

RESOLUTION NO. 2013-02-\_\_\_\_ (R)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, APPROVING A FIRST AMENDMENT TO THE COMMERCIAL-INDUSTRIAL TAX ABATEMENT AGREEMENT PREVIOUSLY EXECUTED EFFECTIVE NOVEMBER 6, 2012, WITH WISTRON GREENTECH (TEXAS) CORP.; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TAX ABATEMENT AGREEMENT**

**WHEREAS**, Chapter 312 of the Texas Tax Code authorizes the City of McKinney, Texas, to participate in tax abatement agreements; and

**WHEREAS**, the City Council of the City of McKinney, Texas, finds and determines that entering into tax abatement agreements will be to the benefit of the citizens of the City of McKinney; and

**WHEREAS**, the City Council also desires to approve the First Amended Tax Abatement Agreement, a copy of which is attached hereto as **Exhibit A**, to be entered into by and between the City of McKinney, Texas, and Wistron GreenTech (Texas) Corp., a Texas corporation.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AS FOLLOWS:**

Section 1. That the foregoing recitals are hereby found to be true and correct legislative findings of the City of McKinney, Texas, and are fully incorporated into the body of this resolution.

Section 2. The City Council of the City of McKinney, Texas does hereby adopt the first amendment to the commercial-industrial tax abatement agreement, a copy of which is attached hereto as **Exhibit A**, by and between the City of McKinney, Texas, and Wistron GreenTech (Texas) Corp., a Texas corporation.

Section 3. The City Manager is hereby authorized to execute the First Amended Tax Abatement Agreement between the City of McKinney, Texas and Wistron GreenTech (Texas) Corp., a Texas corporation, a copy of which attached hereto as **Exhibit A**.

Section 4. This resolution shall become effective from and after its passage.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 19th DAY OF FEBRUARY, 2013.**

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
BRIAN LOUGHMILLER  
Mayor

ATTEST:

\_\_\_\_\_  
SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK S. HOUSER  
City Attorney

**EXHIBIT A**

THE STATE OF TEXAS

§  
§  
§  
§

COUNTY OF COLLIN

**FIRST AMENDED TAX ABATEMENT AGREEMENT**

This First Amended Tax Abatement Agreement is entered into by and between the *City of McKinney, Texas*, a home rule municipality of Collin County, Texas, duly acting herein by and through its City Manager (hereinafter referred to as City) and Wistron GreenTech (Texas) Corp., a Texas corporation (hereinafter referred to as the "WGTX"), duly acting herein by and through its General Manager.

W I T N E S S E T H:

WHEREAS, on November 6, 2012, the City and WGTX entered into a tax abatement agreement ("Original Tax Abatement Agreement") for real property located at 2101 Couch Drive in McKinney, Texas, and as further described and or depicted in *Exhibit A* of this Agreement,, and

WHEREAS, the parties desire to modify the terms of the Original Tax Abatement Agreement, to conform to the project's scope and construction timeline; and

NOW, THEREFORE, the Parties hereby mutually agree as follows:

Section 1. Section 3 of the Original Tax Abatement Agreement is amended to read as follows:

**"Section 3. Property Subject to Tax Abatement.**

The real property subject to this Agreement shall be a fee simple interest owned by WGTX in certain real property located at 2101 Couch Drive in McKinney, Texas, and as further described and or depicted in *Exhibit A* of this Agreement, which is attached hereto and incorporated herein for all purposes. The property is hereinafter referred to as the Real Property and is located within said Reinvestment Zone No.26, City of McKinney, Texas. The Real Property is the situs of the Improvements. The Real Property shall be subject to a tax abatement to the extent the market value thereof, as reflected on the tax rolls of the Collin Central Appraisal District, beginning in Tax Year 2014, exceeds the value thereof, as reflected on the tax rolls for Tax Year 2012.

This Tax Abatement Agreement is conditioned upon WGTX receiving a Certificate of Occupancy for the Office Area and a Temporary Certificate of Occupancy for the Warehouse Area on or before July 1, 2013.

Further, WGTX agrees to locate on the Real Property certain business personal property which was not on the tax rolls of the City prior to the Effective Date of this Agreement; such business personal property shall be referred to hereinafter as Personalty and shall be subject to the terms of the tax abatement described in this Agreement. WGTX agrees that to be eligible for the abatement described herein, the City shall be in receipt of a final, non-appealable determination of the Collin County Central Appraisal District of the taxable value of the Improvements and the Personalty (excluding the value of the land) which equals at least **ELEVEN MILLION AND NO/100**

**DOLLARS (\$11,000,000.00).** If the Improvements and Personalty (excluding the value of the land) are at least a taxable value of **ELEVEN MILLION AND NO/100 DOLLARS (\$11,000,000.00)** as determined by the Collin County Central Appraisal District, eligibility may alternatively be met by the receipt of written confirmation that for any affected Tax Year WGTX has rendered the value of the Improvements and Personalty with the Central Appraisal District of Collin County ("CAD") in an amount not less than least **ELEVEN MILLION AND NO/100 DOLLARS (\$11,000,000.00)**; or in the alternative, and in conjunction with any affected Tax Year, WGTX has elected and has executed a Payment in Lieu of Taxes Agreement with City covering any gap in City ad valorem taxes which would have been payable had the Improvements and Personalty been taxable at \$11,000,000.00.

- Section 2. All of the other terms, conditions and consideration for the Original Tax Abatement Agreement are unmodified by this First Amended Tax Abatement Agreement and are continued in full force and effect.
- Section 3. This First Amended Tax Abatement Agreement shall not be considered a default of the Original Tax Abatement Agreement; however, the default provisions in Section 6 of the Original Tax Abatement Agreement remain in full force and effect for the term of the Abatement.
- Section 4. This First Amended Tax Abatement Agreement shall constitute a valid and binding Agreement between the *City* and *WGTX* when executed.
- Section 5. This Agreement is performable in Collin County, Texas, to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013 ("effective date").

ATTEST:

**CITY MCKINNEY, TEXAS**

\_\_\_\_\_  
SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

\_\_\_\_\_  
JASON GRAY  
City Manager

**WISTRON GREENTECH (TEXAS), CORP,**  
a Texas corporation,  
Its General Manager  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK S. HOUSER  
City Attorney for the  
City of McKinney, Texas

**EXHIBIT A**  
**Legal Description and or Depiction**  
**of Real Property**

Lot 1R, Block D of McKinney Industrial Park No. 2, an addition to the City of McKinney, Texas according to the plat recorded in Volume 2008, Page 466 of the Plat Records of Collin County, Texas and containing 21.3741 acres.