

1 RESOLUTION ESTABLISHING AN ECONOMIC
2 DEVELOPMENT FINANCIAL ASSISTANCE AND
3 INCENTIVE POLICY FOR JOB CREATION, JOB
4 RETENTION AND CAPITAL INVESTMENT
5

6 WHEREAS, the City Council finds that the use of City funds to promote capital investment and
7 the creation and retention of jobs will increase taxable property and the business prospects of the
8 City of Durham;
9

10 NOW, THEREFORE, BE IT RESOLVED that the City of Durham hereby adopts the following
11 economic development Job Creation and Retention and Investment Incentive Policy:
12

13 1. Definitions.
14

15 a. The “Community Development Area” (CDA) is identified as such on the map titled
16 “The Durham Community Development Area, Targeted CDA Corridors, the Downtown
17 Development Tier and the Parrish Street Project Area,” dated April 2010, which is kept in
18 the Office of Economic and Workforce Development or such other location as the City
19 Manager may direct, and hereinafter referred to as the “Development Map.”
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21 b. “Targeted CDA Corridors” are those properties with at least one building entrance on
22 the streets identified on the Development Map as “Targeted CDA Corridors,” within the
23 Community Development Area.
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25 c. “Downtown Development Tier” is the area identified in the Downtown Design
26 District Map as the proposed tier that was approved by City Council on February 1, 2010
27 as an ordinance to amend provisions of the Unified Development Ordinance regulating
28 Downtown zoning and which area is identified as “Downtown Development Tier” on the
29 Development Map.
30

31 d. “Urban Growth Area” (UGA) refers to the geographic area outside the CDA but
32 inside the area identified on the City County Planning map entitled Map 2-1 Tiers on
33 Page 2-18 of the 2005 Durham Comprehensive Plan as amended.
34

35 e. “Targeted Industry” shall be the industry segments identified by the Labor Market
36 Information Division of the Employment Security Commission of North Carolina as
37 amended.
38

39 f. “Parrish Street Project Area” is the area shaded in orange on the Development Map
40 and includes only those properties with a building entrance on Parrish Street, North
41 Corcoran Street, Market Street, #26 Alley, Orange Street, Mangum Street, #24 Alley, and
42 North Church Street.
43

44 g. Where this policy requires a site to be in the CDA or other area, it must be in that area
45 on the date of approval of the incentive agreement.
46

47 h. The term “business” in this resolution includes not-for-profit activities.
48

49 i. “Targeted UGA Areas” refers to those areas of the Urban Growth Area targeted for
50 special economic incentive initiatives and shown on the map titled “Targeted Urban
51 Growth Areas” dated April 2010, which is kept in the Office of Economic and Workforce
52 Development or such other location as the City Manager may direct, and hereinafter
53 referred to as the “Targeted UGA Area Map.”
54

55 2. Incentive Programs. A project can qualify for incentives under this policy in any of the
56 following ways:

57
58 a. Small Development Projects within the CDA and Targeted UGA Areas.

59
60 (i) Capital Investment. The project directly creates, in the CDA and Targeted
61 UGA Areas, within 2 years of the City's approval of the agreement, at least
62 \$300,000 in non-residential capital investment. The project must be developed
63 by the business entity that owns the property or its agent; however the
64 development agreement shall be between the City and the property owner.

65
66 (ii) Total Maximum Incentives Amounts. The incentive may be up to 4.5% of
67 the non-residential capital investment, but not more than \$1,000,000.

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71 b. Mid-size Projects within a CDA.

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73 (i) Capital Investment. The project directly creates, in a CDA, within 3 years of
74 the City's approval of the agreement, at least (A) \$500,000 in non-residential
75 capital investment, or (B) any amount of non-residential capital investment less
76 than \$500,000 and at least 10 full-time jobs, or (C) \$500,000 in non-residential
77 capital investment and at least 10 full-time jobs.

78
79 (ii) Total Maximum Incentive Amounts.

