

# CITY OF OAKLAND

## AGENDA REPORT

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2009 MAY 28 PM 3:43

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: June 9, 2009

RE: **Resolution Authorizing a Business Incentive Agreement with One Workplace L. Ferrari, LLC ("OWP"), Requiring OWP to Expand and Maintain its Business in the City for a Minimum Period of Five Years In Exchange for the City's Disbursement to OWP of Business Incentive Payments In Amounts Equal to the Percentage of Sales and Use Tax Received by the City From OWP's Retail Sales for the Following Periods: (1) For Year Two of the Agreement (Fiscal Year 2011-12), 50% of the Tax;(2) For Year Three of the Agreement (Fiscal Year 2012-13), 45% of the Tax; and (3) For Year Four of the Agreement (Fiscal Year 2013-14), 40% of the Tax.**

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### SUMMARY

The City Council is asked to approve a Resolution authorizing the execution of a Business Incentive Agreement between the City and One Workplace Ferrari, LLC, dba One Work Place ("OWP") to attract OWP and its substantial retail sales activities and sales jobs to Oakland. Northern California's largest commercial furniture dealership, OWP's intent is to consolidate sales operations at a new, more centrally located site closer to its East Bay clients. This Agreement is proposed to incentivize OWP management to locate one of its existing sales offices to Oakland from Alameda; the Alameda office achieved over \$34 million in sales in 2008. Additional OWP sales offices may also locate in Oakland if economically advantageous to the company.

The proposed Agreement would have the following impact on OWP Sales and Use Tax received by the City of Oakland:

- Move-in date thru June 30, 2010: All Sales and Use Tax will be retained by the City.
- Fiscal year ("FY") 2010-11: The City will reimburse to OWP 50% of the Sales and Use Tax received from the sales generated by OWP in Oakland.
- FY 2011-12: The City will reimburse to OWP 45% of the Sales and Use Tax received from the sales generated by OWP in Oakland.
- FY 2012-13: The City will reimburse to OWP 40% of the Sales and Use Tax received from the sales generated by OWP in Oakland.

In exchange for this Agreement, OWP will agree to retain its sales offices in Oakland for a minimum of five years. This Agreement will be backed by security to be negotiated (e.g., a letter of credit or other security), and will contain a First Source Hiring Agreement.

Item: \_\_\_\_\_  
Finance and Management Committee  
June 9, 2009

Staff recommends approval of this Agreement as it meets Council goals to increase retail activity; the Agreement will secure a significant source of general fund revenue for the City, bringing in considerable Sales and Use Tax and Business Tax; the Agreement will bring at least 30 new, well-paying sales jobs into Oakland, with more jobs added if additional sales offices are relocated; and will generate a new 20,000 s.f. sub-lease of currently vacant space in the Airport Business Park/Coliseum Redevelopment area, an area currently experiencing a 21% vacancy rate.

**FISCAL IMPACT**

The Agreement will require the City to remit to OWP amounts equal to the actual Sales and Use Tax received by the City for three consecutive years as follows:

- FY 2010-11: 50% of the Sales and Use Tax received from the sales generated by OWP in Oakland.
- FY 2011-12: 45% of the Sales and Use Tax received from the sales generated by OWP in Oakland.
- FY 2012-13: 40% of the Sales and Use Tax received from the sales generated by OWP in Oakland.

Net revenue to the General Purpose Fund anticipated from the Agreement lies within the following ranges, not including anticipated revenue growth:

	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Net Sales and Use Tax (Single Sales Office)	\$332,500	\$332,500	\$332,500	\$332,500	\$332,500	\$1,662,500
Net Sales and Use Tax (Potential for Merged Sales Offices)	\$475,000	\$475,000	\$475,000	\$475,000	\$475,000	\$2,375,000
Business License Tax - High	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$300,000
Business License Tax - Low	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$150,000
Net Taxes Retained by City (Range)	\$362,500 to \$535,000	\$196,250 to \$297,500	\$212,875 to \$321,250	\$229,500 to \$345,000	\$362,500 to \$535,000	\$1,363,625 to \$2,033,750
Payments to OWP (Range)	\$0	\$166,250 to \$237,500	\$149,625 to \$213,750	\$133,000 to \$190,000	\$0	\$448,875 to \$641,250
Net Revenue to City (Taxes less Payments to OWP)	\$362,500 to \$535,000	\$ 30,000 to \$ 60,000	\$ 63,250 to \$107,500	\$ 96,500 to \$155,000	\$362,500 to \$535,000	\$914,750 to \$1,392,500

Annual net revenue to the General Purpose Fund anticipated from the agreement will vary from a low \$30,000 to as high as \$535,000 after an annual business incentive payment to OWP ranging from a low of \$133,000 to a high of \$237,500 in years 2010-11 through 2012-13. Actual Gross and Net Sales Tax will fluctuate based on actual sales revenues experienced by OWP.

