



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		09/10/12		
Department:		Economic Development		
Department Head		Sally Bane		
Agenda Coordinator (include phone #): <b>Linda Thomason x8301</b>				
<b>CAPTION</b>				
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 Tyler Technologies, Inc., a Delaware corporation providing for real property tax abatement; and authorizing its execution by the City Manager or his authorized designee; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2011-12</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		<b>TOTALS</b>		
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(S): <b>N/A</b>				
<b>COMMENTS:</b> This item has no fiscal impact. Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.				
<b>SUMMARY OF ITEM</b>				
This relates to Tyler Technologies, Inc. request for tax abatement on Reinvestment Zone 130 and the creation of the zone at 5101 Tennyson 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 Tyler Technologies, Inc., a Delaware corporation, providing for real 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 Tyler Technologies, Inc., a Delaware corporation, 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 10th day of September, 2012.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY



improvements that are at least 139,000 gross square feet of office space with an assessed taxable value of not less than Eleven Million, Five Hundred Thousand Dollars (\$11,500,000.00) for **new improvements added** to the Real Property between the dates of September 1, 2012 through December 31, 2013, as determined by the Collin County Central Appraisal District. The Real Property abatement for the new improvements shall begin in the January 2014 tax year pursuant to Section 8(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 August 31, 2012.

(c) In the Event of a Force Majeure "Event" the affected party shall notify the City in writing not less than sixty (60) days of the onset of the Event with supporting documentation, the anticipated duration and the actions that the party will take to alleviate the Event. 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 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 shall be met.

(d) 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.

## DEFAULT

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

(a) Owner allows its Real Property improvement taxes owed the City to become delinquent and fails to either (1) timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes, or (2) cure such delinquency within thirty (30) days of receipt of notice of such delinquency; or

(b) Owner fails to construct the improvements required in Section 1(b); or

(c) 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 1(b) as a result of the Owner's protest; or

(d) (i) Owner fails to provide the annual certification as required in Section 6 below; or

(ii) Owner fails to comply with the Assignment provision in Section 7; or

(e) 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.

3. In the event that the Owner defaults under any section of this Agreement, the City shall give 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.

4. Upon the occurrence of an event of default under Section 2(a) (b) or (e) above and that remains uncured, all taxes, including previously abated taxes which would have been paid to the City by 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 2(c) or (d) 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**

5. 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**

6. Beginning November 1, 2014, 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**

7. 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 (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 (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**

8. 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 the Owner located on the Real Property otherwise owed to the City shall be abated as follows:

(a) 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, 2014 through December 31, 2023.

(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 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 Real Property improvements where such assessment is above the minimum amount required to be maintained under Section 1 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 Section 1 as a result of an Owner filed protest and/or contest.

## NOTICE

9. 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  
1520 Avenue K  
P.O. Box 860358  
Plano, Texas 75086-0358

With copy to:

City of Plano  
Attention: Ms. Diane C. Wetherbee  
City Attorney  
1520 Avenue K  
P.O. Box 860358  
Plano, Texas 75086-0358

If intended for the Owner before relocation:

Tyler Technologies, Inc.  
Attention: Mr. Bruce Graham  
President, Courts and Justice Division  
6500 International Parkway, Suite 2000  
Plano, Texas 75093

With a copy to:

Tyler Technologies, Inc.  
Attention: Mr. Lynn Moore  
Executive Vice President and General Counsel  
6500 International Parkway, Suite 2000  
Plano, Texas 75093

If intended for the Owner after relocation:

Tyler Technologies, Inc.  
Attention: Mr. Bruce Graham  
President, Courts and Justice Division  
5101 Tennyson Parkway  
Plano, Texas 75024

With a copy to:

Tyler Technologies, Inc.  
Attention: Mr. Lynn Moore  
Executive Vice President and General Counsel  
5101 Tennyson Parkway  
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**

10. 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 Real Property improvements in order to insure that the Real Property improvements are in accordance with this Agreement and all applicable federal, state, and local laws and regulations.

11. 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 defaults of its obligations hereunder.

12. 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 any member of the Planning and Zoning Commission.

13. This Agreement was authorized by Resolution of the City Council at its Council meeting on the 10th day of September, 2012, authorizing the City Manager to execute the Agreement on behalf of the City.

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

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

16. 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.