80 If the incentive is based on part 2(a)(i)(A) above, the incentive may be up to 3%
81 of the non-residential capital investment, but not more than \$1,000,000. If the
82 incentive is based on part 2(a)(i)(B) above, the total incentive (including job
83 incentives) may be up to 3% of the non-residential capital investment, but not
84 more than \$1,000,000. If the incentive is based on part 2(a)(i)(C) above, the total
85 incentive (including job incentives) may be up to 6% of the non-residential
86 capital investment, but not more than \$2,000,000.

87
88 (iii) Job Creation. To be eligible for job creation incentives, the project must
89 directly create, within 2 years of the City's approval of the agreement, at least 25
90 jobs in any of the following categories:

91
92 Targeted Industries as defined under section 1 (e), hotels and the
93 following facility types: corporate headquarters, office uses, healthcare
94 facilities, research and development operations, manufacturing,
95 assembly, fabrication, processing operations, warehouse or distribution
96 operations, business incubators and the commercial component of
97 mixed-use developments.

98
99 Job Incentive Amount. The incentive may be up to \$2,500 per jobs
100 created, but not more than \$1,000,000 of the total maximum incentive
101 amount.

102
103 (iv) Job Retention. The firm retains more than 100 jobs during the 5-year period
104 beginning on the date of the Council's approval of the agreement.

105 Job Incentive Amount. The incentive may be up to \$2,500 per jobs
106 retained, but not more than \$1,000,000. If an incentive agreement
107 provides for payments for job retention and job creation under this
108 Section 2(a), the total incentive payment shall not exceed \$1,000,000.

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c. Major Property Investments within a CDA. Within 10 years of the Council’s approval, the project (i) directly results in capital investment of at least \$45,000,000 in mixed-use development within a CDA, or (ii) directly results in capital investment of at least \$10,000,000 in mixed-use development within a CDA and the project is an addition to a project that was previously incentivized either pursuant to this subsection (d) or pursuant to the Downtown Historically Significant Property subsection of previous versions of this resolution. Notwithstanding Section 3(b) (Types of Expenditures), expenditures made under this subsection (d) must be in property that is assessable for real property tax purposes, rather than equipment, personal property, or otherwise. Such expenditures may include related engineering and design fees, as well as associated development fees that are charged by the City.

Amount and Nature of Incentives. The incentive may be up to the lesser of 16% of the capital investment or \$10,000,000. However, the 16% and \$10,000,000 limits stated in the preceding sentence may be exceeded to the extent required to offset increases in rates for parking spaces that are leased by the City of Durham or the County of Durham. The incentives may be in any form allowed by law, including but not limited to conveyances of interests in real property, including but not limited to, transfers of real property at no charge or at less than market rate, options to purchase City-owned real property, leases of City-owned real property at no rent or rent at less than market rate, and agreements to construct and provide parking spaces in parking garages.

d. Within the Urban Growth Area but Outside a CDA.

(i) Capital investment and Job Creation. The project directly creates within the Urban Growth Area but outside of a CDA, within 3 years of the Council approval of the agreement, at least \$20,000,000 in non-residential capital investment or 100 jobs, unless the job creation is within a Targeted Industry, in which case the job threshold will be reduced to 50.

(ii) Total Maximum Incentive Amounts. If the incentive is based on only the capital investment, the incentive may be up to 1.5% of that capital investment, but not more than \$1,000,000.

If the incentive is based solely on the creation of jobs, the incentive may be up to 1.5% of the non-residential capital investment in the project created within 3 years of the City’s approval of the agreement, but not more than \$1,000,000.

If the incentive is based on the capital investment and jobs creation, the incentive may be up to 3% of the non-residential capital investment in the project created within 3 years of the City’s approval of the agreement, but not more than \$2,000,000.

(iii) Job Retention. The firm retains more than 100 jobs during the 5-year period beginning on the date of the Council’s approval of the agreement.