The sales tax revenue received from OWP will be monitored with a special project number for tracking purposes. Within 60 days of reconciliation of revenue received by the City and a written invoice from OWP, business incentive payments will be disbursed to OWP according to the terms of the Agreement annually at the end of each fiscal year and recorded under the same special project number. The Budget Office is evaluating General Purpose Fund revenue performance on an ongoing basis and will incorporate anticipated revenue from OWP into the final FY 2009-10 revenue budget.

The only overhead costs for implementation will occur in the Revenue Division of the Financial Services Agency where sales tax monitoring and reimbursement will take place.

## **BACKGROUND**

One Workplace is Northern California's largest commercial furniture dealership. Opened in 1925 as a family-operated bookstore, One Workplace has evolved into a multi-faced company that serves start-ups and Fortune 500 companies with architectural products, office furniture and audio video solutions. The company works with customers through the entire process of the interior design process, from space planning and design development through installation. OWP has three Bay Area offices to serve regional customers, as well as networks of global dealers that serve the requirements of multi-national corporations. The company represents over 300 manufacturers including Steelcase, a major provider of office furniture worldwide.

Markets served include education, healthcare, government, financial institutions and biotechnology. Clients includes Kaiser Permanente, Clorox, UC Berkeley, Google, Stanford University, eBay, Santa Clara University, Intel, NBC, Cities of San Jose and Santa Clara, Lawrence Livermore Laboratories, Old Navy, The Gap, Oracle, Sun Microsystems, John Muir Medical Center, Netflix, Cisco Systems, CA State Auto Assn. and many others.

The proposed location of OWP is 7220 Edgewater Dr., formerly the Oakland headquarters and manufacturing plant for Metropolitan Furniture. In March of 2008, Metro's parent company, Steelcase, Inc. announced that the manufacturing plant in Oakland would move to Texas. This resulted in the loss of 240 jobs, and released over 200,000 s.f. of industrial space into the Airport Business Park market. Metro is still headquartered at this location, pending final relocation to San Francisco, and is seeking to sub-lease its vacant space under a lease that expires in 2012.

OWP is headquartered in Milpitas, with sales offices located in Alameda and San Francisco. The company's Milpitas facility includes over 250,000 s.f. of office (corporate headquarters, administration and sales) and warehouse (distribution) space. The Milpitas lease will expire in 2013. OWP management is assessing the long-term benefits of space and workforce consolidation for the entire company.

Accordingly, OWP approached staff in September 2008 to determine the City's willingness to craft a Business Incentive Agreement focused on Sales and Use Tax as a starting point for this assessment. The proposed Agreement is the result of these discussions.

The company's Alameda lease expired at the end of 2008, and OWP faced financial penalties in a month-to-month lease arrangement. Based on its substantive discussions with Oakland, the company moved some of its Alameda staff to 7220 Edgewater in temporary space on a month-to-month sub-lease. Other Alameda staff was moved temporarily to the San Francisco office. Upon execution of this Agreement with Oakland, the company will finalize a long-term sub-lease with Metro Furniture for 20,000 s.f. of office space (*Attachment A*).

## KEY ISSUES AND IMPACTS

The public benefit of executing the proposed Business Incentive Agreement with OWP includes increased Sales and Business Tax Revenues; job creation; and incentive for OWP to locate its office in an area of the Coliseum Redevelopment Agency that has an extremely high 21% vacancy rate and actual availability of space at 28%.

### Competitive Approach to Increasing Oakland's Tax Revenues

According to the recent Budget Proposal from the Office of the Mayor, the City has been severely impacted by revenue decreases that include a \$4.6 million drop in sales tax and \$1 million decrease in business license tax. The City Council has established a focus on retail business attraction to better serve Oakland residents and to increase consistent Sales and Use Tax revenues for the City's general fund.