17. This Agreement is performable 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:

OWNER  
Tyler Technologies, Inc., a Delaware  
corporation

\_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**BEING** a tract of land out of the Maria C. Vela Survey, Abstract No. 935 and the Obediah Epps Survey, Abstract No. 297 in the City of Plano, Collin County, Texas, being a portion Lot 1R, Block A of the Fifth Replat of EDS Health & Fitness Center, an addition to the City of Plano, Texas, according to the plat thereof recorded in Cabinet Q, Page 630 of the Map Records of Collin County, Texas, and being more particularly described as follows:

**BEGINNING** at the southeast corner of said Lot 1R, Block A, same being the southwest corner of ANS Headquarters, Lots 1R and 2R, Block A, an addition to the City of Plano, Texas, according to the plat recorded in Cabinet 2006, Page 476 of the Map Records of Collin County, Texas, same also being on the north right-of-way line of Tennyson Parkway (a 121-foot wide right-of-way);

**THENCE** with said north right-of-way line, the following courses and distances:

North 87°59'57" West, a distance of 302.58 feet to a 1" iron rod found for corner at the beginning of a tangent curve to the right having a radius of 1261.78 feet, a central angle of 16°35'42", a chord bearing and distance of North 79°42'06" West, 364.18 feet;

In a northwesterly direction, with said curve to the right, an arc distance of 365.46 feet to a point for corner;

**THENCE** North 00°00'00" East, leaving said north right-of-way line and crossing said Lot 1R, Block A, a distance of 540.56 feet to a point for corner;

**THENCE** North 90°00'00" East, continuing across said Lot 1R, Block A, a distance of 162.44 feet to a point for corner;

**THENCE** North 00°00'00" East, continuing across said Lot 1R, Block A, a distance of 126.00 feet to a point for corner;

**THENCE** North 90°00'00" East, continuing across said Lot 1R, Block A, a distance of 923.25 feet to a point in a lake for a corner on the east line of said Lot 1R, same being on the west line of aforesaid ANS Headquarters, Lots 1R and 2R, Block A;

**THENCE** with said west line, the following courses and distances:

South 04°24'40" West, a distance of 147.27 feet to a point in a lake for corner;

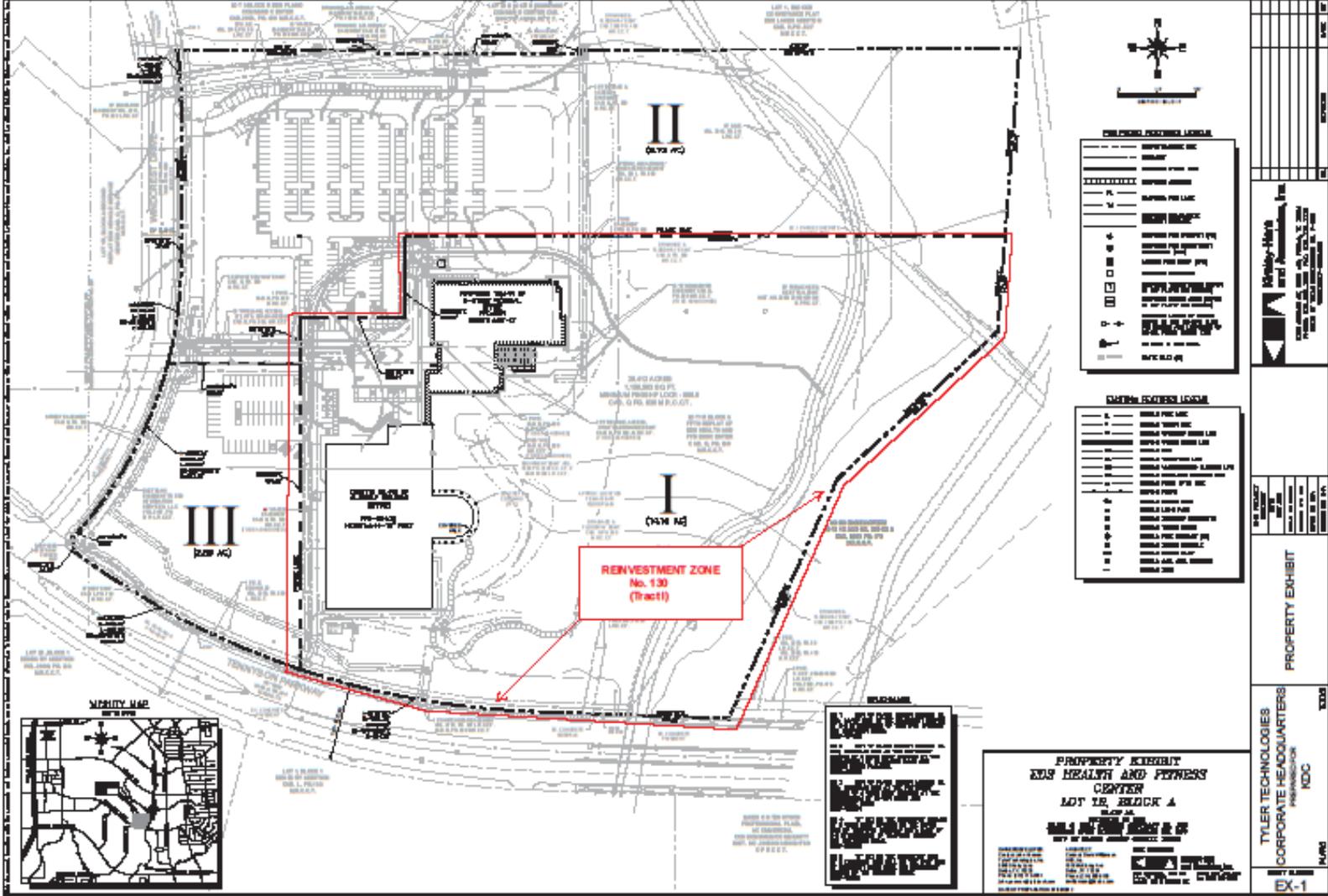
South 47°24'00" West, a distance of 334.63 feet to a point in a lake for corner;