Job Incentive Amount. The incentive may be up to \$2,500 per jobs retained, but not more than \$1,000,000. If an incentive agreement provides for payments for job retention and job creation under this Section 2(d), the total incentive payment shall not exceed \$1,000,000.

e. Outside the Urban Growth Area and Outside a CDA.

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(i) Capital Investment and Job Creation. The project directly creates, outside the Urban Growth Area and outside of a CDA, within 3 years of the Council approval of the agreement, at least \$25,000,000 in non-residential capital investment or 150 jobs, unless the job creation is within a Targeted Industry, in which case the job threshold will be reduced to 100.

(ii) Total Maximum Incentive Amounts. If the incentive is based on only the capital investment, the incentive may be up to 1.5% of that capital investment, but not more than \$1,000,000.

If the incentive is based solely on the creation of jobs, the incentive may be up to 1.5% of the non-residential capital investment in the project created within 3 years of the City's approval of the agreement, but not more than \$1,000,000.

If the incentive is based on the capital investment and job creation, the incentive may be up to 3% of the non-residential capital investment in the project created within 3 years of the City's approval of the agreement, but not more than \$2,000,000.

(iii) Job Retention. The firm retains more than 100 jobs during the 5-year period beginning on the date of the Council's approval of the agreement.

Job Incentive Amount. The incentive may be up to \$2,500 per job retained, but not more than \$1,000,000. If an incentive agreement provides for payments for job retention and job creation under this Section 2(e), the total incentive payment shall not exceed \$1,000,000.

f. Neighborhood Revitalization Fund Project within the CDA (outside Downtown), Targeted Portions of the CDA and targeted portions of the UGA. Within 1 year after the City's approval of an incentive agreement, a business makes capital investments as part of a Neighborhood Revitalization Fund Project.

(i) Amount of Incentives. For non-residential capital investments by a business qualified under the Neighborhood Revitalization Fund Program, the incentive may be up to 50% of the total capital investment made for a total incentive payment not to exceed \$500,000.00. Incentive payments are to be made only for expenditures of qualified capital investment after the investment has been made.

(ii) Incentive Agreement Conditions. An incentive agreement negotiated for a Neighborhood Revitalization Fund Project shall require full performance of a project pursuant to the incentive agreement and appropriate financial mechanisms or tools to ensure the city's ability to recoup public payments in the case of a non-performing project. Such tools may include the structuring of a forgivable loan or conditional grants secured by recorded promissory note and deed of trust or other financial security sufficient to recoup the City's incentive payments for non-performance. Given the unique, fact specific circumstances of each potential project, the precise structure of such a clawback provision will be determined on a case-by-case basis.

g. Building Improvement Grants (BIG) within the Downtown Development Tier, Parish Street Project Area, the CDA (outside the Downtown Development Tier) and the Targeted UGA Areas.

217 (i) Capital Investment. Within 1 calendar year after the contract execution date
218 (or City Council Approval, if required), a business entity, which owns its own
219 building, directly creates capital investment improvements on an existing
220 building having vacant space(s) for the purpose of improving and/or upgrading
221 the interior and exterior as necessary to make it more rentable or “retail-ready.”
222 The first floor must be included within improvements. These improvements
223 could include window replacements, installations of walls, painting, installation
224 of support mechanisms, HVAC, electrical systems, plumbing, stairs etc. Only
225 building owners would be eligible for this type of incentive. To be eligible for
226 this program, the minimum total project capital investment must be at least
227 \$225,000.00 if within the Downtown Development Tier, \$187,500 if within the
228 CDA (outside the Downtown Development Tier) and \$300,000.00 if in the
229 Targeted UGA Areas and no more than \$1,000,000.00. Projects must be
230 completed no later than 12 months after City approval.

231
232 (ii) Amounts of Incentives. The maximum total incentive will be no more than
233 \$75,000.00:

234 (A) In the Downtown Development Tier, the total available incentive
235 payment shall not exceed 33% of total capital investment project costs;

236
237 (B) In the CDA (outside the Downtown Tier), the total available
238 incentive payment shall not exceed 40% of total capital investment
239 project costs; and

240
241 (C) In the Targeted UGA, the total available incentive payment shall not
242 exceed 25% of total capital investment project costs.

