



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		02/09/2015			
Department:		Economic Development			
Department Head		Sally Bane			
Agenda Coordinator (include phone #): Toshia Kimball x7479					
CAPTION					
A Resolution of the City of Plano, Texas, approving the terms and conditions of a First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Denbury Onshore, LLC, a Delaware limited liability company; authorizing its execution by the City Manager or his designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2011-2012 through 2024- 2025	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S): N/A					
COMMENTS: This item has no fiscal impact. Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.					
SUMMARY OF ITEM					
A request from Denbury Onshore, LLC, a Delaware limited liability company, to modify the Amended and Restated Economic Development Incentive Agreement dated September 19, 2012. http://goo.gl/maps/qxKks					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution First Modification to the Amended and Restated Economic Development Incentive Agreement					

A Resolution of the City of Plano, Texas, approving the terms and conditions of a First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Denbury Onshore, LLC, a Delaware limited liability company; authorizing its execution by the City Manager or his designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed First Modification to the Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas (“City”) and Denbury Onshore, LLC, a Delaware limited liability company (“Company”), a substantial copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter called “First Modification”); and

WHEREAS, City and Company entered into the Amended and Restated Economic Development Incentive Agreement on September 19, 2012 (hereinafter "Agreement") to reflect incentives for the additional expansion of Company’s office space and workforce; and

WHEREAS, City and Company desire to modify said Agreement by changing the deadline for securing additional Job Equivalents from April 30, 2015 to April 30, 2018 to accommodate the recent market conditions in the oil industry; and

WHEREAS, upon full review and consideration of the First Modification, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his designee shall be authorized to execute it on behalf of the City of Plano.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The terms and conditions of the First Modification, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens are hereby in all things approved.

Section II. The City Manager or his designee is hereby authorized to execute the First Modification and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the First Modification.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 9th day of February, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

THE STATE OF TEXAS § **First Modification to the Amended**
§ **and Restated Economic Development**
§ **Incentive Agreement by and between**
§ **City of Plano, Texas and Denbury**
COUNTY OF COLLIN § **Onshore, LLC**

This First Modification to the Amended and Restated Economic Development Incentive Agreement (hereinafter "First Modification") is made and entered into by and between the **City of Plano, Texas**, a home-rule municipal corporation (hereinafter "City"), and **Denbury Onshore, LLC**, a Delaware limited liability company (hereinafter "Company"), acting by and through their respective authorized officers and representatives.

WITNESSETH:

WHEREAS, City and Company entered into the Amended and Restated Economic Development Incentive Agreement on September 19, 2012 (hereinafter "Agreement") to reflect incentives for the additional expansion of Company's office space and workforce; and

WHEREAS, City and Company desire to modify said Agreement by changing the deadline for securing additional Job Equivalents from April 30, 2015 to April 30, 2018 to accommodate the recent market conditions in the oil industry; and

NOW THEREFORE, the Agreement is incorporated herein as if written word for word. Except as provided below, all other terms and conditions of the Agreement shall remain unchanged and shall remain in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this First Modification and the Agreement, priority of interpretation shall be in the following order: First Modification, Agreement.

IN CONSIDERATION of the foregoing, and for other good and valuable consideration, the parties agree as follows:

I.

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Article III, Section 3.01, Paragraph (f) of the Agreement is amended to read in its entirety as follows:

"(f) Company may create an additional minimum of 150 and up to an additional 200 Job Equivalents above the Baseline Job Equivalents at the property for a total minimum of 750 and up to 800 Job Equivalents at the Property on or before April 30, 2018; and"

II.

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Article IV, Section 4.02, Paragraph (b) of the Agreement is amended to read in its entirety as follows:

"(b) By April 30, 2018, the Company shall transfer or create at least an additional 150 Job Equivalents in addition to the Baseline Job Equivalents to the Real Property for a total minimum of 750 Job Equivalents to be eligible to receive an additional grant payment of One Hundred Eighty-Seven Thousand, Five Hundred Dollars (\$187,500). The payment will not be pro-rated. If the Company exceeds the minimum number of Job Equivalents by April 30, 2018, it will be paid One Thousand, Two Hundred Fifty Dollars (\$1,250) for each additional Job Equivalent up to a maximum number of 200 additional Job Equivalents in addition to the Baseline Job Equivalents for a total additional maximum of 800 Job Equivalents and a maximum additional grant payment of Two Hundred Fifty Thousand Dollars (\$250,000). The total amount of all grants paid pursuant to the Agreement shall not exceed Eight Hundred Thirty-Seven Thousand, Five Hundred Dollars (\$837,500) including all prior amounts paid to Company by the City. Job Equivalents added subsequent to April 30, 2018 shall not be compensated. **Company must submit the Certification form attached hereto as Exhibit "A" certifying compliance with the obligations set forth in Article III (b) and (f) not later than August 1, 2018. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the grant in this Section 4.02(b).**

City will make the payment within thirty (30) days of receipt of the Exhibit "A" certification unless the City reasonably objects to the certification but in no event shall the payment be made before April 30, 2018."

III.

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Article VIII, Section 8.04 of the Agreement is amended to read in its entirety as follows:

"8.04 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth

below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:
City of Plano, Texas
Attention: Mr. Bruce D. Glasscock
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

With a copy to:
City of Plano, Texas
Attention: Ms. Paige Mims
City Attorney
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

If intended for the Company:
Denbury Onshore, LLC
Attention: Mr. Phil Rykhoek
President and Chief Executive Officer
5320 Legacy Drive
Plano, TX 75024

With a copy to:
Denbury Onshore, LLC
Attention: Legal Department
5320 Legacy Drive
Plano, TX 75024

Denbury Onshore, LLC
Attention: Mr. Tony Burgess
Tax Department
5320 Legacy Drive
Plano, TX 75024"

IV.

Beginning on the effective date of this First Modification and continuing through the remaining term of the Agreement, Exhibit "A" is hereby replaced with the attached Exhibit "A".

This First Modification shall be effective upon the last date on which all parties have executed this First Modification.

ATTEST:

CITY OF PLANO, TEXAS, a home-rule
municipal corporation

Lisa C. Henderson, CITY SECRETARY

Bruce D. Glasscock, CITY MANAGER

Date: _____

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

ATTEST:

DENBURY ONSHORE, LLC, a Delaware
limited liability company

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A"

CERTIFICATE OF COMPLIANCE FOR GRANT PAYMENT

Please check one of the following before signing and returning the certification:

_____ a. I hereby certify that Denbury Onshore, LLC has created _____ Job Equivalents at the property by April 30, 2018 in addition to the Baseline Job Equivalents at the Property and is in compliance with each applicable term as set forth in Article III of the Amended and Restated Economic Development Agreement and is entitled to receive payment under the terms of the Agreement. The total number of Job Equivalents at the Property as of April 30, 2018 was _____. I further certify that Job Equivalents at the Property have not fallen below the number of Job Equivalents for which Denbury Onshore, LLC has received a grant payment for more than one hundred eighty (180) consecutive days during the term of the Agreement. Denbury Onshore, LLC is entitled to an additional grant payment pursuant to Section 4.02 of the Agreement.

_____ b. I hereby certify that Denbury Onshore, LLC has not created at least 150 additional Job Equivalents above the Baseline Equivalents at the Property by April 30, 2018 and is not entitled to an additional grant payment.

ATTEST:

DENBURY ONSHORE, LLC, a Delaware limited liability company

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date

NOTE:

This Certificate of Compliance is due by August 1, 2018 and should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358