



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:		09/09/13			
Department:		Economic Development			
Department Head		Sally Bane			
Agenda Coordinator (include phone #): Linda Thomason x8301					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between the City of Plano, Texas and Rent-A-Center Texas, L.P., a Texas limited partnership, providing for real and business personal property tax abatement; and authorizing its execution by the City Manager or his authorized 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:	2015-2016 through 2025- 2026	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					
This relates to Rent-A-Center Texas, L.P., a Texas limited partnership, request for tax abatement on Reinvestment Zone 136 and the creation of the zone on Dominion Parkway.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution					
Tax Abatement Agreement					

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between the City of Plano, Texas and Rent-A-Center Texas, L.P., a Texas limited partnership, providing for real and business personal property tax abatement; and authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Tax Abatement Agreement by and between the City of Plano, Texas and Rent-A-Center Texas, L.P., a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement 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 authorized 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:

Section I. The terms and conditions of the Agreement having been reviewed by the City Council of the City of Plano, Texas 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 authorized designee is hereby authorized to execute the Agreement 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 Agreement.

Section III. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 9th day of September, 2013.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Thousand Dollars (\$750,000) on the Real Property by December 31, 2015, and is or will be owned by Owner.

3. Owner shall maintain the taxing situs of the Personalty on the Real Property and may not relocate the taxing situs of the Personalty to other Reinvestment Zones in the City.

IMPROVEMENTS

4. (a) The Owner agrees to add the Personalty required under Section 2 by December 31, 2015, unless an extension as a result of an Event of Force Majeure is approved by the City in writing. The term "Event of Force Majeure" means any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns, shortages or unavailability of materials or labor, or work stoppages any of which event(s) directly impact the Owner at the Real Property. The term shall not include a downturn in the economy.

(b) By December 31, 2015, the Owner shall make or cause to be made improvements to the Real Property consisting of a new building(s) and/or building improvements that are at least 60,000 gross square feet of office space with an assessed taxable value of not less than Eight Million Dollars (\$8,000,000) for **new improvements added** to the Real Property between the dates of January 1, 2013 through December 31, 2015, as determined by the Collin County Central Appraisal District. The real property abatement for the new improvements shall begin in the 2016 tax year pursuant to Section 11(a) herein unless an extension as a result of an Event of Force Majeure has been approved by the City in writing. The abatement shall not include any existing real property taxable value assessed on the property as of December 31, 2012.

(c) Upon the occurrence of an Event of Force Majeure, the affected party shall notify the City in writing not less than sixty (60) days of the commencement of the Event of Force Majeure with supporting documentation, the anticipated duration and the actions that the party will take to alleviate the Event of Force Majeure. The City Manager shall consider such request and may grant an extension of time to complete the obligations; such extension shall not be unreasonably withheld. If the Event of Force Majeure results in a delay of meeting the required improvement value, the party requesting the extension agrees that in the following year the minimum required taxable value of the improvements and/or Personalty shall be met.

DEFAULT

5. Any of the following events shall be deemed a breach of this Agreement resulting in default:

(a) Owner allows its personal property taxes or its real property improvement taxes owed the City to become delinquent and fails to either:

(i) Timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes; or

(ii) Cure such delinquency within thirty (30) days of receipt of notice of such delinquency; or

(b) Owner fails to construct the Real Property improvements required in Section 4(b); or

(c) (i) In the first year of the abatement period for the Personalty, the assessed taxable value is less than the minimum amount set forth in Section 2; or

(ii) At any time during the Agreement, the Personalty is removed from the Real Property and the result is the taxable appraised value of the Personalty is below the minimum amount set forth in Section 2; or

(d) At any time during the Agreement, the assessed taxable value of the Real Property improvements is less than the minimum amount set forth in Section 4(b) as a result of the Owner's protest; or

(e) Owner fails to provide the annual certification as required in Section 9; or

(f) Owner fails to comply with the Assignment provision in Section 10; or

(g) Owner has been convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of aliens at the Real Property.

6. In the event that the Owner defaults under any of the provisions of Section 5 of this Agreement, the City shall give the Owner written notice of such default and if the default is not cured or a waiver obtained thereof within thirty (30) days of said written notice, this Agreement shall be automatically terminated except any damages as specified below shall survive the termination of this Agreement. Notice shall be in writing as provided below. The City Manager is authorized on behalf of the City to send notice of default and to terminate the Agreement for any default that is not cured.

7. Upon the occurrence of an event of default under Section(s) 5(a), (b) and/or (g) above and that remains uncured, all taxes, including previously abated taxes which would have been paid to the City by the Owner without the benefit of this Agreement, shall become due and owing to the City from the Owner, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07 and Texas Government Code Chapter 2264.