243
244 h Retail and Professional Services Grants within the CDA and UGA. Within 1 calendar
245 year after the contract execution date, a business makes or installs qualifying
246 improvements to a building in the CDA or UGA. The project property must be a street
247 level, retail business, restaurant or certain professional or personal services types such as
248 childcare centers or beauty salons. Projects must be completed no later than 12 months
249 after City approval.

250
251 (i) Qualifying Improvements. Funds granted must be spent on interior
252 improvements which will remain on the property and be used for the business.
253 Qualifying Improvements include but are not limited to:
254 Security systems, telephone systems, point of sale equipment, kitchen equipment,
255 millwork, built-in display furnishings and shelving, HVAC, coolers, plumbing,
256 demolition, flooring, grease traps, sprinkler systems, electrical, installation of
257 walls, package and labeling equipment.

258
259 (ii) Non-eligible Entities. The following are expressly excluded from eligibility
260 for an incentive agreement under this section: government entities and
261 businesses that exclude minors from any portion of the business where adult
262 customers are allowed.

263
264 (iii) Amount of Incentives. The incentive may be up to 50% of the cost of the
265 Qualifying Improvements but not exceed \$15,000.00.

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267
268 i. Sign and Façade Grants within the CDA and the UGA. Sign and Façade Grants will be
269 provided for the purpose of assisting business owners with aesthetically enhancing
270 exterior buildings within targeted areas of the community.

271 Facade improvements must be made to the exterior of one or more sides of the building
272 and/or property visible from a public street or municipal parking lot. At least 50% of
273 improvements must be attributed to costs as listed under (i) Qualifying Improvements a-i
274 below.

275
276 . Sign and Façade projects must be completed no later than 12 months after City
277 approval.

- 278
279 (i) Qualifying Improvements. Sign or Façade improvements are as follows:
280
281 a. Restoration, repair, or replacement of windows, doors, exterior walls,
282 chimneys, or other architectural elements;
283 b. Exterior painting;
284 c. Signage, awnings, marquees, and related exterior lighting and electrical
285 fixtures;
286 d. Masonry repair and cleaning;
287 e. Non-flat roof repair for portion noticeable from the public line of site;
288 f. Exterior work necessary for conversion to a retail or entertainment storefront;
289 g. Removal of modern facades, in order to restore back to vintage quality;
290 h. Restoration of vintage elements;
291 i. Removal of deteriorated building materials, such as plywood or metal;
292 j. Property improvements, including landscaping, fencing, screening, and
293 paving ; and
294 k. Parking lot improvements
295

296 Façade improvements must be consistent with Design Guidelines,
297 development review, streetscapes and enhancement of the pedestrian experience.
298

299 Higher points would be given to those improvements that address and reduce slum/blight.
300 In the case of signage, higher points would be given to those signs that are visible at
301 night.
302

303 (ii) Non-eligible Entities. The following are expressly excluded from eligibility
304 for an incentive agreement under this section: Improvements that are not
305 consistent with Design Guidelines, development review, streetscapes and
306 enhancement of the pedestrian experience.
307

308 (iii) Amounts of Incentives. The maximum incentive shall not exceed \$2,500.00
309 for the signage portion of a grant and \$5,000.00 overall. In no case shall the
310 incentive exceed 50% of total project cost.
311

312 3. Capital Investment. 313

314 a. Types of Facilities. The capital investments with respect to which an incentive
315 payment under this policy may be made must be within the following lists:
316

317 (i) In all Areas: corporate headquarters; office buildings; health care facilities;
318 research and development operations; manufacturing, assembly, fabrication, or
319 processing operations; and warehouse or distribution operations.
320

321 (ii) Inside a CDA: All of the uses listed in subsection (i) above, as well as
322 business incubators; hotels; financial institutions; retail operations; and the
323 commercial component of mixed-use developments.
324

