

cityofnovi.org

CITY of NOVI CITY COUNCIL

**Agenda Item 3
Meeting Date**

SUBJECT: Consideration of request by BoCo Enterprises/Rock Financial Showplace, f.k.a. Novi Expo Center, for an additional four (4) year Industrial Facilities Exemption Certificate

SUBMITTING DEPARTMENT: City Manager

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

On January 8, 2001, the City granted Novi Expo Center, Inc., an Industrial Facilities Exemption Certificate (IFEC) for the Rock Financial Showplace property. The term of the Certificate was for eight (8) years, the maximum period then permitted under the City's tax abatement policy. On December 18, 2003, Novi Expo Center assigned its interests and obligations relative to the IFEC to BoCo Enterprises, Inc. (BoCo). On December 18, 2006, the City approved an amendment or revision to increase the IFEC for the Property to reflect the additional value of the facility. The current IFEC is set to expire on December 30, 2013. In December 2008, after the City Council extended the maximum allowable exemption period to 12 years, BoCo filed a request for a four (4) year extension of the existing IFEC. The applicable statute, however, requires that another certificate actually be issued. This matter has been set for a hearing for which the affected taxing jurisdictions (e.g. Oakland County, Novi Schools, etc.) have received specific notice as required by statute for the issuance of a certificate.

RECOMMENDED ACTION: Consider granting a new four (4) year Industrial Facilities Exemption to BoCo Enterprises.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

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

January 22, 2009

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-
3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secrestwardle.com

Stephanie Simon Morita
Direct: 248-539-2830
smorita@secrestwardle.com

Clay J. Pearson, City Manager
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Re: *Request for Amendment or Revision to Industrial Facilities Exemption Certificate (IFEC)*
BoCo Enterprises, Inc. a/k/a Rock Financial Showplace

Dear Mr. Pearson:

Pursuant to the City's request, our office has prepared the documents necessary to effectuate the addition of 4 years to the existing Industrial Facilities Exemption Certificate (IFEC) currently held by BoCo Enterprises, Inc. (BoCo) for the property commonly known as the Rock Financial Showplace. The documents enclosed with this letter are:

1. Resolution approving a four (4) year IFEC
2. Amendment to the existing Agreement to reflect the addition of the four (4) year IFEC
3. Affidavit of Blair Bowman
4. Affidavit of Mayor Landry, and City Clerk Cornelius

The current abatement is for a period of eight (8) years. BoCo has requested a four (4) year extension. The applicable statute, MCL 207.566a, permits an applicant to apply for another IFEC, and permits the City to grant an additional IFEC, so long as the total period for which the IFEC is in place does not exceed twelve (12) years. The initial IFEC was granted under the Plant Rehabilitation and Industrial Development Districts Act (PA 198 of 1974), based on an estimated construction cost for the proposed exposition facility of \$12 Million, which was then amended in 2006 to \$16.7 Million (\$8.35 Million SEV).

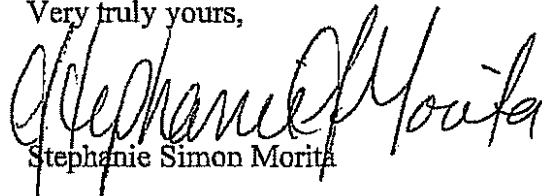
The tax exemption certificate holder, BoCo Enterprises (the lessee and operator of the facility), has submitted a formal application to the City for the additional four (4) years permitted by statute. The application was submitted on or about December 17, 2008. Under the statute, the City is required to act on the application within sixty (60) days of its submission to the City.

Clay J. Pearson, City Manager
January 22, 2009
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Note the matter has been set for a public hearing. The statute requires that the assessing jurisdictions potentially affected by the granting of the IFEC be given notice of the application, and that the applicant, assessor, and a representative of the affected taxing units be given the opportunity of a hearing. MCL 205.555(2).