Upon the occurrence of an event of default under Section(s) 5(c), (d), (e) and/or (f) above and that remains uncured, at the City's sole option, it may require all or a portion of all previously abated taxes which would have been paid to the City by the Owner without the benefit of this Agreement to become due and owing to the City from the Owner, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07. City shall exercise such option within ninety (90) days of notice of default.

EFFECT OF TERMINATION/SURVIVAL OF OBLIGATIONS

8. The rights, responsibilities and liabilities of the parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations or default(s) that existed prior to such termination or as otherwise provided herein and those liabilities and obligations shall survive the termination of this Agreement, including the refund provision, maintenance of records, and access thereto.

ANNUAL CERTIFICATION

9. Beginning November 1, 2016, and on or before the 1st day of November of each calendar year thereafter during the Term (as defined below) of this Agreement, the Owner, or its successors or assigns, must provide annual certification (substantially in the form attached as **EXHIBIT "B"** hereto) to the City certifying compliance with each applicable term of the Agreement.

ASSIGNMENT

10. If Owner wishes to assign its rights and duties under this Agreement, it must comply with the following provisions. A failure to comply is an event of default and all remedies may apply including but not limited to a suspension of the abatement for the year(s) for which non-compliance occurred.

(a) **City Consent Required.** Except as permitted by Section 10(b) below, this Agreement may not be assigned without the express written consent of the City. The assignment agreement must be furnished in a form acceptable to the City and be provided at least sixty (60) days prior to the effective assignment date for the City Council review and approval.

(b) **Exceptions to City Consent.** Owner may assign this Agreement without obtaining the City's consent:

- (i) To a wholly owned affiliate of Owner; or
- (ii) Any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or more than ninety percent (90%) of the assets of the Owner; or
- (iii) Upon the sale of the Real Property by Owner.

(c) Prior to the effective date of the assignment or sale under Section 10(a) or (b) above, the assigning party agrees to have the assignee or successor execute an agreement with the City to be bound to all the terms and conditions of this Agreement, without exception, and the assignee or successor shall be responsible for any default(s) of the assignee or seller that occurred prior to or after the effective date of the assignment.

ABATEMENT PROVISIONS

11. Subject to the terms and conditions of this Agreement, and subject to the rights of holders of any outstanding bonds of the City, a portion of ad valorem personal property taxes and real property improvement taxes belonging to Owner located on the Real Property otherwise owed to the City shall be abated as follows:

(a) (i) The tax abatement as to Real Property improvements, as provided for herein, shall be for a period of ten (10) tax years, from January 1, 2016 through December 31, 2025.

(ii) The tax abatement as to Personalty, as provided for herein, shall be for a period of ten (10) tax years, from January 1, 2016 through December 31, 2025.

(b) In accordance with all applicable federal, state, and local laws and regulations, the abatement shall be based on amounts equal to fifty percent (50%) of the taxable value of the Personalty and Real Property improvements for the tax years set forth above.

(c) The Owner shall have the right to protest and/or contest any assessment of the Personalty or Real Property improvements where such assessment is above the minimum amount required to be maintained under Sections 2 and 4 of this Agreement. The abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest. Notwithstanding the above, it shall be a breach of this Agreement if assessed values fall below those required in Sections 2 and 4 as a result of an Owner filed protest and/or contest, or the removal of Personalty from the Real Property.

NOTICE

12. Notices required to be given to any party to this Agreement shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and, if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Plano
Attention: Mr. Bruce D. Glasscock
City Manager
P. O. Box 860358
Plano, Texas 75086-0358

With copy to:

City of Plano
Attention: Ms. Diane C. Wetherbee
City Attorney
P. O. Box 860358
Plano, Texas 75086-0358

For Owner by notice to:

Rent-A-Center Texas, L.P.
Attention: V.P. Real Estate
5501 Headquarters Dr.
Plano, Texas 75024

With a copy to:

Rent-A-Center Texas, L.P.
Attention: General Counsel
5501 Headquarters Dr.
Plano, Texas 75024

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

MISCELLANEOUS PROVISIONS

13. During the term of the Agreement, the Owner further agrees that the City, its agents and employees, shall have reasonable right (with no less than five (5) business days prior written notice to Owner) to access the Real Property during regular business hours to inspect the Personalty and Real Property improvements in order to insure that the location of the Personalty and Real Property improvements are in accordance with this Agreement and all applicable federal, state, and local laws and regulations.

14. It is understood and agreed between the parties that the Owner, in performing its respective obligations hereunder, is acting independently, and the City assumes no responsibilities or liabilities in connection therewith to third parties and Owner agrees to indemnify and hold harmless City from any and all claims, suits, and causes of actions, including attorneys' fees, of any nature whatsoever arising out of its default of its obligations hereunder.