325 (iii) Major Project Investments within a CDA: All of the uses listed in
326 subsections (i)-(ii) above, as well as residential and parking decks.
327

328 b. Types of Expenditures. No payment shall be made with respect to any capital
329 investment, except for design or engineering services, unless the expenditure for the
330 investment is made or incurred after the City approves the incentive agreement.
331 Incentive payments for capital investments may be made with respect to the following,
332 without limitation: on-site and off-site public infrastructure improvements; site
333 preparation; site clearing; grading; installing and/or expanding water and sewer utilities;
334 installing and/or expanding drainage facilities; new construction; rehabilitating and/or
335 demolishing existing structures; facade improvements; streetscape improvements;
336 moving existing utility facilities; constructing sidewalks or walkways; constructing
337 parking facilities; constructing bicycle paths; constructing urban trails; constructing
338 transportation facilities; installing street lighting; improving public open space; and
339 constructing public plazas. The investment may include related engineering and design
340 fees, as well as associated development fees that are charged by the City.
341

342 c. Property Taxes. The capital investment must be subject to City and County property
343 taxes from the time when installed or constructed and continuing until the final incentive
344 payment by the City is made with respect to that investment.
345

346 4. Standards for Jobs. Unless otherwise specified, any reference in this policy to jobs is to new,
347 full-time, and permanent jobs which are retained for a minimum of at least 12 months from date
348 of creation. A job is new only if it is created after the City's approval of the incentive agreement.
349 Any reference in this policy to job retention refers to full-time, permanent jobs retained for a
350 period of 5 years from after the City's approval of the incentive agreement and as specifically
351 stipulated in the subject incentive agreement. When payment of an incentive is conditioned on
352 the creation of jobs, those jobs must be posted with the Durham JobLink Career Center, and, with
353 regard to both jobs created or jobs retained, the jobs must pay at least the City's prevailing livable
354 wage rate for the period of time required by the incentive agreement. The livable wage rate is set
355 in accordance with Section 18-23 of the City Code. If jobs must be in the CDA or a Targeted
356 CDA Corridor, the majority of the employee's time each week during the applicable time period
357 must ordinarily be spent within the CDA or the Targeted CDA Corridor, as applicable.
358

359 5. Payments.

360 a. Schedule.

361 (i) Incentive agreements may authorize payments contingent on completion of
362 phases of a multiple-phase project.
363

364 (ii) Payments based on capital investment shall be made only after the capital
365 investment has been completed, except to the extent an incentive agreement
366 under Section 2(d) (Major Property Investments within a Community
367 Development Area) provides otherwise.
368

369 (iii) If capital investments are subject to the requirement that a certificate of
370 compliance be issued by the Durham City-County Inspections Department, then
371 payment based on that investment shall not be made until a certificate of
372 compliance has been issued, unless the incentive agreement provides otherwise.
373

374 (iv) Payments based on job creation or retention shall be made only after the
375 relevant job creation or retention levels have been met and shall be eliminated for
376 any continuous 12-month period in which, for the majority of that 12 month
377 period, whether continuous or not, the relevant employment levels fall below the
378

379 required minimum. Payment will be based upon certified copies of the
380 employer's unemployment insurance filings with the Employment Security
381 Commission of North Carolina. The Office of Economic and Workforce
382 Development, or such other office or department as may be specified by the City
383 Manager, will verify the number of jobs using a certified copy of the employer's
384 most recent unemployment insurance filing.

385 b. Proration. The agreement may provide that the City will prorate the incentive
386 payments according to the percentage of jobs that are created or retained, if the number of
387 jobs created or retained equals or exceeds 85 percent of those agreed to in the agreement.
388 For new jobs, no payment will be made for any continuous 12 month period in which, for
389 the majority of that 12 month period, whether continuous or not, the number of new jobs
390 falls below the 85 percent or higher level set in the agreement. For retained jobs, no
391 payment will be made for any continuous 12 month period in which, for the majority of
392 that 12 month period, whether continuous or not, the number of retained jobs falls below
393 either the 85 percent or higher level set in the agreement or 100.
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395

396 6. Evaluation Criteria.

