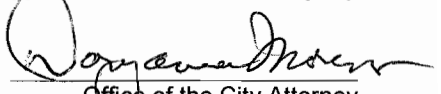


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Office of the City Attorney

OAKLAND CITY COUNCIL

Resolution No. 84509 C.M.S.

RESOLUTION APPROVING SETTLEMENT OF ROLLS-ROYCE ENGINE SERVICES-OAKLAND INC. V. CITY OF OAKLAND (ALAMEDA SUPERIOR COURT CASE NO. RG13671409), BY ACCEPTING PAYMENT FROM ROLLS-ROYCE OF \$223,084 IN BUSINESS TAXES AND INTEREST AND WAIVING CITY'S CLAIM TO PAYMENT OF PENALTIES OF \$34,817, IN EXCHANGE FOR DISMISSAL OF ROLLS-ROYCE'S LAWSUIT (FINANCE AND MANAGEMENT AGENCY - BUSINESS TAXES PER OMC CH. 5.04)

WHEREAS, on or about December 14, 2012, the Oakland Tax Board of Review issued, on behalf of the City, a written administrative decision ("Administrative Decision") regarding the application of the City's Business Tax Ordinance (Chapter 5.04 of the Oakland Municipal Code; the "Ordinance") to Rolls-Royce Engine Services-Oakland, Inc. ("Rolls-Royce");

WHEREAS, the Administrative Decision (1) reclassified Rolls-Royce as a "service" business rather than a "manufacturer" under the Ordinance and (2) found Rolls-Royce liable to the City for taxes, penalties and interest under the Ordinance for certain specified years based upon the reclassification, in the amount of \$257,901; and

WHEREAS, in March 2013, Rolls-Royce (1) paid the taxes and interest under protest (\$223,084) but not the penalties (\$34,817) that were the subject of the Administrative Decision and (2) filed suit in Alameda Superior Court to reverse the Administrative Decision—Rolls-Royce Engine Services-Oakland Inc. v. City of Oakland et al., Case No. RG13671409 (the "Action"), which is pending; and

WHEREAS, on June 4, 2013, the City Council considered and authorized a settlement of the Action in which the City would accept the payment of the taxes and interest (\$223,084) and waive its claim to recover penalties (\$34,817) in exchange for Rolls-Royce's dismissal of the Action; now therefore be it resolved

RESOLVED: The City Attorney is authorized and directed to settle the matter of Rolls-Royce Engine Services-Oakland Inc. v. City of Oakland et al., Case No. RG13671409, City Attorney File No. X03914, to accept payment of taxes and interest from Rolls Royce Engine Services-Oakland, Inc. in the amount of \$223,084

MEETING
OAKLAND

(previously paid) and waive the City's claim to recover penalties of \$34,817 in exchange for dismissal of the Action.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUL 16 2013

PASSED BY THE FOLLOWING VOTE:

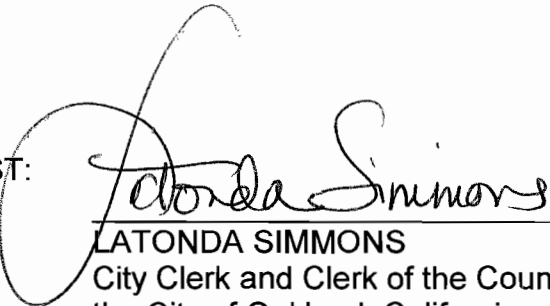
AYES – BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF
AND PRESIDENT KERNIGHAN – 8

NOES – 0

ABSENT – 0

ABSTENTION – 0

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

1173197.1