OWP is a unique retailer in that it provides the retail Sales and Use Tax desired by the City without the need for the typical destination retail environment. Prime retail location sites usually necessitate adjacent and complementary retail stores, easy transportation access by customers, walk-by traffic, and local consumer markets deemed desirable by the retailer. OWP does not have any retail locations. Sales are generated through its existing customer base, referrals, direct marketing (sales representatives), its global dealer network, a robust web site, etc. Product orders are filled from its Milpitas warehouse or directly from its supplier to the customer.

### Business Relocation Criteria

Businesses commonly cite five main reasons for relocating:

- Labor and workforce issues
- Desire to reach new markets
- Need to upgrade facilities or equipment
- Desire to lower costs or increase cash flow
- Considerations about quality of life

In the current economic environment, OWP has been very consistent about the reasons for its desire to relocate and possibly consolidate its operations; management is positioning itself to lower its costs in order to maintain its competitive edge in the marketplace.

In 2007, OWP generated total revenues exceeding \$145 million. In 2008, OWP's Alameda office generated sales exceeding \$34 million. The Alameda sales office has been partially relocated on a month-to-month sub-lease. The company would execute a longer-term sub-lease for expanded square footage upon approval of this Agreement, with the possibility of further consolidation of sales offices in Oakland if financially advantageous to OWP.

### High Vacancy Rates in the Airport Business Park

Office vacancy rates in the Airport Business Park have reached a 3-year high. Of the total 1.6 million s.f. of rentable building area for office, over 340,000 s.f., or 21%, is identified as vacant. An additional 127,000 s.f. is leased but available, resulting in an actual space availability of 28%. Since the beginning of the year, almost 43,000 s.f. of office space in the Airport Business area has become available (negative absorption), a 3% vacancy increase.<sup>1</sup>

This should be compared with overall rates of 11% office vacancy, and 13% office available in the Downtown Central Business District.

### Competitive Oakland Businesses

There are a number of Oakland businesses whose primary product lines feature office furniture. Most of these businesses offer specialty products featuring some aspect of office furniture, many of whom focus on high end products. Other Oakland businesses such as Give Something Back

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<sup>1</sup> CoStar Property®, May 12, 2008

also sell office furniture, workstations and services in addition to a complete line of general office products.

Due to the presence of internet marketing, most of these businesses compete head to head in a regional, if not global, market. OWP has already penetrated the Oakland market in a big way, as evidenced by its list of clients (Kaiser Permanente, Clorox, etc.). However, Oakland does not receive the benefit of point-of-sale sales or business taxes from these transactions. This incentive agreement seeks to expand OWP's existing business activity in Oakland and to secure the resulting sales taxes – and increased business taxes – for Oakland.

OWP offers a comprehensive line of wholesale architectural and furniture products and services that target Office, Medical and Education work environments. The company does not have a retail location. Services include: Asset Management and Storage, Audio Visual Systems Integration, Delivery, eBusiness Solutions, Financial Alternatives, Furniture Care Services, Global Dealer Services, Installation, On-Site Services, Project Management, Recycling Services, Relocation Services, Rental and Space Planning and Design.

Staff's search revealed only two significant furniture-focused retailers headquartered in Oakland: Kantors Discount Office Furniture and Zuo Modern Contemporary Inc. Neither of these companies offers the complete line of product and services provided by OWP.

- Kantors operates out of a single location, sells a variety of home and office furniture and workstation products at its retail location, provides limited on-site service, and generates just over \$3.2 million in revenues with 17 employees.
- Zuo Modern Contemporary Inc. offers a contemporary variety of residential, hospitality and commercial furniture, sold through offices in Oakland, Canada, Mexico, China and Hong Kong. Permanent show spaces are located in Las Vegas, NV; San Francisco, CA; and High Point, NC. The company generates \$13.7 million in annual revenue and has 26 Oakland employees.

**Oakland Office Furniture Businesses<sup>2</sup>**

<u>Business Name</u>	<u>Annual Sales Volume (millions)</u>	<u># Employees</u>	<u>Products and Services</u>	<u>Green Products</u>
Bay Concepts Inc.	\$1.1	19	Manufacturer -- Commercial Seating ( <i>OWP Supplier</i> )	Not specified on web site.
Creative Wood Products	\$8.7	150	Manufacturer – Fine Wood Office Furniture ( <i>OWP Supplier</i> )	Not specified on web site
Kantor's Discount Office Furniture & Equipment	\$3.2	17	Retailer, single location – Home and Office Furniture and Work Stations	Not specified on web site.
Metropolitan Furniture Corp.	\$14.2	20	Manufacturer and HQ – Office Furniture and Systems ( <i>OWP Supplier</i> )	Yes
Portfolio Productions Inc.	\$10.6	60	Manufacturer – Unique Wood Furniture for Homes ( <i>OWP Supplier</i> )	Not specified on web site.
Wood Tech, Inc.	\$4.3	70	Manufacturer – Specialty Office Furniture and Systems ( <i>OWP Supplier</i> )	Not specified on web site.
Zuo Modern Contemporary, Inc.	\$13.7	26	Retailer & HQ– Global Supplier, Home & Office Contemporary Furniture	Not specified on web site.
One Work Place	\$34	30	B2B Retailer – Office, Medical Furniture and Architectural Systems	Yes