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398 a. Factors. When evaluating requests made under this policy, City Staff and/or City
399 Council shall consider at least these factors: The potential for incentives must be a bona
400 fide inducement to an entity to make capital improvements, relocate, create and/or retain
401 jobs; the amount of new or expansion capital investment; the number and type of jobs to
402 be created, and the corresponding salaries expected to be paid; the type of product or
403 service to be produced or provided; and the location of the proposed development.
404

405

406 b. Project Evaluation Criteria. Some or all of these evaluation criteria will be used to
407 provide a consistent framework for evaluating proposed development projects.

408

409 (i) For all projects requesting City incentives. Criteria will be used to evaluate
410 the project's viability, need for public assistance and benefit to the general
411 public. The following factors will be considered:

412

A. Analysis has determined profitability and viability of project.

413

B. "But for" financial analysis demonstrates need for assistance.

414

C. Clearly documented financial commitments such as letters of interest
415 from investors or banks.

416

D. Level of experience that developer, or development partner, has
417 successfully developed similar projects.

418

E. Developer equity in project, including cash and basis in property
419 Creates sufficient number of permanent jobs based upon the amount
420 of City incentive.

421

F. Tax increment revenue, based on current rate, exceeds City
422 incentive.

423

G. Increases the tax base of the property being redeveloped.
424

425

426 (ii) For projects proposed in the Downtown Development Tier and Parrish Street
427 Project Area. The following additional factors will be considered for projects to
428 be located in the Downtown Development Tier and Parrish Street Project Area:

429

A. Corporate headquarters and other significant office space projects.

430

B. Unique project for downtown – e.g. downtown hotel.

431

C. Retail use exceeding 1,500 square feet.
432

432

- 433 D. Regional draw due to uniqueness of use.
- 434 E. Appropriate rehabilitation of contributing building in a designated
- 435 historic district or individually listed historic property.
- 436 F. Project is mixed-use.
- 437 G. Commercial space is provided on first floor.
- 438 H. Eliminates a blighted property.
- 439 I. Reuses a vacant or underutilized property.
- 440 J. Development of an environmentally impaired site.
- 441 K. Greater than 50% of first floor frontage is transparent windows.
- 442 L. Provides enclosed off street parking hidden from street view.
- 443 M. High quality and general compatible architectural design and
- 444 materials.
- 445 N. Bonus Criteria.
- 446
- 447 1. Provides rental apartments.
- 448 2. Provides workforce housing.
- 449 3. Project has obtained a LEED designation indicating high level of
- 450 sustainability in design and construction.
- 451 4. Approved deconstruction techniques for demolition work.
- 452 5. Creates or enhances downtown parks, plazas or greenways.
- 453 6. Adds street activity, such as outdoor eating areas or public art
- 454 space.
- 455 7. Accommodations for bike racks, transit shelters and other
- 456 pedestrian amenities.
- 457

458 (iii) For projects proposed in the CDA outside the Downtown Development Tier
 459 and Targeted CDA Corridors. The following additional factors will be
 460 considered for projects to be located in the CDA outside the Downtown
 461 Development Tier and Targeted CDA Corridors:

- 462
- 463 A. Significant office space projects greater than 3,000 square feet.
- 464 B. Renovation and reuse of existing retail and industrial buildings
- 465 exceeding 3,000 square feet.
- 466 C. New or adaptive reuse housing construction of 50 or more units.
- 467 D. Extent market is already supporting similar projects in the area.
- 468 E. Appropriate rehabilitation of contributing building in a designated
- 469 historic district or individually listed historic property.
- 470 F. Project is mixed-use.
- 471 G. Project promotes compact, efficient development.
- 472 H. Provides neighborhood businesses and services to underserved areas.
- 473 I. Eliminates a blighted property.
- 474 J. Reuses a vacant or underutilized property.
- 475 K. Development of an environmentally impaired site.
- 476 L. Compatible with surrounding developments or with objectives
- 477 contained in an adopted neighborhood, corridor or activity center
- 478 plan.
- 479 M. Adds pedestrian amenities, such as first floor retail, outdoor eating
- 480 areas, connected sidewalks, street trees, on-street parking, and public
- 481 art space.
- 482 N. Provides connected and shared access and parking areas.
- 483 O. Provides additional off-street parking screened from street view.
- 484 P. High quality and generally compatible architectural design and
- 485 materials.

