



CITY of NOVI CITY COUNCIL

**Agenda Item H
March 12, 2012**

SUBJECT: Approval of Amended Resolution Approving Application of TBON, LLC for Commercial Rehabilitation Exemption Certificate for a Hotel attached to a convention and Trade Center, located at 46100 Grand River, for the purpose of adding information requested for clarification by the State Tax Commission.

SUBMITTING DEPARTMENT: City Clerk *sm*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The City Clerk's office recently received correspondence from the Department of Treasury Property Services Division, requesting an Amended Resolution be adopted to include information requested by the State Tax Commissioner within the Resolution. The prior action approving the Application is still complete; the additional information is requested by the Commission for purposes of clarity.

Please see attached Resolution with highlighted areas indicating proposed changes.

RECOMMENDED ACTION: Approval of Amended Resolution Approving Application of TBON, LLC for Commercial Rehabilitation Exemption Certificate for a Hotel attached to a convention and Trade Center, located at 46100 Grand River, for the purpose of adding information requested for clarification by the State Tax Commission.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				

JOHNSON | ROSATI | SCHULTZ | JOPPICH

A Professional Corporation

34405 W. Twelve Mile Road Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 / Fax: 248.489.1726
www.johnsonrosati.com

Thomas R. Schultz
tschultz@jrsjlaw.com

March 7, 2012

Mayor Robert Gatt
City of Novi
45125 W. Ten Mile Road
Novi, MI 48375

City Council
City of Novi
45125 W. Ten Mile Road
Novi, MI 48375

RE: **Amended** Resolution Approving Commercial Rehabilitation District Application

Dear Mayor Gatt and Council Members:

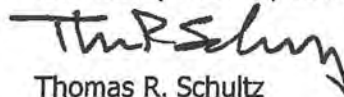
On the consent agenda for the March 12, 2012, meeting, is an Amended Resolution Approving Application of TBON, L.L.C. for a Commercial Rehabilitation Exemption Certificate. After the original resolution was adopted in October, 2011, and the agreement between the City and the applicant was executed by both parties, the entire "package" was sent to the State Tax Commission for final action. It has requested some clarifying information in the City's resolution. From my reading of the Act, none of the information is absolutely required in order for the resolution as adopted to be effective. However, the Tax Commission's representative has indicated that the information is typically required by the Commission for purposes of clarity. The changes are highlighted for your convenience.

While we recommend that the Council approve the Amended Resolution as requested by the State Tax Commission, we want to point out that the request does not present another opportunity to the City to revisit the substantive question of whether to approve the application. That action has been taken by City Council, and the applicant has taken action in reliance on that prior action. This is merely a clarification at the request of the reviewing authority.

If you have any questions, please do not hesitate to call.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.


Thomas R. Schultz

cc: Clay Pearson, City Manager
Maryanne Cornelius, City Clerk
Victor Cardenas, Assistant City Manager

CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN

AMENDED RESOLUTION APPROVING APPLICATION
OF TBON. LLC FOR
COMMERCIAL REHABILITATION EXEMPTION
CERTIFICATE FOR A HOTEL ATTACHED TO A
CONVENTION AND TRADE CENTER
(SUBURBAN COLLECTION SHOWPLACE)

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall in said City on **March 12, 2012**, at 7:00 o'clock P.M. Prevailing Eastern Time.

PRESENT:

ABSENT:

The following preamble and Resolution were offered by _____
and supported by Council Member _____.

Whereas, pursuant to P.A. 210 of 2005, as amended by P.A. Nos. 81 and 82 of 2011, MCL 207.841, *et seq.*, after a duly-noticed public hearing held on October 17, 2011, the City Council of the City of Novi by resolution established an Commercial Rehabilitation District, as requested by the owner of the property located at 46100 Grand River Avenue, known as the Suburban Collection Showplace; and

Whereas, TBON, LLC has filed an application for a Commercial Rehabilitation Exemption Certificate with respect to a new facility to be completed within the newly-established District, **which such property is Commercial Property as defined in Section 2(a) of Public Act 210 of 2005**; and

Whereas, before acting on said application, the City Council held a hearing on October 24, 2011, at the City Hall, at 7:00 p.m., at which hearing the

applicant, the Assessor, and a representative of the affected taxing units, and the general public, were given written notice and were afforded an opportunity to be heard on said application; and

Whereas, rehabilitation or other work on the Qualified Facility (i.e., the hotel) had not yet commenced **as of October 24, 2011**; and

Whereas, the application relates to a rehabilitation program that when completed will constitute a Qualified Facility under Public Act 210 of 2005, as amended by Public Acts 81 and 82 of 2011, and will be located in the newly-established District; and

Whereas, the City Council of the City of Novi finds that completion of the facility is calculated to and will at the time of issuance of the certificate have the reasonable likelihood to increase commercial activity; create employment, retain employment, and/or prevent a loss of employment, and further finds that the facility will be an economic benefit to the City; and

Whereas, the applicant has stated in writing that the rehabilitation of the Qualified Facility would not be undertaken without the Applicant's receipt of the exemption certificate; and

Whereas, the Applicant is not delinquent in the payment of any taxes related to the Qualified Facility; and

Whereas, the Applicant has provided answers to all required questions under the application instructions to the City of Novi.