15. Based upon the certification provided by Owner, the City represents that the Real Property is not owned by any member of the City Council of the City of Plano or by a member of the Planning and Zoning Commission.

16. This Agreement was authorized by Resolution of the City Council at its Council meeting on 9th day of September, 2013, authorizing the City Manager to execute the Agreement on behalf of the City.

17. This Agreement was entered into by Owner pursuant to its duly authorized representatives.

18. This instrument shall constitute a valid and binding agreement between the City and the Owner when executed in accordance herewith.

19. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term or provision, to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms or provisions, which are made subject to or conditioned upon such invalid or unenforceable term or provision, shall not be affected thereby, and each other term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. This Agreement is performable in Collin County, Texas and venue for any dispute arising out of this Agreement shall be in Collin County, Texas.

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

ATTEST:

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

Diane Zucco, CITY SECRETARY

Bruce D. Glasscock, CITY MANAGER
Date: _____

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ATTEST:

RENT-A-CENTER, TEXAS, L.P., a Texas
limited partnership

Title: _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"
LEGAL DESCRIPTION

BEING of a tract of land out of the Sam Brown Survey, Abstract No. 108 in the City of Plano, Collin County, Texas, being part of the 18.32 acre tract of land described as Tract 2 in deed to West Plano Land Company, LP, recorded in Instrument No. 20060920001358250 of the Land Records of Collin County, Texas, being part of Lot 1, Block A, Rent-A-Center Addition, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2006, Page 836 of the Map Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at an aluminum monument found at the northwest corner of said Lot 1;

THENCE the following courses and distances to wit:

North 57°13'32" East, a distance of 413.62 feet to a 5/8" iron rod set with KHA cap for corner;

North 67°02'50" East, a distance of 10.00 feet to a 5/8" iron rod set with KHA cap for corner;

North 22°57'10" West, a distance of 24.00 feet to a 5/8" iron rod set with KHA cap for corner;

North 67°02'50" East, a distance of 150.50 feet to a 5/8" iron rod set with KHA cap for the beginning of a tangent curve to the left with a radius of 20.00 feet, a central angle of 23°34'41", and a chord bearing and distance of North 55°15'30" East, 8.17 feet;

Northeasterly, with said curve, an arc distance of 8.23 feet to a 5/8" iron rod set with KHA cap for corner in the west right-of-way line of Dominion Parkway (92' ROW at this point);

THENCE with said west right-of-way line, the following courses and distances to wit:

South 22°57'10" East, a distance of 75.98 feet to a point for corner;

South 67°02'50" West, a distance of 12.00 feet to a point for corner;

South 22°57'10" East, a distance of 158.85 feet to a point for the northeast corner of a Firelane, Access and Utility Easement shown on the plat of said Rent-A-Center Addition;

THENCE with the north line of said Firelane, Access and Utility Easement, the following courses and distances to wit:

South 67°08'28" West, a distance of 457.91 feet to a point for the beginning of a non-tangent curve to the right having a radius of 30.00 feet, a central angle of 113°08'11", a chord bearing and distance of North 56°29'39" West, 50.07 feet;

Northwesterly, with said curve, an arc distance 59.24 feet to a point for corner;

North 00°04'26" East, a distance of 90.65 feet to a point for the beginning of a non-tangent curve to the left having a radius of 54.44 feet, a central angle of 95°28'24", a chord bearing and distance of North 47°51'40" West, 80.58 feet;

Northwesterly, with said curve, an arc distance 90.71 feet to a point for corner;

North 89°52'36" West, passing the northwest corner of said Firelane, Access and Utility Easement at 132.92 feet, in all a total distance of 183.42 feet to a point for corner in the west line of said Lot 1;

THENCE with the west line of said Lot 1, North 00°04'26" East, a distance of 226.86 feet to the **POINT OF BEGINNING** and containing 6.76 acres of land.

**EXHIBIT “B”
CERTIFICATION FORM**

[DATE]

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

RE: Certification Form – Reinvestment Zone No. 136
Tax Abatement Agreement (the “Agreement”) between Rent-A-Center, Texas, L.P. and the
City of Plano.

This letter certifies that the Owner is in compliance with each applicable term as set forth in the Agreement. The term of the tax abatement pursuant to the Agreement is January 1, 2016 through December 31, 2025. This form is due on November 1, 2016 and on November 1 of each year thereafter that the Agreement is in force.

RENT-A-CENTER, TEXAS, L.P., a Texas
limited partnership

By: _____
Name: _____
Title: _____