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

Very truly yours,



Stephanie Simon Morita

SSM

cc: Maryanne Cornelius, City Clerk
Glenn Lemmon, City Assessor

1182406_1

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

RESOLUTION APPROVING INDUSTRIAL FACILITIES

EXEMPTION CERTIFICATE

[BoCo Enterprises, Inc./Rock Financial 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 _____, 2009, at _____ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

RECITATIONS:

After due notice and deliberation, and taking into consideration the statements received by the City Council at a public hearing held for such purpose on December 18, 2000, the City of Novi established an Industrial Development District ("District") pursuant to Act 198 of the Public Acts of 1974, as amended (the "Act"), relative to property described on the Legal Description, attached as Exhibit A, and made a part of this Resolution (the "Property").

The City thereafter, on January 8, 2001, and following a duly noticed hearing, granted the applicant's predecessor, Novi Expo Center, Inc., an Industrial Facilities Exemption Certificate ("IFEC") relative to the Property, as provided for in the Act. The approval was based upon the proposed use of the Property as "industrial property," as defined in the Act, and more specifically for a convention and trade center over 250,000 square feet in size. The grant of the IFEC was for eight (8) years, and was in accordance with the City's existing Tax Abatement Policy, adopted on May 15, 2000 by the City Council for the purpose of providing standards for the consideration of requests for the establishment of Industrial Development Districts, and requests for the issuance of Industrial Facilities Exemption Certificates. The amount of the IFEC granted was \$12,000,000, reflecting the anticipated or estimated cost of the exposition facility, which had not yet been fully approved or constructed.

On December 18, 2003, Novi Expo Center, Inc. assigned its interests and obligations to the IFEC to BoCo Enterprises, Inc. The applicant thereafter constructed the facility, which opened in 2005. On or about September 31, 2006 the City and the applicant agreed upon a value of the facility as constructed of \$16,700,000, based upon the applicant's representations of the true costs of construction.

The City thereafter, on December 18, 2006, and following a duly noticed hearing, approved an amendment or revision to increase the IFEC for the Property to reflect the additional value of the facility. At the hearing, the applicant, the public, the assessor and representatives of affected taxing units were afforded an opportunity for a hearing, and, after due deliberation, and taking into consideration the statements received by the Council at the hearing held on December 18, 2006 the City Council approved the increase because the approval of an amendment or revision to the IFEC would meet the Tax Abatement Application Criteria set forth in the City's existing Tax Abatement Policy, would be consistent with the grant of the initial IFEC and the City's initial findings in connection therewith that a private convention and trade center on the Property would represent a unique benefit to the City of Novi in that a convention and trade center, which draws other business and revenue to a City, is generally publicly operated, requiring the expenditure of ongoing public investment; and an approval of an amendment or revision to the IFEC for the Property otherwise met all requirements of law, would not have the effect of substantially impeding the operation of the City or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the City, and that the amendment or revision to the IFEC was intended to be effective for the 2007 tax year, with the City having no objection to the amendment or revision being effective beginning with the 2006 tax year if authorized by the State Tax Commission.

On September 8, 2008, the City Council adopted a revised Tax Abatement Policy, which, among other things, extended the maximum time of an exemption to 12 years. On or about December 17, 2008, BoCo submitted a request to extend its exemption to 12 years.

A hearing was duly noticed and held on February 2, 2009, relative to the consideration of whether to approve a new IFEC, which if approved would essentially result in extending the existing IFEC by four (4) years. At the hearing, the applicant, the public, the assessor and representatives of affected taxing units were afforded an opportunity for a hearing, and, after due deliberation, and taking into consideration the statements received by the Council at the hearing held on February 2, 2009 the City Council found and determined that:

- ◆ Approval of a new IFEC for four (4) years, which essentially extends the existing eight (8) year IFEC to a total of twelve (12) years, would meet the Tax Abatement Application Criteria set forth in the City's current Tax Abatement Policy adopted on September 8, 2008, incorporated as part of this Resolution by this reference;
- ◆ Approval of a four (4) year IFEC to commence at the conclusion of the existing eight (8) year IFEC would be consistent with the grant of the initial IFEC, and the City's initial findings in connection therewith that a private convention and trade center on the Property would represent a unique benefit to the City of Novi in that a convention and trade center, which draws other business and revenue to a City, is generally publicly operated, requiring the expenditure of ongoing public investment; and,

- ◆ Approval of the four (4) year IFEC for the Property otherwise meets all requirements of law.
- ◆ Approval of a four (4) IFEC to commence at the conclusion of the existing eight (8) year IFEC for the Property as contemplated in this Resolution, considered in light of the fact that there are no other IFECs in effect, will not have the effect of substantially impeding the operation of the City or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the City.