At present, the City of Oakland has an open purchase order with Pivot Interiors, located in Pleasanton, for its office furniture and systems requirements. Pivot originally contracted with the City of Oakland to install the furniture and workstations in the new City Center buildings a decade ago, and continues to be the primary vendor for the City's furniture needs when replacement and repair is required.

<sup>2</sup>DemographicsNow, Business List Report, SIC Codes 25000 and 50000 (Retail Furniture and Fixtures, Wholesale Furniture)

In spite of the considerable business the City has provided to Pivot over the years, the City does not benefit from a share of Pivot's sales taxes; Pivot pays business tax only on business sales that take place in Oakland; and there is no priority to hire Oakland residents. The attraction of One Work Place to Oakland would provide the City with a vendor option. The City would also benefit from an ability to retain the sales and business tax generated by the Oakland sales office. Oakland's citizens would benefit from new job opportunities with OWP, incentivized by a first source hiring agreement and Oakland's Enterprise Zone Tax Credit Program.

### Legal

- State law generally prohibits a city from providing financial assistance in certain circumstances to a "big box retailer", auto dealer, or with respect to land that was not previously developed. None of those conditions apply to this Agreement.
- While the City may agree to make Business Incentive payments as proposed, due to state constitutional limitations the City will have no legal liability to OWP if it fails to make the payments.

### Regional Economy

With the approval of this Agreement, it is OWP's intent to relocate, at minimum, its Alameda sales office to Oakland. After four years located in Alameda, the company determined that the location was not optimal for a number of reasons, including employee transportation issues. Additionally, Alameda lacks sufficient, suitable warehouse space, a critical need for the company when the Milpitas lease expires in 2013 and further consolidation of office and warehouse space is considered. Consequently, OWP does not consider retaining its Alameda sales office to be an option.

### **PROJECT DESCRIPTION**

At this report's writing, the City faces an estimated \$83 million shortfall in FY 2009-10 and \$85 million deficit in FY 2010-11. Business License Tax (12%) and Sales Tax (10%) are the third and fourth major revenue sources for the City's General Fund, behind only Property Tax (32%) and Utility Consumption Tax (13%). Current economic conditions have resulted in companies contracting their leasing demands, resulting in a flood of sub-lease space throughout the Bay Area. Staff's efforts to attract new revenues to Oakland to supplement City Tax revenues will require a new approach that effectively uses marketing (communicating the business value of locating in Oakland) and business incentives (lowering the cost of doing business in Oakland).



This request to execute a Business Incentive Agreement between the City and OWP is an example of how a Retail Sales Tax Incentive Program could be used to attract businesses that could provide a significant new source of much-needed sales and use tax. In addition to the terms already identified, the Agreement will require the following:

- OWP will commit to continue and grow its business within the City of Oakland for a minimum of 5 years (60 months). If OWP chooses to leave Oakland, or removes a substantial portion of its sales tax base to another site outside of Oakland prior to the full 60 month period, OWP will repay the City's grant funds on a prorated basis to be negotiated.
- To secure the company's commitment to remain in Oakland for a minimum 5-year term, OWP will provide security of a type and amount to be negotiated between OWP and the City Administrator.
- OWP will execute a first-source hiring agreement with the City of Oakland, and agree to comply with the City's current Living Wage requirements.
- Staff will work with OWP to ensure that the company maximizes its potential tax credit benefits under the City's Enterprise Zone Program. Additionally, staff will work directly with OWP staff to ensure that its business taxes are structured to take full advantage of the City's apportionment tax guidelines.
- This Agreement will include any companies wherein One Work Place or Lindsay-Ferrari has at least a 45% interest that newly locates within Oakland.

## **SUSTAINABLE OPPORTUNITIES**

### ***Economic:***

- *Jobs:* OWP's decision to move to Oakland will result in the attraction of 30 new sales and administrative support jobs for Oakland. The company will execute a first-source hiring agreement with Oakland, and staff will work with OWP to maximize its Enterprise Zone tax credits, ensuring Oakland residents will have primary consideration for any jobs that become available.
- *Tax Revenues:* OWP will provide considerable business and sales tax revenues for Oakland's general fund as identified.
- *New Commercial Lease in a Highly Vacant Redevelopment Area:* OWP will execute a sub-lease to Metro Furniture at 7220 Edgewater Dr. in the Coliseum Redevelopment area. This Agreement provides OWP with the incentive to consolidate additional sales staff in the Oakland office, creating additional tax revenue and leasing opportunities for Oakland.

***Environmental:***

OWP stated mission is to reduce, reuse and recycle. The company offers green office furniture, architectural products and services, including recycling and refurbishing. These products are rated for compliance with a variety of eco-friendly certifications, including LEED Design standards.

***Social Equity:***

No additional social equity impacts are foreseen from the agreement.

**DISABILITY AND SENIOR CITIZEN ACCESS**

There are no accessibility impacts foreseen from this agreement.

**RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council approve a resolution authorizing a Business Incentive Agreement with One Workplace Ferrari, LLC, dba One Work Place ("OWP") to attract OWP to relocate to Oakland for a minimum five-year term beginning in June 2009.

Approval of this recommendation will send a signal to the business community that Oakland is prepared to compete successfully in the marketplace for investment and business activity. The proposed Business Incentive Agreement provides a carefully targeted financial incentive for a major business-to-business, high-growth retail company that will provide substantial tax revenues for the General Fund, a company that has the potential to grow in Oakland and create jobs for Oakland residents.

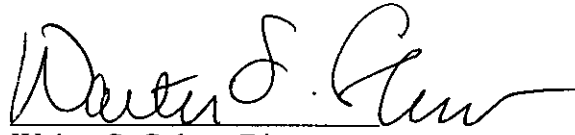
Failure to approve this Agreement may result in the company's decision to locate their sales offices outside of Oakland, thereby losing the opportunity to attract OWP and the attendant benefits to Oakland.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve a resolution authorizing a Business Incentive Agreement with One Workplace L. Ferrari, LLC, dba One Work Place to attract OWP to expand and maintain its activities in the City of Oakland for a five-year term beginning in June 2009.

- Beginning in Year Two of the Agreement (FY 2011-12), the City of Oakland will disburse to OWP a Business Incentive Payment equal to 50% of the total Sales and Use Tax received by the City from OWP's retail sales during that period;
- In FY 2012-13, the Business Incentive Payment will equal 45% of the total Sales and Use Tax received by the City from OWP's retail sales during that period;
- In FY 2013-14, the Business Incentive Payment will equal 40% of the total Sales and Use Tax received by the City from OWP's retail sales during that period;
- To secure OWP's commitment to remain in Oakland for a minimum of five years from the date the Business Incentive Agreement is signed, OWP will provide security of a type and in an amount to be negotiated by the City Administrator.

Respectfully submitted,

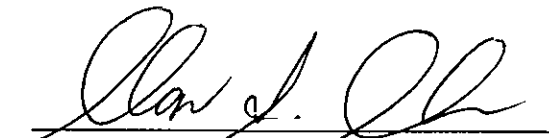


Walter S. Cohen, Director  
Community and Economic Development Agency

Reviewed by:  
Aliza Gallo, Urban Economic Coordinator

Prepared by:  
Deborah V. Acosta, Urban Economic Analyst IV  
Economic Development

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

  
Office of the City Administrator

Item: \_\_\_\_\_  
Finance and Management Committee  
June 9, 2009

Deborah V. Acosta

April 8, 2009

City of Oakland / Business Development  
Community & Economic Development Agency  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612

Dear Deborah,

It has taken two years to evaluate our long term requirements for the East Bay Area market place. We have finally come to a conclusion.

I presented a number of different options to our board and we have tentatively decided to move forward with our relocation to the Oakland Airport Business Park pending approval of our sales tax sharing agreement.

This was not an easy decision as other cities aggressively pursued our relocation.

Once all the facts were evaluated the total package offered by the city of Oakland was the most attractive to One Workplace.

We have entered into a short term sub-lease in Oakland so the Alameda office could be vacated without penalties for occupancy beyond the lease expiration date.

