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Approved as to Form and Legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. 8 2 3 6 4 C.M.S.

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

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**RESOLUTION: (1) AUTHORIZING BUSINESS TAX AND SALES TAX INCENTIVE PROGRAMS TO FACILITATE THE CITY'S BUSINESS ATTRACTION ACTIVITIES; AND (2) AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO NEGOTIATE AND EXECUTE BUSINESS TAX INCENTIVE AGREEMENTS: (A) WITH A TERM OF UP TO TWO YEARS; AND (B) PROVIDING FOR TOTAL INCENTIVE PAYMENTS IN ANY SINGLE AGREEMENT NOT TO EXCEED TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000) PER YEAR, FOR A TOTAL MAXIMUM AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000).**

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

**WHEREAS**, the City wishes to encourage new businesses to move to Oakland and create living wage jobs opportunities for Oakland residents; and

**WHEREAS**, the City desires to establish the Jobs and Tax Base Expansion Initiative (JTBEI) that allows for two incentive programs: (1) a Business Tax Incentive Program; and (2) a Sales Tax Incentive Program; and

**RESOLVED:** That the Business Tax Incentive Program could offer new and qualifying businesses with 20 or more Full-time Equivalent employees relocating from outside Oakland into Oakland a full or partial waiver on City business taxes for one to three years; and

**RESOLVED:** That the Sales Tax Incentive Program could offer new and qualifying businesses with 20 or more Full-time Equivalent employees incentive payments that equal up to 50 percent of the City portion of their sales tax for one to three years; and

**RESOLVED:** That the City has identified the industry sectors of International Trade and Logistics, Healthcare and Life Sciences, Green Technology, Creative Arts and Digital Media, or Specialty Food Manufacturing as targeted growth sectors that are especially positioned to create the greatest economic growth potential for the City; and

**RESOLVED:** That the City may enter into agreements under either the Business Tax Incentive Program or Sales Tax Incentive Program with businesses classified within the industry sectors of International Trade and Logistics, Healthcare and Life Sciences, Green Technology, Creative Arts and Digital Media, or Specialty Food Manufacturing if they employ less than 20 Full-time Equivalent employees; and

**RESOLVED:** That the City Council hereby adopts the Jobs and Tax Base Expansion Initiatives (JTBEI) for businesses newly relocating into Oakland that allow for two incentive programs: (1) a Business Tax Incentive Program; and (2) a Sales Tax Incentive Program, both programs of which shall provide for a maximum term of three (3) years for any single agreement.

**FURTHER RESOLVED:** That the City Administrator is authorized to negotiate, and execute, without returning to the Council for approval, Business Tax Incentive Agreements consistent with the JTBEI, provided, however, that any single agreement: (1) is limited to a term no longer than two years; and (2) must limit total incentive payments to no more than two hundred and fifty thousand dollars (\$250,000) per year, for an amount not to exceed five hundred thousand dollars (\$500,000) for a maximum two year agreement; and be it

**FURTHER RESOLVED:** That Council must approve by adoption of a Resolution any Business Tax or Sales Tax Incentive Agreement not previously authorized to be executed by the City Administrator without returning to the Council, as set forth in the immediately preceding paragraph; and be it

**FURTHER RESOLVED:** That each incentive agreement will include penalties for non-compliance that require the company receiving the incentive to return all or a portion of the incentive payments if the company relocates outside of Oakland during the term of the incentive agreement or within five years of the date of the agreement, whichever is longer; and be it

**FURTHER RESOLVED:** That after three years the JTBEI programs will be evaluated on their success at attracting new companies to Oakland, and any necessary adjustments can be made at this time to ensure the goals of the program continue to be achieved; and be it

**FURTHER RESOLVED:** that the JTBEI programs shall terminate on December 31, 2014, unless extended by the Council before that date; and be it

**FURTHER RESOLVED:** That businesses obtaining a Business Tax Incentive and/or Sales Tax Incentive will be evaluated based on the Requirements and Considerations for Business Attraction Incentives, as set forth below:

### Requirements

Minimum 20 full-time equivalent jobs<sup>1</sup>  
Pay the City of Oakland Living Wage  
Sign the City Of Oakland First Source Hiring Agreement  
Enter into agreement with penalties for non-compliance  
Business is in good financial standing<sup>2</sup>  
Provide City with annual information on number of jobs created with salaries and benefits (submit State Wage and Withholding Report)<sup>3</sup>

### Considerations

Local direct tax revenue generation (sales, property, business, utility, user)  
Multiplier effects (indirect and induced tax revenue)  
Employee wages and benefits  
Business would fill need for specific sector in targeted geographic area  
Length of lease  
Purchase of equipment and services from other Oakland businesses  
Purchase of building/renovation of existing building/site improvements  
Remediation of contaminated land  
Environmentally sustainable building upgrades (LEED, Greenpoints)  
Miscellaneous community benefits  
Cumulative fiscal effect of all incentives granted to date  
**Additional Sales Tax Incentive Program Considerations**  
Consistent with adopted Citywide Retail Enhancement Strategy  
Brings a type of retail needed in a particular community

<sup>1</sup>Excluding businesses in Targeted Growth Sectors

<sup>2</sup>Considerations include but are not limited to liens, employee lawsuits, strength of balance sheet, standing with State of California Board of Equalization

<sup>3</sup>State of California Form DE 6

**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 agreements and all such other documents, applications, agreements, and amendments, as to form and legality.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 20 2009

**PASSED BY THE FOLLOWING VOTE:**

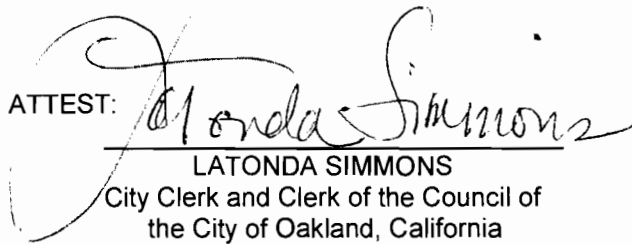
AYES - BROOKS, ~~DE LA FUENTE~~, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - De La Fuente - 1

ABSTENTION - 0

ATTEST:

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