

RESOLUTION NO. 14-10-16-11

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE TAX ABATEMENT AGREEMENT WITH DATCU; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 3, 2014, after a public hearing duly held in accordance with Chapter 312, Texas Tax Code (the "Act"), the City Council passed Ordinance No.14-04-03-04 (the "Ordinance") establishing City of Corinth Reinvestment Zone No. 1 as a reinvestment zone for tax abatement (the "Zone"), as authorized by Title 3, Chapter 312, Subchapter B of the Act; and

WHEREAS, on April 3, 2014, the City Council approved a tax abatement agreement with Denton Area Teachers Credit Union, a credit union incorporated under the laws of Texas ("DATCU"); and

WHEREAS, due to circumstances beyond the reasonable control of DATCU, on September 16, 2014, DATCU requested that the provisions specifying the dates of commencement of vertical construction and completion of the proposed improvements be amended; and

WHEREAS, the City Council finds that the request is reasonable and consistent with the contemplated use of the Premises and the contemplated improvements to the Premises, as indicated by DATCU, and consistent with encouraging the development of the Zone in accordance with the purposes for its creation and are in compliance with the Corinth Tax Abatement and Economic Development Incentives Policy (the "Policy"); **NOW, THEREFORE**,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CORINTH:

SECTION 1. The findings contained in the preamble to this Resolution are true and correct and are adopted as a part of the whole Resolution.

SECTION 2. The City Council finds and determines the following:

- A. The First Amendment to the Tax Abatement contemplated use of the premises and the contemplated improvements of the premises, as indicated by DATCU, are consistent with encouraging the development of the Zone in accordance with created purposes of its creation and are in compliance with the Corinth Tax Abatement Policy.
- B. The City Council finds that the improvements sought by DATCU within the Zone are feasible and practical and it included in the Zone and it would further benefit the City after the expiration of the Tax Abatement Agreement to be entered into with DATCU.

- C. The First Amendment to Tax Abatement Agreement includes provisions that could have been included in the original agreement and is consistent with Section 312.208(a) of the Texas Tax Code.

- D. In accordance with §312.2041 of the Act, the City Council finds that not later than the date on which the City Council considered this resolution, and not later than the seventh day before the date the City enters into a Tax Abatement Agreement with DATCU, that the Mayor delivered to the presiding officer of the Denton Independent School District, and to the presiding officer of Denton County, a written notice that the City intends to enter into this Tax Abatement Agreement with DATCU, and that this notice included a copy of the proposed First Amendment to Tax Abatement Agreement in substantially the form of the Tax Abatement Agreement attached to this resolution.

SECTION 3. The Mayor is hereby authorized to execute the First Amendment to Tax Abatement Agreement with DATCU in substantially the same form as attached as Exhibit "A."

SECTION 4. If any section, subsection, paragraph, sentence, clause, phrase, or word in this resolution, or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution, and the City Council hereby declares that it would have enacted such remaining portions despite any such validity.

SECTION 5. This Resolution shall become effective upon its passage.

PASSED AND APPROVED this the 16 day of October, 2014.



Paul Ruggiere
Paul Ruggiere, Mayor

ATTEST:

Kimberly Pence
Kimberly Pence, City Secretary

APPROVED AS TO FORM:

Debra A. Drayovitch
Debra A. Drayovitch, City Attorney

**FIRST AMENDMENT TO THE TAX ABATEMENT AGREEMENT
BETWEEN THE CITY OF CORINTH
AND DENTON AREA TEACHERS CREDIT UNION**

This FIRST AMENDMENT TO THE TAX ABATEMENT AGREEMENT ("Amendment") is effective the 23 day of October, 2014, and is intended to modify that certain Agreement effective April 3, 2014, (the "Agreement") between the City of Corinth (the "City") and Denton Area Teachers Credit Union, a credit union incorporated under the laws of the State of Texas (the "DATCU").

WHEREAS, due to circumstances beyond the reasonable control of Developer, the construction schedule for the improvements on DATCU's property to be constructed has been delayed and on September 16, 2014, DATCU requested an adjustment to the performance dates in the Agreement; and

WHEREAS, the Amendment includes provisions that could have been included in the original agreement consistent with Section 312.208(a) of the Texas Tax Code, and the City Council desires to adjust the performance dates; **NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and DATCU agree as follows:

I.

That the definition of "Effective Date of Abatement" in Section 1 (Definitions) of the Agreement is hereby amended to read as follows:

"1. **Definitions.**

...

"Effective Date of Abatement": January 1, 2017."

II.

That subsection (i) of Section 5 (Terms of the Agreement) is hereby amended so that said subsection shall read as follows:

"5. **Terms of the Agreement**

...

i) Commencing January 1, 2017, and on or before January 1st of each subsequent year during the Abatement Period, the chief financial officer, or equivalent, of the Owner shall provided the Director a sworn statement that the Owner is and has been in compliance with all provisions of this Agreement, including the employment requirement of this Agreement."

III.

That Subsection (c) of Section 6 (Tax Abatement) of the Agreement is hereby amended so that said subsection shall read as follows:

"Section 6. Tax Abatement

...
c) In consideration of the Owner's commitment to invest at least \$12,000,000 in the Improvements in the Zone, and maintain the Taxable Value of \$12,000,000 above the Base Year Value, the City agrees to grant the Owner a 50 percent abatement of the ad valorem taxes on the Improvements in the Zone during the Abatement Period. If the Taxable Value is less than \$12,000,000 above the Base Year Value, there will be no abatement. The Abatement Period begins on January 1, 2017."

IV.


- (a) Unless otherwise provided herein, all defined terms shall have the same meaning as ascribed to such terms in the Agreement.
- (b) In the event of any conflict or inconsistency between the terms of this Amendment and the Agreement, the terms of this Amendment shall govern and control.
- (c) Except as otherwise provided for in this Amendment, the Agreement shall remain in full force and effect in accordance with the original terms of the Agreement.
- (d) The persons who have executed this Amendment represent and warrant that they are duly authorized to execute this Amendment in the representative capacity as indicated.
- (e) This Amendment contains terms which could have been included in the Agreement and does not grant any retroactive benefit.

V.

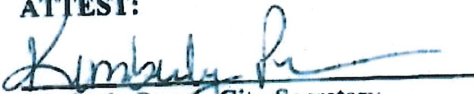
This First Amendment to the Tax Abatement Agreement is effective as of October 22, 2014. The City Secretary shall attach a copy of this Amendment to the Tax Abatement Agreement.

IN WITNESS WHEREOF, this Amendment is executed the 22 day of October, 2014.

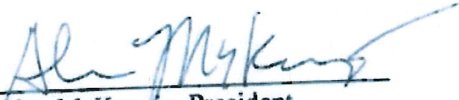
THE CITY OF CORINTH


Paul Ruggiere, Mayor

ATTEST:


Kimberly Pence, City Secretary

DENTON AREA TEACHERS CREDIT UNION


Glen McKenzie, President

ATTEST:

