



Date: March 23, 2009

To: Thomas J. Bonfield, City Manager

From: Kevin Dick, Interim Director
Office of Economic and Workforce Development

Darrell Solomon, Business Services Manager
Office of Economic and Workforce Development

Subject: Public Hearing for Economic Development Incentive contract with Burt's Bees, Inc.

Executive Summary

Burt's Bees, Inc. has made application to the City of Durham's Office of Economic and Workforce Development for economic development incentives in support of its new location within the Community Development Area in the American Tobacco Campus. The company expects to relocate and create 183 new jobs over the next three years. This item is to approve a contract with Burt's Bees, Inc. in the amount of \$138,750.00 for the relocation, creation and retention of 183 jobs, as an economic development incentive to the company.

Recommendation

The Office of Economic and Workforce Development recommends that City Council hold a public hearing on this item and authorize the City Manager to execute a contract with Burt's Bees, Inc. in an amount not to exceed \$138,750.00 and to make changes as may be needed so long as they do not increase the amount to be paid by the City nor reduce the benefits to be gained by the City.

By authorizing the execution of this Contract, the City Council of the City of Durham finds that in order to aid and encourage the creation of quality jobs and investment in the city, it is necessary and desirable to provide an incentive to Burt's Bees, Inc. for relocating, creating and retaining 183 new employees to the City of Durham within the Community Development Area in the American Tobacco Campus, inside the corporate limits of the City of Durham (as defined by the Durham City/County Planning Department on the date of the Contract). The proposed relocation by the Company is within a "Targeted Industry" as defined by the **Resolution** and increases the business prospects and supports the taxable property of the City, contributes significantly to economic conditions in Durham, provides workers with continuing employment opportunities, diversifies the local economy, and results in a substantial number of jobs that pay at or above the livable wage in the City.

Background

The City of Durham developed an incentive policy as early as April 1998. The policy has evolved in subsequent years in order to encourage investment and job creation in more targeted areas as well as to combine two earlier policies into one. The most recent iteration of the policy was adopted by Council on November 03, 2008.

The policy addresses the creation and retention of jobs. In order to qualify as “created” jobs, positions must be full-time, permanent, retained for a minimum of six-months, pay at least the current City livable wage, and must be created after the date of Council approval of a contract with the subject company. Job retention is addressed only in the Community Development Area. To qualify for “job retention”, a minimum of 100 employees must be retained during a five-year period beginning on the date Council approves a contract with the subject company.

Durham’s incentive policy is “performance-based”. No incentive money is spent until after the company has achieved its goals. In addition, Burt’s Bees, Inc. has committed to hiring as diverse a workforce as available as well as to hire Durham residents when possible.

Burt’s Bees, Inc. is an American personal care products company that describes itself as an “Earth friendly”, natural personal care company making products for personal care, health, beauty, and personal hygiene.

Issues/Analysis

The jobs created by Burt’s Bees, Inc. fall within the categories of job types eligible for the economic incentive program adopted by the City Council on November 3, 2008, and entitled the “Resolution Establishing a Job Creation and Retention and Investment Incentive Policy” for City of Durham (the “Resolution”).

Payments for Qualified Job Creation. The City shall pay the Company up to \$1,250.00 per job for a minimum of 51 newly created Qualified Jobs (as defined herein), created at the Company’s location within the Community Development Area in the American Tobacco Campus, subject to the Contract termination provisions and subject to the following conditions:

Eligible Period of Job Creation. The Qualified Jobs shall be created after the date this contract is approved by the City Council in the following time increments:

- 23 Qualified Jobs established no later than May, 2010;
- 8 Qualified Jobs established no later than May 2011;
- 20 Qualified Jobs established no later than May 2012;

The total of new Qualified Jobs shall be 51 established by May 2012;

Timing of Incentive Payments for Job Creation. Payment for Qualified Jobs shall be made after the Company submits an invoice and request for payment to the City with appropriate documentation. The City shall make payment for Qualified Jobs created according to the following schedule:

Payment 1 - After 23 Qualified Jobs have been created and maintained for at least 12 months - \$28,750.00 payment. Payment shall be made no sooner than May 2011.

Payment 2 - After 8 Qualified Jobs have been created and maintained for at least 12 months - \$10,000.00 payment. Payment shall be made no sooner than May 2012.

Payment 3 - After 20 Qualified Jobs have been created and maintained for at least 12 months - \$25,000.00 payment. Payment shall be made no sooner than May 2013.

Prorated Incentive Payments for Job Creation above 85% Threshold but less than 100%.

If Burt's Bees, Inc. obtains at least an 85% threshold for job creation, the following prorated payment schedule will be followed:

If the number of Qualified Jobs for the Payment 1 is at least 20 but less than 23 and the jobs are maintained for at least 12 months, the payment shall be prorated at \$24,438.00.

If the number of Qualified Jobs for the Payment 2 is at least 7 but less than 8 and the jobs are maintained for at least 12 months the payment shall be prorated at \$8,500.00.

If the number of Qualified Jobs for the Payment 3 is at least 17 but less than 20 and the jobs are maintained for at least 12 months the payment shall be prorated at a rate of \$21,250.00.

Payments for Qualified Job Retention. Payment for retained jobs shall be made after the Company submits an invoice and request for payment to the City with appropriate documentation. The City shall pay the Company up to \$750.00 for the minimum of 51 newly created Qualified Jobs (as defined herein), retained at the Company's location within the Community Development Area in the American Tobacco Campus. The City shall also pay the Company up to \$750.00 for a minimum of 49 of the existing jobs to be relocated which are retained at the Company's location within the Community Development Area in the American Tobacco Campus. Payments are subject to the Contract termination provisions and subject to the following conditions:

Eligible Period of Job Retention. The 51 newly created jobs shall be retained over a 5-year period beginning on the date of hire. The 49 existing jobs shall be retained over a 5-year period from the date of relocation.

Thus, the eligible periods of retention for the 51 newly created jobs are as follow:

Retention Period 1

23 jobs have been retained from May 2010 - May 2015.

Retention Period 2

8 jobs have been retained from May 2011 – May 2016

Retention Period 3

20 jobs have been retained from May 2012 – May 2017

Prorated Incentive Payments for Job Retention above 85% Threshold but less than 100%.

If Burt's Bees, Inc. obtains at least an 85% threshold for job retention for the 51 newly created jobs and the 49 existing jobs, the City would make payment of \$637.50 per qualified job.

Condition Precedents.

The following condition precedents apply to this contract:

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. shall send an invoice to the City for each payment requested for the amounts to be paid pursuant to this contract.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. complete and return the document entitled "Workforce Agreement" and comply with its provisions.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that a Certificate of Compliance for office space occupied by Burt's Bees, Inc. is obtained from the Durham City-County Inspections Department, allowing occupancy by at least 132 and a copy of such Certificate is presented to the Office of Economic and Workforce Development prior to May 2009.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. agrees to be contacted regarding the Make It Durham campaign which serves as an effort to assist executives with relocating to Durham County (as long as the campaign exists).

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. ensures for the entire relevant 12 month period, each of the workers holding a job spends the majority of his or her working time at Burt's Bees, Inc. offices, and the compensation paid by Burt's Bees, Inc. for each of those jobs is at or above the City's livable wage.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. agrees to provide to the City a certified copy of Burt's Bees, Inc. employment insurance filings with the North Carolina Employment Security Commission ("NCESC")

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. agrees to continue "Habitat for Humanity" projects for its employees throughout the term of this contract.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. agrees to continue work being done by the "Greater Good Foundation" including the distribution of grant funds to Durham community-based organizations.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. agrees to continue participation on local boards including Habitat for Humanity, and Triangle Community Foundation.

Burt's Bees, Inc. entitlement to each payment from the City under this Agreement is that Burt's Bees, Inc. agrees to continue to provide the same level of health care benefits to its employees throughout the term of this contract that it provides at the time of re-location.

Alternatives

City Council could decide to not incentivize Burt's Bees, Inc.'s growth, and thwart future job growth in the Downtown area that is now being discussed.

Financial Impact

The Office of Economic and Workforce Development currently has sufficient monies in its budget to fund 100% of the payments for this incentive under the following general fund categories: Incentives, State of Durham Economy, Employment & Training and Downtown Assistance Loans.

SDBE Summary

An SDBE Summary is inapplicable because no project-specific goals have been set and no SDBE's are involved in this item.