

ORDINANCE NO. 62-2008

Offered by All of Council

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A NEW CITY JOB CREATION TAX CREDIT AGREEMENT WITH CHARLES SCHWAB & CO., INC. AND DECLARING AN EMERGENCY.

WHEREAS, Charles Schwab & Co., Inc. has proposed acquiring its corporate office building located at 4150 Kinross Lakes Parkway, Richfield, Ohio (the “Project”); and

WHEREAS, the Project will create employment opportunities for approximately 150 new full-time employees in the Village; and

WHEREAS, the Project is economically sound and will increase employment opportunities and strengthen the economy of the Village; and

WHEREAS, the Company has applied to the Tax Credit Authority of the State and has received a New Job Tax Credit conditioned upon local incentives; and

WHEREAS, the Village wishes to provide local incentives for the economic development of the Project; and

WHEREAS, the Village wishes to act under its full Home Rule powers as granted by Article XVIII, Section 3 of the Ohio Constitution, as well as its economic development powers granted under Ohio Constitution Article VIII, Section 13 and Article VIII, Section 2(p).

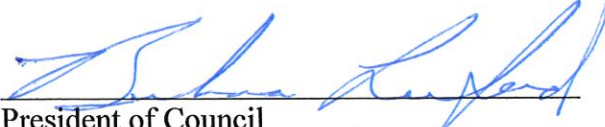
NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into a New City Job Creation Tax Credit Agreement with Charles Schwab & Co., Inc., a copy of which Agreement is attached hereto as Exhibit “A” and incorporated herein fully as if by reference.

SECTION 2. This Ordinance 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 new job incentives for approximately 150 new full-time employees in the Village; wherefore, provided this Ordinance 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: 11/18/08



President of Council



Mayor

Dated: 11/18/08

ATTEST:



Clerk of Council

NEW CITY JOBS CREATION TAX CREDIT AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2008 by and between the Village of Richfield, Ohio, a municipal corporation (the "Village") and CHARLES SCHWAB & CO., INC., a _____ corporation (the "Company").

RECITALS

The Company has its corporate offices located at 4150 Kinross Lake Parkway, Richfield, Ohio 44286. The Company has recently purchased the building located at 4150 Kinross Lake Parkway, Richfield, Ohio 44286 and additional land for expanded employee parking.

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 has purchased an approximately 117,000 square foot office building and adjacent land in the Village valued at approximately \$12,000,000 (the "Project") and to make improvements to the building interior, expand employee parking facilities, and to purchase equipment at an additional cost of \$3,200,000.

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 three (3) years of the "Beginning Date" which the Company projects to be _____ over the existing employee base of 572 full-time employees.

e. For the purposes of this Agreement, the "Beginning Date" is _____, 20__.

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 Kinross lakes Parkway, Richfield, Ohio (the "Premises")

The value of the office building and adjacent land that has been purchased is approximately \$12,000,000 with additional improvements valued at \$3,200,000. The Project shall commence on or about _____, 20__.

3. Creation of New Jobs.

The Company shall use its best efforts within three (3) years after the Beginning Date to create or cause to be created approximately one hundred and fifty (150) new full-time, permanent jobs. The estimated payroll of the one hundred and fifty (150) new jobs is estimated to be approximately \$12,308,400.

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 one hundred and fifty (150) 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 sixty percent (60 %) 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 eight (8) 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 _____, 20__ 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 (10%)

=

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 (Ordinance No. ____-2008, passed _____, 2008) and in compliance with the Legislation, the Village grants a New Jobs Tax Credit of ten percent (10%) (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 _____, 20____ 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 in exchange for the Job Creation Tax Credit being extended herein it will maintain its operation and the jobs it creates in the Village of Richfield for a period of fourteen (14) years, commencing January 1, 2009. In the event the Company moves its operation and the employment so established, the Company will be obligated to repay to the Village of Richfield the tax credit payments made by the Village of Richfield to the Company hereunder. 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
The Tower at Erieview
1301 East Ninth Street, Suite 3500
Cleveland, OH 44114-1821

If to the Company: Charles Schwab & Co., Inc.

Attn: _____

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:

VILLAGE OF RICHFIELD

By: _____
Its Mayor

And: _____
Its Finance Director

CHARLES SCHWAB & CO., INC.

By: _____
_____, Its _____

APPROVED AS TO FORM:

Law Director, Village of Richfield