Whereas, the City Council of the City of Novi finds that approval of the Exemption Certificate would substantially comply with the Tax Abatement Application Criteria set forth in the City's Tax Abatement Policy, incorporated as part of this Resolution by this reference; and

Whereas, the aggregate taxable value of the property proposed to be exempt, when considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under Public Act 210 of 2005 or Public Act 198 of 1978 will not exceed 5% of the taxable value of the City; and

Whereas, the rehabilitation includes improvements aggregating 10% or more of the true cash value of the property at commencement of the rehabilitation as provided by Section 2(j) of Public Act 210 of 2005, inasmuch as the rehabilitation is in fact a new building.

Whereas, the City Council requires that the rehabilitation of the facility shall be completed by December 31, 2012, unless such date is extended by the City Council.

Whereas, the City Council of the City of Novi finds that granting the Certificate, considered together with the aggregate amount of certificates previously granted and currently in force under Public Act 210 of 2005, as amended, or Public Act No. 198 of the Public Acts of 1974, will not have the effect of substantially impeding the operation of the City of Novi, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Novi; and

Whereas, the City Council of the City of Novi makes these findings and approves the issuance of the exemption certificate only if and to the extent that TBON, LLC has agreed to enter into a certain agreement with the City entitled "Agreement Concerning Act 210 Commercial Rehabilitation Tax Abatement," attached hereto and made a part hereof, and further states that the failure of TBON, LLC to sign the Agreement, or to the extent the Agreement is found to be unenforceable for any reason, in whole or part, then this Resolution and the City's approval will be null and void and of no further effect;

Whereas, this Resolution amends the previous Resolution adopted by the City Council on October 24, 2011. The purpose of the amendment is to include information required by the State Tax Commission within the Resolution.

NOW, THEREFORE, BE IT RESOLVED that the application of TBON, LLC for a Commercial Rehabilitation Exemption Certificate with respect to a new facility to be constructed on the following described parcel of real property situated within the Novi Commercial Development District No. 1, to wit:

A parcel of land in the northeast ¼ of Section 16, town 1 north, range 8 east, City of Novi, Oakland County, Michigan, being more particularly described as: commencing at the east ¼ corner of said Section 16; thence along a line as monumented and occupied, S87°26'37"W 1135.25 feet (previously described as S86°56'26"W); thence N01°45'51"W 306.73 feet to the point of beginning; thence S88°14'09"W 270.00 feet; thence N01°45'51"W 111.09 feet to the southeast corner of the existing Showplace building; thence along the existing easterly Showplace building line the following five courses: N01°45'51"W 30.67 feet, S88°14'09"W 3.77 feet, N01°45'51"W 21.75 feet, N88°14'09"E 3.77 feet and N01°45'51"W 189.85 feet to the northeast corner of said existing Showplace building; thence continuing N01°45'51"W 195.04 feet to the south right-of-way line of I-96 expressway (right-of-way varies); thence along said I-96 right-of-way line S74°00'10"E 283.51 feet; thence S01°45'51"E 461.91 feet to the point of beginning. Containing 134,474 square feet or 3.087 acres and being together with and subject to easements, restrictions or rights-of-way of record.

be and the same is hereby approved.

NOW THEREFORE BE IT FURTHER RESOLVED that subject to and in accordance with the Recitations set forth above the Industrial Facilities Exemption Certificate when issued shall be and remain in force and effect for a period of 6 years, for the tax years 2013 through 2018, but subject to the terms and conditions of the Agreement Concerning Act 210 Commercial Rehabilitation Abatement between TBON, LLC and the City of Novi.

NOW THEREFORE BE IT FURTHER RESOLVED that this Resolution is subject to and conditioned upon TBON, LLC executing the Agreement Concerning Act 210 Commercial Rehabilitation Abatement and such Agreement being given full force and effect, and in the event that the Agreement is not signed or is found to be unenforceable for any reason, in whole or part, then this Resolution and the City's approval will be null and void and of no further effect.

NOW THEREFORE BE IT FURTHER RESOLVED that this Resolution and the related Agreement Concerning Act 210 Commercial Rehabilitation Abatement are both **subject to** any right of the County of Oakland, under P.A. 210 of 2005, as amended, to reject the establishment of the District by the City within 28 days of the Council Resolution. If the County in fact rejects the establishment of the District, then this Resolution granting the Exemption Certificate, and the agreement, shall become null and void and of no force and effect.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

MARYANNE CORNELIUS, CITY CLERK

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this 12th day of March, 2012, and that public notice of said meeting was given pursuant to and in full compliance with

Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

MARYANNE CORNELIUS, CITY CLERK