NOW, THEREFORE, IT IS RESOLVED that, subject to and in accordance with the Recitations set forth above, and the provisions of this Resolution, the City Council of the City of Novi hereby approves an additional four (4) year Industrial Facilities Exemption Certificate to go into effect at the conclusion of the Industrial Facilities Exemption Certificate granted by the City on January 8, 2001 for eight (8) years, in order to increase the total term that an Industrial Facilities Exemption Certificate is in effect to twelve (12) years. In all other respects, the IFEC as previously approved and amended shall remain unchanged.

AYES:
 NAYS:
 ABSENT:
 ABSTENTIONS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing Resolution constitutes a true and complete copy of the resolution duly adopted by the City Council of the City of Novi, County of Oakland, Michigan, at a meeting of the City Council duly called and held on _____, 2009, and that public notice of the meeting was given in full conformity with Act 267 of the Public Acts of 1976, and that the minutes of the meeting were kept and will be or have been made available as required by such Act.

Maryanne Cornelius, City Clerk

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

AMENDMENT TO INDUSTRIAL FACILITIES EXEMPTION AGREEMENT
[BoCo Enterprises, Inc./Rock Financial Showplace]

AMENDMENT TO THE AGREEMENT between the City of Novi, a Michigan Municipal Corporation (“City”), and BoCo Enterprises, Inc., a Michigan Corporation (“BoCo”), entered into July 17, 2001.

RECITATIONS:

On July 17, 2001 an Industrial Facilities Exemption Agreement, which Agreement is attached hereto, and incorporated fully herein by reference was signed between the City and Novi Expo Center, Inc. On December 18, 2003, Novi Expo Center, Inc. assigned its interests and obligations under the agreement to BoCo Enterprises, Inc.

After due notice and deliberation, and taking into consideration the statements received by the Council at a hearing held for such purpose on February 2, 2009, the City agreed to a subsequent four (4) year Industrial Facilities Exemption Certificate (“IFEC”) relative to the Property, as provided for in the Act so that essentially the existing IFEC is extended from eight (8) years to twelve (12) years. The application made by Novi Expo Center for the new four (4) year certificate, together with its attachments submitted with the application, are incorporated as part of this Amendment to the Agreement by this reference.

It is intended that all provisions of the July 17, 2001 Agreement are to remain the same and intact except for paragraph No. 1 of the Agreement, which is amended only to reflect a change from only the eight (8) year term to include the new four (4) year term, for a total term of twelve (12) years for the IFEC.

The City and BoCo desire to Amend the July 17, 2001 Agreement as required by MCL 207.572, and for the purpose of spelling out the terms and provisions under which an IFEC shall be approved for the Property.

No payment of any kind in excess of the fee allowed by P.A. 198 of 1974, as amended, has been made or promised in exchange for favorable consideration of the IFEC, and representatives of both the City and BoCo shall execute an affidavit to such effect.

In consideration of approval of the additional four (4) year IFEC, Novi Expo Center understands that through its investment, and the City understands, by its agreeing to the IFEC, that both the City and the BoCo are mutually investing in and benefiting from the project.

NOW, THEREFORE, IT IS AGREED THAT PARAGRAPH NO. 1 OF THE JULY 17, 2001 AGREEMENT SHALL BE AMENDED TO READ AS FOLLOWS:

1. Subject to and in accordance with the Recitations set forth above, and the provisions of this Agreement, set forth below, the City Council of the City of Novi has adopted the attached and incorporated Resolution Approving Industrial Facilities Exemption Certificate applicable to the Property for a period of eight (8) years, commencing on the date of completion of the industrial property in the form of a convention and trade center over 250,000 square feet in size on the Property, which shall be the date of issuance of a certificate of occupancy for such facility. In addition, on February 2, 2009, the City Council of the City of Novi has adopted the attached and incorporated Resolution approving an Industrial Facilities Exemption Certificate applicable to the property for an additional period of four (4) years, so that the total time the IFEC and this Agreement shall remain in effect is twelve (12) years.