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- Q. Makes provisions for transit-oriented development.
- R. Bonus Criteria.

1. Has a strong plan for hiring residents from the immediate area.
2. Plan includes mixed-use development with a quality housing component.

(iv) For projects proposed in the Urban Growth Area. The following additional factors will be considered for projects to be located in the Urban Growth Area:

- A. In compliance with Connections 2025 Generalized Future Land Use Map.
- B. Catalyst Project.
- C. Documentation submitted showing site has been considered by 2 or more prospects in the past 24 months.
- D. Transportation access to site for employees and trucks.
- E. Environmental suitability of site for intended use.
- F. Development standards.
- G. Bonus Criteria
 1. Site plan layout exhibits good accessibility and connectivity.
 2. Site has good highway frontage to promote regional economic development.
 3. Located in a designated transit route or corridor.
 4. Promotion of green building techniques in site planning and development standards.

(v) In addition, a project that is requesting public funding for site improvements should attempt to incorporate into its design as many of these features as is feasible. How these criteria are addressed in a project design should be a factor in determining a project's overall merit:

- A. Project is consistent with the most recent comprehensive plan and any applicable adopted small area plan.
- B. Project attempts to minimize adverse impacts on roads serving nearby properties, and project design attempts to minimize traffic impact within the development.
- C. Project's open space planning takes steps to conserve and protect the site's most significant and sensitive natural resource features, including steep slopes, stream buffers, Durham inventory sites, specimen trees, and the 100-year floodplain.
- D. Project structures are placed on site to minimize site grading.
- E. Project buildings are architecturally compatible with one another.
- F. Identified historic sites are preserved.
- G. Project complies with the TTA Station Guidelines applicable within any of the Compact Neighborhoods as designated in the Comprehensive Plan.
- H. Project complies with the Durham Design Guidelines applicable in the Downtown Development Tier(s) as designated in the Durham Comprehensive Plan.
- I. Project makes all reasonable connections to pedestrian, transit, and bicycle networks off-site.
- J. Project located in a transit corridor shows dedicated "Park and Ride" lots.

540 K. Project's landscaping plan is sensitive to its specific site location,
541 and complies with the Landscape Guidelines for Durham, North
542 Carolina as maintained in the City-County Planning Department.
543

544 7. Taxes and Fees. Nothing in this policy shall be construed to relieve any obligation to make
545 payment of any fee or charge, including but not limited to taxes, capital facility fees, impact fees,
546 frontage fees, inspection fees, or other development fees. No incentive payment will be made to
547 a business when it is not incorporated, in violation of the City's privilege tax ordinance or
548 delinquent in other debts owed to the City, including but not limited to property taxes and
549 assessments.
550

551 8. Public Hearing. All appropriations or expenditures, and all incentive agreements, made under
552 this policy will be considered by the City Council for approval after a public hearing, excluding
553 (a) those appropriations or expenditures and incentive agreements made pursuant to (i) Section
554 2(g) (Building Improvement Grant), (ii) Section 2(h) (Retail and Professional Services Grants),
555 and (iii) Section 2(i) (Sign and Façade Grant Projects) and (b) when the incentive agreement
556 amount is within the contracting authority of the City Manager and/or his designee pursuant to
557 City Council approved resolution. When a public hearing is required, the City Manager may set
558 the hearing without the necessity of Council action. The hearing will be held before the approval
559 of an incentive agreement requiring City Council approval that incorporates an appropriation
560 pursuant to this policy. When published notice is required by law, the City Manager shall publish
561 notice of the hearings once at least ten days (including weekends) before the hearing is held. The
562 notice will be in the daily newspaper and will briefly describe the proposal to make the
563 appropriations or expenditures, including the following information when relevant: the amount
564 of the appropriations or expenditures being considered, the improvements or activities being
565 funded with City funds, the number of new jobs to be created or jobs to be retained to qualify for
566 City funds, the source of the funding (when City property is involved as a potential incentive), the
567 public benefit to be derived, and such other information needed to reasonably describe the
568 proposal.
569

