

RESOLUTION NO.739

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, RESCINDING THAT CERTAIN AGREEMENT BY AND AMONG HERRING TERRELL, LLC, THE CITY OF TERRELL AND THE TERRELL ECONOMIC DEVELOPMENT CORPORATION AND ALL OBLIGATIONS OF THE DEVELOPMENT CORPORATION THEREUNDER AND UNDER RESOLUTION NO. 705; INCORPORATING RECITALS; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Terrell, Texas, recognizes the importance of its continued role in local economic development; and

WHEREAS, Herring Terrell, LLC proposed to acquire certain real property in Terrell, Kaufman County, Texas, to design, develop and construct a retail shopping center consisting of approximately 550,000 square feet of retail space being situated within the Tax Increment Financing Reinvestment Zone No. One (TIF District) in the City of Terrell, Texas; and

WHEREAS, the public improvements were to be constructed within the TIF District as set forth in the Agreement to encourage development of the TIF District in accordance with the purposes for its creation and in compliance with the Ordinances creating such Reinvestment Zone adopted by the City and all applicable laws; and

WHEREAS, the Mayor of the City of Terrell, Texas, executed an Economic Development Agreement dated September 20, 2011, by and between the City of Terrell, Texas, Terrell Economic Development Corporation and Herring Terrell, LLC; and

WHEREAS, the Terrell City Council considered and passed Resolution No. 705 on September 20, 2011, approving the terms of the Economic Development Agreement and accepting the obligations of the City of Terrell, Terrell Economic Development Corporation and the TIF District as set forth in the Agreement and approving the recommendations of the Board of Directors of the Tax Increment Financing Reinvestment Zone No. One and the recommendations of the Board of Directors of the Terrell Economic Development Corporation; and

WHEREAS, Herring Terrell, Inc. failed to comply with the terms of the Economic Development Agreement and was given notice of default by the City and a cure period in accordance with the terms of the Agreement; and

WHEREAS, Herring Terrell, LLC failed to cure such default; and

WHEREAS, the public improvements contemplated in the Economic Development Agreement have not been constructed, nor have any of the conditions for

the granting of incentives set forth in Resolution No. 705 been fulfilled by Herring Terrell LLC; and

WHEREAS, no tax increments defined in the Economic Development Agreement have been deposited in a segregated account for Tax Increment Financing Reinvestment Zone No. One.

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

The preceding recitals constitute findings of fact by the Council and are incorporated hereby.

Pursuant to the remedies provided in the Economic Development Agreement, such Agreement hereby is rescinded and shall be of no further force and effect.

The Council's acceptance of the obligations regarding the Agreement through approval of Resolution No. 705 likewise is rescinded and shall be of no further force and effect.

The City Attorney hereby is directed to notify Herring Terrell, LLC and all other Parties to the Agreement of the Council's action on the Agreement and Resolution No. 705, and to take all necessary actions to effect such rescission.

This Resolution shall become effective immediately upon its passage and approval.

PASSED and APPROVED the 20th day of August, 2013.

Hal Richards, Mayor

Attest:

John Rounsavall, Secretary