Lumpkin County Board of Commissioners

"RESOLUTION"
For An
Economic Investment Program

Statement of Purpose

The Lumpkin County Board of Commissioners hereby establishes a proactive Economic Investment Program to encourage economic development projects to:

1. Attract desirable companies to the County,
2. Create additional jobs within the County,
3. To expand over time the County's tax base, and
4. Create a more favorable balance in the tax base between business and residential development.

Responsibilities and Authorities

The Lumpkin County Board of Commissioners by official act does hereby enact this Resolution No. 2006-18 of February 16, 2006 to establish this Economic Investment Program ("Program"), which defines Responsibilities and Authorities, Eligibility, Parameters for Tax Incentives, and Application and Approval Procedures, and legally assigns the responsibilities of implementation of this Program, as described herein, to the Lumpkin County Development Authority ("Development Authority").

Under this Program, the Development Authority will receive applications, analyze financial proposals, evaluate non-financial issues, investigate applicant's background as appropriate, structure an appropriate tax incentives package, and negotiate a Memorandum of Understanding (MOU) with Applicant that will describe all aspects of the tax incentives package and associated conditions. The tax incentives granted in the MOU must be within the Parameters for Tax Incentives established in this Resolution. The Development Authority will approve, through an official vote as defined in its By-Laws, the final MOU. The Chairman of the Development Authority will sign the MOU that has been executed by the Applicant, signifying that the MOU is consistent with the provisions of this Resolution and that the MOU has been properly approved by the Development Authority. The Development Authority will present the MOU, together with relevant information from the Application, to the Board of Commissioners at a work session.

Further, this Resolution declares: (1) that the Board of Commissioners will, upon receipt of an approved MOU from the Development Authority, review the MOU to determine its compliance with the provisions of this Resolution, (2) that the Board of Commissioners will, at their next meeting following the work session when the MOU was presented, officially vote on whether or not the MOU complies with the provisions of this Resolution, and (3) that upon an affirmative vote, the Board of Commissioners will execute the MOU signifying that it complies with the terms of this Resolution. If, for any reason, the vote of the Board of Commissioners determines that the MOU is not in compliance with the provisions of this Resolution, then the Board of Commissioners is to return the MOU to the Development Authority with written comments describing the non-complying issue(s). The Development Authority will then resubmit a revised MOU to the Board of Commissioners, who will follow the above procedures in approving the revised MOU. Time is of the essence.

Further, this Resolution directs the Development Authority to notify the Board of Assessors and any other relevant taxing body regarding the disposition of the MOU by the Board of Commissioners.

This Resolution further directs the Chairman of the Board of Commissioners to execute, on behalf of the Board of Commissioners, any legal documents required to implement the provisions of an approved MOU, including bond validation documents.

This Resolution further establishes that a tax incentives package may be initiated only by the Development Authority at its sole discretion, and that the Development Authority may also, at its sole discretion, reject an Application for good reason.

Eligibility

For a project to be eligible for this Program, it must be engaged in a business that will attract a substantial majority of its revenue to the County from outside Lumpkin County, which revenue would generally not come to the County were it not for the subject project. This requirement will eliminate most retail businesses from consideration. For a retail business to be considered, the applicant must demonstrate that the substantial majority of its revenues will come from outside the County.

Both (1) new companies desiring to locate facilities in the County and (2) existing companies desiring to significantly expand their operations or develop additional facilities within the County, are eligible to apply for this Program.

Projects must meet a minimum threshold of $2.0 million “hard cost” investment in order to be eligible.

Parameters for Tax Incentives

Tax incentives will be granted for the dual purposes of (1) being competitive with other communities in attracting desirable companies to the County, and (2) improving the economic viability and sustainability of the proposed new development project (“Dual Purposes”). To meet these Dual Purposes, the Board of Commissioners establishes the following parameters (“Parameters”) for tax incentive programs with which all projects must comply unless there is further action by the Board of Commissioners:

1. Tax abatements will not be granted on existing taxes.

2. Any tax incentives granted will be in the form of reductions in future incremental ad valorem taxes on the planned new development.

3. Reductions in future levels of ad valorem taxes will generally take the form of (a) zero taxes for several years, (b) followed by a ramping up of taxes for several years reaching 100% taxes in a

defined future year. A specific formula may or may not include both (a) and (b). The actual formula will be tailored for each applicant to meet the Dual Purposes above.