570 9. City Not Obligated or Limited. Payments by the City shall be allowed only pursuant to an
571 incentive agreement. This policy states the minimum requirements of the agreements, and
572 nothing in this policy is intended to prohibit an agreement that imposes additional conditions
573 precedent to City payments. The statements contained in this policy are guidelines and shall
574 neither obligate the City to pay any money, nor limit the discretion given to the City Council for
575 the promotion of economic development under G.S. § 158-7.1 and other applicable laws. Any
576 assistance will be limited by the availability of funds, which determination of availability shall be
577 made by the City Council at the time of the consideration of the appropriations or expenditures.
578

579 10. Local Government Budget and Fiscal Control Act. Any appropriations or expenditures made
580 to an enterprise or project shall be subject to applicable provisions of the Local Government
581 Budget and Fiscal Control Act. The City shall make such disclosures in such detail as the Local
582 Government Commission may direct.
583

584 11. Enabling Legislation. All appropriations and expenditures made under this policy shall be
585 funded by the levy of property taxes pursuant to G.S. chapter 160A, and by the allocation of
586 other revenues whose use is not restricted by law. This resolution is adopted pursuant to G.S. §
587 158-7.1.
588

589 12. Authority Delegated to City Manager. Except to the extent prohibited by law and where the
590 total city monetary incentive value does not exceed \$50,000 for any single instrument, including
591 all amendments, the City or City Manager's designee is authorized to make, approve, award,
592 amend, and execute instruments described under the following Incentive Programs without a
593 prior public hearing: 2(g) (Building Improvement Grants), 2(h) (Retail and Professional Services

594 Grants) and 2(i) (Sign and Façade Grants). The City Manager may appoint only City employees
595 as the City Manager's designees under this section. All such appointments must be made in
596 writing by the City Manager and must specify the type and limits of the designee's authority. The
597 instruments containing appointments are to be maintained as required by the records retention
598 schedule.
599

600 13. Ability to Combine Incentive Programs. The same applicant may apply for the Building
601 Improvement Grant, Sign and Façade Grant and Retail and Professional Services Grant; however,
602 the maximum eligible grant amount to be paid on more than one of the aforementioned grants at
603 the same time shall be \$95,000. The combined lifetime maximum total of incentives that a
604 property address can receive on any of the aforementioned grants is \$285,000. An applicant will
605 have a lifetime funding maximum of \$285,000 and if a property changes ownership that property
606 will only be eligible to receive incentives after 10 years from the last issuance of incentive
607 payments.
608

609 14. Discretionary Authority of City. As part of the evaluation and consideration of eligible
610 projects for any of the economic incentive programs identified in the Policy, the City reserves
611 complete discretion in determining what eligible projects warrant city incentive agreements. No
612 business in which a minor must get parental or guardian consent in order to receive services
613 and/or enter into a retail transaction shall be allowed to apply for assistance under this policy.
614

615 15. Effective Date; Repeal of Prior Resolutions. This policy may be used in conjunction with
616 any other economic development or water and sewer extension policies, programs, resolutions,
617 and ordinances, and nothing in this resolution is intended to affect their operation. This
618 resolution repeals the Resolution Establishing an Economic Development Financial Assistance
619 and Incentive Policy for Job Creation, Job Retention and Capital Investment adopted on May 17,
620 2010, provided that any agreements entered into pursuant to those resolutions shall not be
621 affected by the repeal.
622

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624