South 24°24'01" West, a distance of 405.07 feet to the **POINT OF BEGINNING** and containing 14.10 acres of land.

Bearing system based on the monuments according to the Fifth Replat of the EDS Health & Fitness Center, an addition to the City of Plano, Texas, according to the plat thereof recorded in Cabinet Q, Page 630 of the Map Records of Collin County, Texas.

EXHIBIT "A"

SITE PLAN/MAP OF PROJECT



<p><b>TYLER TECHNOLOGIES</b> CORPORATE HEADQUARTERS PERMISSIONED KDC</p>		<p>PROPERTY EXHIBIT</p>	
<p>NO. 130 130.00 130.01 130.02 130.03 130.04 130.05 130.06 130.07 130.08 130.09 130.10 130.11 130.12 130.13 130.14 130.15 130.16 130.17 130.18 130.19 130.20 130.21 130.22 130.23 130.24 130.25 130.26 130.27 130.28 130.29 130.30 130.31 130.32 130.33 130.34 130.35 130.36 130.37 130.38 130.39 130.40 130.41 130.42 130.43 130.44 130.45 130.46 130.47 130.48 130.49 130.50</p>		<p>NO. 130 130.00 130.01 130.02 130.03 130.04 130.05 130.06 130.07 130.08 130.09 130.10 130.11 130.12 130.13 130.14 130.15 130.16 130.17 130.18 130.19 130.20 130.21 130.22 130.23 130.24 130.25 130.26 130.27 130.28 130.29 130.30 130.31 130.32 130.33 130.34 130.35 130.36 130.37 130.38 130.39 130.40 130.41 130.42 130.43 130.44 130.45 130.46 130.47 130.48 130.49 130.50</p>	
<p>NO. 130 130.00 130.01 130.02 130.03 130.04 130.05 130.06 130.07 130.08 130.09 130.10 130.11 130.12 130.13 130.14 130.15 130.16 130.17 130.18 130.19 130.20 130.21 130.22 130.23 130.24 130.25 130.26 130.27 130.28 130.29 130.30 130.31 130.32 130.33 130.34 130.35 130.36 130.37 130.38 130.39 130.40 130.41 130.42 130.43 130.44 130.45 130.46 130.47 130.48 130.49 130.50</p>		<p>NO. 130 130.00 130.01 130.02 130.03 130.04 130.05 130.06 130.07 130.08 130.09 130.10 130.11 130.12 130.13 130.14 130.15 130.16 130.17 130.18 130.19 130.20 130.21 130.22 130.23 130.24 130.25 130.26 130.27 130.28 130.29 130.30 130.31 130.32 130.33 130.34 130.35 130.36 130.37 130.38 130.39 130.40 130.41 130.42 130.43 130.44 130.45 130.46 130.47 130.48 130.49 130.50</p>	

**EXHIBIT “B”**  
**CERTIFICATION FORM**

[DATE]

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

RE: Certification Form – Reinvestment Zone No. 130  
Tax Abatement Agreement (the “Agreement”) between Tyler Technologies, Inc. (“Owner”) and the City of Plano.

This letter certifies that Owner is in compliance with each applicable term as set forth in the Agreement. The term of the Abatement is January 1, 2014, through December 31, 2023. This form is due on November 1 of each year the Agreement is in force.

Tyler Technologies, Inc., a Delaware  
corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_