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Title: Request to Consider Adoption of the restated resolution, to replace RES0252-2010 adopted at the November 8, 2010 Regular Meeting, regarding the request of a transfer of employment for Ovonyx Technologies, Inc. located at 2956 Waterview Drive

Sponsors:

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Attachments: 1. Agenda Summary.pdf, 2. 110810 Agenda Summary.pdf, 3. Ovonyx Relocation Ltr.pdf, 4. 110810 Resolution.pdf, 5. Resolution.pdf

Date	Ver.	Action By	Action	Result
11/22/2010	2	City Council Regular Meeting	Adopted by Resolution	Pass
11/8/2010	1	City Council Regular Meeting	Adopted by Resolution	Pass

Request to Consider Adoption of the restated resolution, to replace RES0252-2010 adopted at the November 8, 2010 Regular Meeting, regarding the request of a transfer of employment for Ovonyx Technologies, Inc. located at 2956 Waterview Drive

Whereas, on September 12, 2007, the Rochester Hills City Council approved a request from Ovonyx Technologies, Inc. ("Ovonyx") for an Industrial Facilities Exemption Certificate for personal property only for six years; and

Whereas, in connection with that request, the City and Ovonyx entered into a Development Agreement, dated September 17, 2007 setting forth the parties' representations, understandings and obligations concerning the tax abatement; and

Whereas, in approving Ovonyx's tax abatement request, the City Council relied on and was induced by Ovonyx's representations regarding its location of its business in the City, its substantial proposed investment in new personal property, and its retention of existing jobs and creation of new jobs; and

Whereas, Ovonyx has notified the City that it will be relocating from Rochester Hills at the end of the year and requests the City Council to approve the transfer of employment and equipment outside of Rochester Hills; and

Whereas, Section 9 of the Development Agreement between the parties says, in pertinent part:

"The applicant, Ovonyx Technologies, Inc., agrees to remain in the City of Rochester Hills for the period of the Industrial Facilities Exemption Certificate to retain the benefits of the abated taxes unless permission is granted by the City Council. Failure to obtain permission prior to the end of the term of the Industrial Facilities Exemption Certificate shall result in the right of the City to recapture from applicant all taxes abated plus interest...Further, it is understood that Ovonyx Technologies, Inc. subleases space at 2956 Waterview Dr. from Energy Conversion Devices, Inc., whose lease initially expires in 2010 with an option to renew for five additional years. Should Energy Conversion Devices, Inc. not renew or extend the lease beyond 2010, Ovonyx Technologies, Inc. will not be penalized by the City for failure to remain in the facility for the duration of the abatement period. *Ovonyx Technologies, Inc., however, will make a reasonable good faith effort to remain in Rochester Hills for the duration of the abatement...*"; and

Whereas, the City Council, at its November 8, 2010 regular meeting, heard and considered Ovonyx's explanation of the circumstances and reasons for moving its business, employees and equipment away from Rochester Hills; and

Whereas, although the City Council understands the explanation and the opportunities and convenience Ovonyx's new location will provide, Ovonyx has not demonstrated to the City Council's satisfaction that Ovonyx made a reasonable good faith effort to remain in Rochester Hills, at the same or different location, for the duration of the abatement.

Therefore, the Rochester Hills City Council resolves that:

1. Ovonyx's request to transfer employment and equipment outside of Rochester Hills is granted, subject to the condition that Ovonyx shall repay the abated taxes (without interest or penalty); and
2. The State Tax Commission shall be requested to terminate Industrial Facilities Exemption Certificate #2007-447 due to the relocation of the business and equipment outside of the Industrial Development District. The Council further requests the City Administration to forward this Resolution to the Commission no later than December 31, 2010.