

RESOLUTION AMENDING ECONOMIC DEVELOPMENT POLICY

WHEREAS, the Board of Commissioners finds that expenditures for economic development of industrial and commercial plants stimulate the local economy, increase the tax base, promote business, and result in the creation of jobs for the citizens of Durham County; and

WHEREAS, the Board of Commissioners desires to amend its consolidated, uniform plan for providing economic development funds which will not duplicate the investment efforts of other governmental units; and

WHEREAS, the Board of Commissioners intends to implement its workforce development plans to allow Durham County residents to compete for jobs which pay a liveable wage; and

WHEREAS, the Board of Commissioners desires to provide for the option of constructing structured parking in lieu of other appropriations in the Downtown Government Services District; and

WHEREAS, the County may make these appropriations pursuant to N.C.G.S. § 158-7.1.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH RESOLVE:

1. The prior Resolution entitled "Resolution Adopting Economic Development Policy" is hereby amended by the adoption of this Resolution.

2. Appropriations will be considered for developers of commercial facilities in strategic economic areas, which shall be such areas as are designated from time to time by the Board of Commissioners, and industrial facilities, companies with a presence in or to be located in Durham County which meet the new investment and new jobs thresholds. In no event will appropriations be made for residential development.

3. Appropriations shall only be considered for:

a) developers or companies which produce new capital investment of at least \$50 million in assessed valuation as determined by the tax value placed on the property by the Durham County Tax Administrator or or expansion investment of at least \$30 million in assessed valuation as determined by the tax value placed on the property by the Durham County Tax Administrator. These minimum amounts shall be calculated in 2008 schedule of values. Only capital invested within five years of the date of the incentive contract will be counted in determining the investment amount.

or

b) companies or developers of facilities which create a minimum of 200 new jobs. New jobs are defined as a net increase in the company's number of full-time employees working in Durham County. A full-time employee is defined as a person who is employed by the company for at least 35 hours per week and whose wages are subject to withholding. The average wage for new jobs must equal the average wage as to each category of employee hired, as defined by the Employment Security Commission, for Durham County. The company must also agree to provide health insurance in at least the minimum amount required for tax credits under the Article 3J credits, as it existed on the date of the approval of this Resolution. Under these provisions, a company must offer to provide health insurance for full-time positions and pay a minimum of 50% of the premiums.

4. Developers or companies seeking to qualify for an appropriation pursuant to this policy shall provide Durham County with a written statement which includes the following information:

- a) estimated value and square footage of the facility or facilities to be constructed;
- b) estimated value and type of equipment to be installed;
- c) estimated costs of the design and construction of any activity related to preparing land for use if such activity is being proposed to be paid for by the County;
- d) explanation of what product or service the developer or company will be producing or providing;
- e) name and address of developer or company seeking an appropriation;
- f) estimated number of jobs to be created and corresponding salaries expected to be paid for such jobs;
- g) location of the proposed facility or company;
- h) schedule of construction or relocation of the company;
- i) statement as to whether or not there will be on-site child care; and
- j) statement as to whether or not the building will have a sustainable design, construction, and operating practices.

5. The Board of Commissioners reserves the right to require a study to be performed by a consultant to establish that the proposed commercial development would not materialize at the proposed level of taxable investment without incentives paid pursuant to this policy. The costs of the study shall be paid in advance by the company or developer requesting the incentive grant.

6. The Board of Commissioners is not obligated to make any appropriations for a company or developer. If an appropriation is made, the amount of the appropriation shall be determined including, but not limited to, the following factors:

Base factors:

- The need for the appropriation or transfer as a deciding factor for the construction of the facility or the relocation or expansion of the company in Durham County

- Amount of new investment
- Number of new jobs
- Type of business relative to the tax base
- Reputation of the company
- The presence of competition for the project
- Location in the community
- Capacity of available infrastructure
- Whether or not the incentives in any given year exceed the amount of taxes collected by the County
- Whether in the case of a company, a prior appropriation has been made to a developer of the facility

Optional factors:

- Location in the community
- Capacity of available infrastructure
- Availability of on-site child care
- Sustainable building design, construction, and operating practices

7. Notwithstanding the foregoing, in no event shall an appropriation be made to a developer or company for property which has been or is proposed to be classified as historic for purposes of *ad valorem* taxation pursuant to N.C.G.S. § 105-278 or any successor statute.