4. The maximum period of tax reductions will be ten (10) full years (full 100% tax in the 11th year). The initial construction period (of no longer than 24 months) is not included within this period. [Examples might be (A) zero taxes in years 1-6 (except for existing taxes), 20% in the 7th year, 40% in the 8th year, 60% in the 9th year and 80% in the 10th year, and the 11th year would be full 100% taxes, and (B) zero taxes in the 1st year (except for existing taxes), 10% taxes in the 2nd year (in addition to existing taxes), 20% in the 3rd year, 30% in the 4th, 40% in the 5th, 50% in the 6th, 60% in the 7th, 70% in the 8th, 80 % in the 9th, 90% in the 10th, and full 100% taxes in the 11th year.] There will be no standard plan or norm and the most generous tax reduction plans will generally be reserved for projects estimated to bring the most benefits to the County.

5. The tax incentives package will include money issues only and will not include non-financial issues such as location, exaction issues, business issues, etc.

6. Applicants must agree to the appropriate legal structure required by applicable law or regulations that will enable the County to grant and validate the tax incentives.

7. Applicants for a tax incentives package must agree to pay for all direct legal and other costs (for both public and private sectors) related to the negotiation and documentation of all items included in the MOU, with all legal expenses and associated costs to be paid in advance, or, in the discretion of the Development Authority, within 30 days of presentation to applicant.

8. Applicants must visibly demonstrate a positive attitude toward community participation and involvement.

9. Applicant's facilities and their operations should minimize any adverse impact on the environment, health, safety or well-being of Lumpkin County and must comply with county ordinances and state and federal laws.

Application and Approval Procedures

1. Inquiries will be referred to the Development Authority.

2. The applicant will complete an Application for Economic Incentives form ("Application") which will request information about the company and the proposed new development. This information will aid the Development Authority in evaluating the desirability of the proposed project. This Economic Investment Program does not set absolute standards or requirements for financial incentives. Likewise, the information requested does not define absolute standards or requirements for financial incentives. The Application will require (but not be limited to) the following information:

    a. A detailed description of the proposed new project.

    b. Information concerning projected revenues and key financial assumptions for the first ten (10) years operation in detail deemed sufficient by the Development Authority.

    c. A financing plan for the project, identifying total development costs (and its major components) and planned sources of funds.

d. The projected number of new jobs to be created by the project, with target dates and projected skill levels, and projected average wage compared to comparable county statistics.

e. The projected total "hard costs" investment for the project.

f. Narrative describing the company's business.

g. A description of all environmental issues (favorable and unfavorable) pertaining to the project's operation.

h. Projected impact on community resources (water, sewer, traffic and natural resources).

Failure to provide accurate information, or providing misleading or false information in any area set out above should be taken as a bad faith attempt to circumvent the system to the detriment of the County.

3. The Development Authority will review the Application and all relevant information and require the submission of additional information and/or clarification as may be necessary.

4. The Development Authority will structure and negotiate an MOU that describes a tax incentives package, within the Parameters, that responds to the Dual Purposes above. The MOU will contain provisions for minimum standards of achievement to require accountability from the project's owners, particularly in the areas of investment and job creation, and will provide for consequences such as "claw back" provisions, in the event of failure to perform on these provisions.

5. The Development Authority will also include within the MOU a formal performance agreement defining issues for which the company will be accountable. The performance agreement will specify annual reporting requirements for the company to prove its compliance with issues for which they are accountable, with satisfactory and timely reporting being a requirement for continuation of incentives. The burden of proof will be on the company.

6. Using an established standard format, the Development Authority will prepare an analysis of the projected public tax revenue benefits vis a vis the cost of the proposed tax incentives package for the project. The analysis must show that the cumulative public benefits exceed the cumulative cost of the tax incentives package. The Development Authority may use any evaluation approach generally accepted for such purposes.

7. Any of the conditions and requirements stated above (items 2-6) may be waived or modified, for good cause shown, by official action of the Development Authority. Any additional information deemed necessary by the Development Authority may be added at any time.

8. The Development Authority will retain competent legal counsel experienced in the structuring of tax incentives to assure compliance with applicable law.

9. The Development Authority will provide counseling and technical assistance to the Executive Director in connection with the review of the Application and the negotiation of the tax incentives package and MOU.