


City Attorney

OFFICE OF THE CITY CLERK
CITY OF OAKLAND
15 FEB 2008 15:33

OAKLAND CITY COUNCIL
RESOLUTION No. 83465 C.M.S.

A City Resolution Authorizing the City Administrator to Execute a Certificate of Completion and other Release of Obligations by B. E. Fitzpatrick Development Inc., Owner of the Coliseum Lexus Dealership Project (“Project”), and its Dealer, Oakland Motor Cars, Inc., Under A Business Incentive Agreement Regarding the Project

WHEREAS, the Coliseum Area Redevelopment Plan (“Redevelopment Plan”) includes the elimination of blight and unsafe conditions as a goal for the Coliseum Redevelopment Project Area (“Project Area”); and

WHEREAS, the City and the Redevelopment Agency are implementing projects in the Project Area as part of the Redevelopment Plan to improve the Project Area; and

WHEREAS, the Agency purchased four acres of real property in the Project Area located at 7273 Oakport Street and Hassler Way (the “Property”) from the Port of Oakland and thereafter sold the Property in April 2002 to B.E. Fitzpatrick Development, Inc. for development of the Coliseum Lexus Dealership (“Project”) pursuant to a Disposition and Development Agreement; and

WHEREAS, to facilitate development of the Project, the City provided B.E. Fitzpatrick Development, Inc., with business incentive payments of Two Million Dollars (\$2,000,000) pursuant to a Business Incentive Agreement (“BIA”) among the City, B.E. Fitzpatrick Development, Inc., and its chosen Dealer for the Project, Oakland Motor Cars, Inc. (OMCI); and

WHEREAS, the BIA requires, among other things, that B.E. Fitzpatrick Development, Inc., and OMCI maintain the property in good condition; within the first two operating years, use good faith efforts to employ at least 36 Oakland residents; continue the business in Oakland for at least ten (10) years from Project completion; achieve specified financial goals (e.g., accrual to the City/Agency of sales, business, and property tax increment of at least \$2,000,000) in order for B.E. Fitzpatrick Development, Inc. to be relieved of the obligation to pay back the \$2,000,000 incentive payments; and that B.E. Fitzpatrick Development, Inc.’s BIA obligations be secured by recordation of a deed of trust in favor of the City against the Property (recorded April 12, 2002 in Alameda County Recorder’s Office as Document No. 2002164975; “Deed of Trust”); and

WHEREAS, in 2007, Redevelopment staff determined that the BIA’s financial goals had been met, and accordingly, the City recorded a partial reconveyance of the Deed of Trust relieving B.E. Fitzpatrick Development, Inc. from its obligation to repay the \$2,000,000 business incentive payments; and

WHEREAS, B.E. Fitzpatrick Development, Inc. constructed, and OMCI has operated, a 24,000 square foot auto dealership with 305 parking spaces and complied with First Source Hiring and Small Business Enterprise programs since 2002; and

WHEREAS, City staff has verified that the Project has generated at least \$2,017,420 of tax revenue to the City and the Agency from 2002 to 2007 and thus exceeded the seven year goal of generating \$2,000,000 in tax revenue in five years, well ahead of schedule; and

WHEREAS, City staff has determined that, except for the ten-year operating covenant, B. E. Fitzpatrick Development and OMCI have exceeded the financial and other Project goals for the Project set forth in the BIA; and

WHEREAS, because of the Project's exemplary performance, City staff has recommended that the City relieve B.E. Fitzpatrick Development, Inc. and OMCI from the legal obligation to keep operating the Project in Oakland for approximately two (2) additional years to comply with the ten (10) year operating covenant; and

WHEREAS, City staff recommends that the City Council authorize the City Administrator to execute a Certificate of Completion, and release of B.E. Fitzpatrick Development, Inc. and OMCI under the BIA and the Deed of Trust, excepting any obligations that survive termination of the BIA; now therefore, be it

RESOLVED: That the City Administrator is authorized to execute a Certificate of Completion and release of B.E. Fitzpatrick Development, Inc. and OMCI under the BIA and the Deed of Trust, excepting any obligations that survive termination of the BIA; and be it

FURTHER RESOLVED: That the City Attorney shall review and approve all certificates, releases and other documents as to form and legality; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to take whatever action is necessary with respect to the Certificate of Completion, releases, reconveyances of the Deed of Trust, or other agreements consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 5 2011, 2011

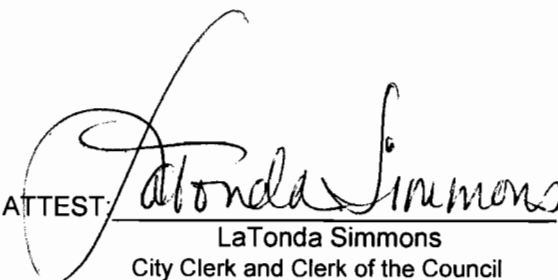
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California