CITY OF NOVI

By: _____
DAVID B. LANDRY, MAYOR

Date: _____

By: _____
MARYANNE CORNELIUS, CITY CLERK

Date: _____

NOVI EXPO CENTER

By: _____
BLAIR M. BOWMAN, PRESIDENT

Date: _____

1180816

State of Michigan)
)ss
County of Oakland)

AFFIDAVIT OF BLAIR M. BOWMAN

I, Blair M. Bowman, being duly deposed and sworn, state as follows:

1. I am the President and sole shareholder of BoCo Enterprises, Inc.
2. On behalf of BoCo Enterprises, Inc., I have made application for an Industrial Facilities Exemption Certificate pursuant to P.A. 198 of 1974, as amended.
3. In conjunction with BoCo Enterprises, Inc.'s application for an Industrial Facilities Exemption Certificate, BoCo Enterprises, Inc. negotiated, and intends to enter into, an Industrial Facilities Exemption Agreement with the City of Novi, a Michigan Municipal Corporation.
4. That, during the negotiations of the Industrial Facilities Exemption Agreement and the application process, no payments of any kind in excess of the fee allowed by Public Act 198 of 1974, as amended, have been made, or promised, in exchange for favorable consideration of BoCo Enterprises, Inc.'s Exemption Certificate Application.
5. I am able to competently testify and swear to the above facts.

Blair M. Bowman, President
BoCo Enterprises, Inc.

Subscribed and sworn to before
me this ___ day of January, 2009.

Notary Public
_____ County, Michigan.
My Commission Expires: _____
Acting in _____ County.

State of Michigan)
)ss
County of Oakland)

AFFIDAVIT OF CITY OF NOVI

I, David B. Landry and Maryanne Cornelius, being duly deposed and sworn, state as follows:

1. We are the Mayor and City Clerk of the City of Novi.

2. In conjunction with BoCo Enterprises, Inc.'s application for an Industrial Facilities Exemption Certificate, BoCo Enterprises, Inc. negotiated, and intends to enter into, an Industrial Facilities Exemption Agreement with the City of Novi, a Michigan Municipal Corporation.

3. That, during the negotiations of the Industrial Facilities Exemption Agreement and the application process, no payments of any kind in excess of the fee allowed by Public Act 198 of 1974, as amended, have been made, or promised, in exchange for favorable consideration of BoCo Enterprises, Inc.'s Exemption Certificate Application.

4. We are able to competently testify and swear to the above facts.

David B. Landry, Mayor
City of Novi

Maryanne Cornelius, City Clerk
City of Novi

Subscribed and sworn to before
me this ___ day of January, 2009.

Notary Public
_____ County, Michigan.
My Commission Expires: _____
Acting in _____ County.

EXHIBIT A

Legal Description of the "Property". The project is located on the north side of Grand River, between Beck Road and Taft Road, described as follows:

50-22-16-251-021

T1N, R8E, SEC 16 PART OF NE 1/4, ALSO
PART OF SE 1/4 BEG AT E 1/4 COR, TH S
87-26-37 W 1339.12 FT, TH S 87-42-26 W 124.90
FT, TH S 01-24-20 E 347.64 FT, TH ALG CURVE
TO RIGHT, RAD 83807.16 FT, CHORD BEARS
N 73-03-46 W 328.67 FT, DIST OF 328.67 FT, TH
N 72-57-29 W 755.69 FT, TH N 01-46-33 W 347.10
FT, TH N 73-01-11 W 109.66 FT, TH S 88-13-27 W
83.17 FT; TH N 01-46-33 W 900.29 FT, TH S
70-44-04 E 45.95 FT, TH S 34-37-33 E 20.66 FT,
TH S 74-00-10 E 1693.39 FT, TH N 86-34-29 E
149.03 FT, TH S 16-01-01 W 420.39 FT, TH S
87-27-20 E 993.07 FT, TH S 02-19-20 E 243.31 FT
TO BEG 48.23 A 10-20-04 FR 002,008,011,012,
013,014,016,018,019&020