8. a) The maximum appropriation which may be made for a developer of a facility and a company locating in Durham County shall be 2.25%, or 2.75% based on the developer of company satisfying one of the optional factors in paragraph 6(b), of the total new or expansion capital investment of such developer or company, as determined by the tax value placed on the property by the Durham County Tax Administrator, less the amount of the existing tax value of the subject property. For companies which are requesting incentives due to job creation, the following guidelines shall apply:

- a) 200-500 jobs – up to \$1,000 per job;
- b) 501-1000 jobs – up to \$1,500 per job;
- c) 1001 or more jobs – up to \$2,000 per job.

A portion of the funding for jobs may be provided for the training of Durham County citizens.

b) In lieu of the appropriation provided in subparagraph “a” above, the Board of Commissioners, in its sole discretion, may elect to provide structured parking which would serve both the property or properties proposed to be developed and the public parking needs of Durham County government buildings. Any structured parking provided pursuant to this policy shall be located in and limited to the Government Services District of downtown Durham.

9. The payments shall be made based on a schedule which is acceptable to the developer or company and the Board of Commissioners of up to eight years.

10. All funds appropriated or spent pursuant to this policy shall be used only for the purposes as stated in N.C.G.S. § 158-7.1 (a) or (b). Whenever funds are provided for training of personnel, the incentive agreement shall provide that the developer or company shall post the job openings with the North Carolina Employment Security Commission, with the Durham County Department of Social Services, and with the Durham County Workforce Development Board.

11. Any appropriations or transfers pursuant to this policy may only be made following a public hearing before the Board of Commissioners, which notice of such hearing shall be published at least ten days before the hearing is held. The notice shall contain the information as required by N.C.G.S. § 158-7.1(c).

12. The developer or company seeking funds pursuant to this policy must receive approval from the Board of Commissioners after a public hearing prior to undertaking construction of a new facility or facilities.

13. Developers and companies receiving funds or transfers pursuant to this policy shall enter into an incentive contract with Durham County. All incentive contracts shall be subject to performance criteria as set forth therein. If for any reason, the developer or company fails to fulfill its obligations under the contract, it will be required to remit to the County any funds received pursuant to the contract and this policy.

14. If an appropriation is to be made to a developer or company, a provision in the agreement referenced above shall contain, among other provisions, a "claw-back" provision which will require a repayment, in full, of any appropriation to the developer or company from the County should: a company, fail to make the investment as stated in the economic development agreement, close its operations in Durham County, or fail to employ at least 90% of the number of employees agreed to in the incentive contract or reduce the number of employees by more than 10% below the number agreed to in the contract after initially hiring the number of employees agreed to in the incentive contract within five years of the date of the signing of the incentive contract; or a developer close the facility which is the subject of the appropriation or fail to make the investment as stated in the incentive contract within five years of the date of the signing of the agreement. The agreement shall further provide that, if a company closes its operations in Durham County or reduces the number of employees by more than 10% below the number agreed to in the incentive contract after initially hiring at least 90% of the number of employees agreed to in the incentive contract within 10 years of the date of the signing of the agreement; or if a developer closes the facility which is the subject of the appropriation within 10 years of signing of the agreement, the company and/or the developer shall repay the County any appropriation in the amount of 80% of the total appropriation to the developer and/or the company if the removal or closing occurs during year six after the signing of the contract, and an amount for years seven through ten which shall be equal to a declining amount of 20% per year

of the total appropriation with the amount being 0% of the amount of the appropriation in year ten and thereafter.

15. The provisions of this policy do not create and are not intended to create any property interest or legal expectation by any developer or company. Additionally, this policy is not intended to limit the discretion given to the Board of Commissioners for the promotion of local economic development under applicable laws. Any assistance provided to a developer or company will be limited to the availability of funds by Durham County.

This the _____ day of November, 2008.