We trust that our deal will be finalized promptly and that any remaining negotiations will take place in good faith as they have with the Economic Development Agency to date. We also anticipate a prompt approval of the sales tax sharing arrangement by the council in June.

I look forward to a long and mutually beneficial relationship with One Workplace and the City of Oakland.

Regards,

  
Dave Ferrari  
President

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 MAY 28 PM 3:43

Approved as to Form and Legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION AUTHORIZING A BUSINESS INCENTIVE AGREEMENT WITH ONE WORKPLACE FERRARI, LLC ("OWP"), REQUIRING OWP TO EXPAND AND MAINTAIN ITS BUSINESS IN THE CITY FOR A MINIMUM PERIOD OF FIVE YEARS IN EXCHANGE FOR THE CITY'S DISBURSEMENT TO OWP OF BUSINESS INCENTIVE PAYMENTS IN AMOUNTS EQUAL TO THE PERCENTAGE OF SALES AND USE TAX RECEIVED BY THE CITY FROM OWP'S RETAIL SALES FOR THE FOLLOWING PERIODS: (1) FOR YEAR TWO OF THE AGREEMENT (FISCAL YEAR 2011-12), 50% OF THE TAX; (2) FOR YEAR THREE OF THE AGREEMENT (FISCAL YEAR 2012-13), 45% OF THE TAX; AND (3) FOR YEAR FOUR OF THE AGREEMENT (FISCAL YEAR 2013-14), 40% OF THE TAX.**

**WHEREAS**, the City Council desires to improve the business climate and facilitate opportunities for businesses in the City of Oakland; and

**WHEREAS**, the City Council desires to increase the revenues available to the City from tax revenues generated by businesses in the City of Oakland; and

**WHEREAS**, the City wishes to encourage businesses to maintain and expand their operations in the City of Oakland, increasing revenues and jobs for Oakland residents; and

**WHEREAS**, during the 5-year term of the agreement OWP will commit to expand and maintain its business within the City of Oakland, with this commitment supported by security of a type and in an amount to be negotiated; and

**WHEREAS**, if OWP leaves Oakland before expiration of the five-year term, or removes a substantial portion of its sales tax base to a non-Oakland location, OWP will repay the City's business incentive payments on a prorated basis to be negotiated; and

**WHEREAS**, to encourage OWP's continued expansion into Oakland, this Agreement will include any newly located companies to Oakland wherein One Work Place has at least a 45% interest; and

**WHEREAS**, OWP will execute a first-source hiring agreement with the City of Oakland, and agree to comply, at minimum, with the City's current Living Wage requirements; and

**WHEREAS**, the City Council finds that the payment contract proposed pursuant to the agreement authorized hereunder presents no recourse liability to the City of Oakland; now, therefore, be it

**RESOLVED**: That the City Council hereby authorizes the City Administrator to negotiate, enter into and execute an economic development agreement ("Business Incentive Agreement") between the City of Oakland and One Workplace Ferrari, LLC ("OWP") requiring OWP to expand and maintain a sales office in the City of Oakland for a minimum period of five years in exchange for the City's disbursement to OWP of Business Incentive Payments in amounts equal to the percentage of sales and use tax received by the City from OWP's operations for the following periods: (1) for the second year of the agreement (FY 2010-11), an amount equivalent to 50% of the tax; (2) for the third year of the agreement (FY 2011-12), an amount equivalent to 45% of the tax; and (3) for the fourth year of the agreement (FY 2012-13), an amount equivalent to 40% of the tax, and on other terms as described generally in the staff report for this item; and be it

**FURTHER RESOLVED**: That the City Council hereby authorizes the establishment of a special project to track the sales and use tax funds generated by OPW's newly expanded business located in the City of Oakland, and authorizes the disbursement of the funds as provided for in the agreement entered into between the City of Oakland and OWP with revenue expectations and disbursement appropriation amounts budgeted under the special project beginning in FY 2009-2010; and be it

**FURTHER RESOLVED**: That the City Administrator or his designee is authorized to make adjustments to revenue and expenditure appropriations pertaining to this agreement based on actual and anticipated future revenue receipts from OWP; and be it

**FURTHER RESOLVED**: That the City Administrator or his designee is authorized to negotiate, execute, and submit all documents, applications, agreements, and amendments which may be necessary or convenient to implement this Resolution; and be it

**FURTHER RESOLVED:** That the Office of the City Attorney shall approve the agreement and all such other documents, applications, agreements, and amendments as to form and legality and a copy will be placed on file at the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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