abated by virtue of this Agreement will be recaptured and paid within one hundred twenty (120) days of the termination.
- (d) During the period of time when Technical Chemical Company, is constructing, renovating, repairing, or installing the improvements and/or equipment on the premises, and at all times thereafter, during the term of this Agreement, Technical Chemical Company, shall keep the improvements and equipment insured against all loss or damage by fire or any other casualty. Technical Chemical Company, shall furnish the County with all Certificates of Insurance that are required by this Agreement within thirty (30) days after the initiation of construction, repairs, or installation, and within thirty (30) days succeeding the renewal of each policy required herein.

In the event, improvements and/or equipment are damaged by fire or any other casualty, should Technical Chemical Company, decide not to repair, remodel, renovate or reinstall; or fails to begin repair, remodeling, renovation or reinstallation on the damaged Improvements and/or equipment within six (6) months of the fire and/or other casualty, then the abatement shall terminate and all taxes previously abated by virtue of this Agreement will be recaptured and paid within one hundred twenty (120) days of the termination.

Section 7. For purposes of this Agreement, the value of the Premises, the Improvements and all items of tangible personal property situated on the Premises shall be the same as the

value of such property as determined annually by the Chief Appraiser of the Johnson County Appraisal District, subject to the appeal procedures set forth in the Texas Property Tax Code (V.T.C.A. Tax Code). Any reduction in the number of new employees hired and retained by Technical Chemical Company, during any tax year subject to this Agreement shall reduce the amount of abated tax per the table on page three (3) of the tax abatement policy for Johnson County.

Prior to October 1st of each year that this Agreement is in effect, Technical Chemical Company, shall certify to the County that Technical Chemical Company, is in compliance with each applicable term of this Agreement. This annual certification shall include a rendition of the property value.

Technical Chemical Company, is solely responsible for meeting any and all additional requirements for the completion of this Agreement. These additional requirements include the application for the Abatement which will need to be filed with the Central Appraisal District of Johnson County, Texas.

Section 8. If the County terminates this Agreement upon an event of default as defined in Section 6 hereof, it shall provide Technical Chemical Company, written notice of such termination. If Technical Chemical Company, believes that such termination was improper, Technical Chemical Company, may file suit in Johnson County District Courts appealing such termination within one hundred twenty (120) days after receipt from the County of written notice of the termination. If an appeal suit is filed, Technical Chemical Company, shall remit to the County, within one hundred twenty (120) days after receipt of the notice of termination, any additional and/or recaptured taxes as may be payable pursuant to Section 6 of this Agreement during the pendency of the litigation pursuant to the payment provisions of section 42.08, V.T.C.A. Tax Code. If the final determination of the appeal increases Technical Chemical Company, tax liability above the amount of tax paid, Technical Chemical Company, shall remit the additional tax to the County pursuant to section 42.42, V.T.C.A. Tax Code and this agreement. If the final determination of the appeal decreases Technical Chemical Company's tax liability, the County shall refund to Technical Chemical Company, the difference between the amount of tax paid and the amount of tax for which Technical Chemical Company, is liable pursuant to section 42.43, V.T.C.A. Tax Code, and this agreement.

Section 9. Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or Technical Chemical Company, at the following addresses. If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Technical Chemical Company:
Technical Chemical Company
P.O. Box 139
Cleburne, TX 76033
Attention: Gary Williams
VP of Operations

To the County:
Johnson County Courthouse
2 Main Street
Cleburne, Texas 76031
Attention: Roger Harmon
County Judge

Any party may designate a different address by giving the other parties ten days' written notice.

Section 10. All provisions of this Agreement shall be executed in compliance with the Order of the Commissioners Court. A copy of the Order is attached hereto as Attachment I and incorporated herein by reference for all purposes.

Section 11. Technical Chemical Company, warrants to the best of its knowledge that the Premises do not include any property that is owned by a member of the Commissioners' Court or any board, commission or other governmental body approving, or having responsibility for the approval of this Agreement.

Section 12. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, and such invalidity or unenforceability does not destroy the basis of the bargain between the parties, then the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 13. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto.

Section 14. This Agreement was authorized by the Order adopted by the Commissioners Court of Johnson County, Texas, at a meeting open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Texas Open Meetings Act, V.T.C.A., government code, Chapter 551, and such Order authorizes the County Judge to execute this Agreement on behalf of the County. This Agreement shall constitute a valid and binding agreement between the County and Technical Chemical Company, upon (i) execution by the County and Technical Chemical Company. This Agreement shall constitute a covenant running with the

land and shall be recorded upon execution in the Real Property Records of Johnson County, Texas. This agreement is performable in Johnson County, Texas, and venue over any action to enforce any of the provisions hereof shall lie exclusively in Johnson County, Texas. The laws of the State of Texas shall apply in all respects to interpretation of this Agreement.

Section 15. This Agreement has been executed by the parties in multiple originals, each having full force and effect.

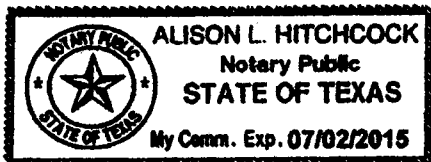
EXECUTED THE 28th, DAY OF January, 2013.

JOHNSON COUNTY, TEXAS

By: *Roger Harmon*
Roger Harmon
County Judge

This instrument was acknowledged before me on the 28th day of January, 2013, by Roger Harmon as County Judge.

Alison L. Hitchcock
Notary Public Signature
My commission expires: 7/2/15



Technical Chemical Company

By: *Gary Williams*
Title: VP Operations

State of
County of

This instrument was acknowledged before me on the 28th day of January, 2013, by Gary Williams as VP operations.

Alison L. Hitchcock
Notary Public Signature
My commission expires: 7/2/15

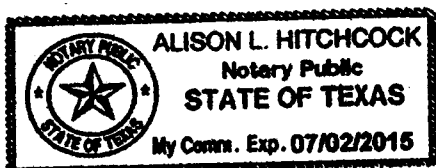


EXHIBIT "A"
DESCRIPTION OF PREMISES

Property located at 400 Commerce Blvd. Cleburne, Texas with the following legal description - Being 50.0 acres of the Alfred McBrayer Survey, Abstract No. 596, and the David Hunter Survey, Abstract No.347, and being and part of the First and Second Tracts as conveyed by Nannie Mae Lacewell, a widow, to the Cleburne Industrial Development Foundation, Inc. by deed recorded in Volume 456, page 426, Deed Records of Johnson County, Texas. This being the same property conveyed to Rubbermaid Commercial Products, Inc., a Delaware Corporation, from Cleburne Industrial Development Foundation, Inc. by deed dated April 10, 1978, recorded in Volume 754, page 575, and conveyed fro Rubbermaid Commercial Products, Inc. to 2005 Dudley RM Holdings LP on September 29, 2005 as recorded in of the deed records in Volume 765, page 3633 of Johnson County, Texas.

Exhibit "B"

Description of Improvements

Fabricate and install Aerosol Can Equipment Machinery

Estimated cost - \$13,500,000

Begin date -September. 2012

Estimated completion – December 31, 2013