

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.  
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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.  
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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.  
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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.  
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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.

68  
69 b. Mid-size Projects within a CDA.

70  
71 (i) Capital Investment. The project directly creates, in a CDA, within 3 years of  
72 the City's approval of the agreement, at least (A) \$500,000 in non-residential  
73 capital investment, or (B) any amount of non-residential capital investment less  
74 than \$500,000 and at least 10 full-time jobs, or (C) \$500,000 in non-residential  
75 capital investment and at least 10 full-time jobs.

76  
77 (ii) Total Maximum Incentive Amounts.  
78 If the incentive is based on part 2(a)(i)(A) above, the incentive may be up to 3%  
79 of the non-residential capital investment, but not more than \$1,000,000. If the  
80 incentive is based on part 2(a)(i)(B) above, the total incentive (including job  
81 incentives) may be up to 3% of the non-residential capital investment, but not  
82 more than \$1,000,000. If the incentive is based on part 2(a)(i)(C) above, the total  
83 incentive (including job incentives) may be up to 6% of the non-residential  
84 capital investment, but not more than \$2,000,000.

85  
86 (iii) Job Creation. To be eligible for job creation incentives, the project must  
87 directly create, within 2 years of the City's approval of the agreement, at least 25  
88 jobs in any of the following categories:

89  
90 Targeted Industries as defined under section 1 (e), hotels and the  
91 following facility types: corporate headquarters, office uses, healthcare  
92 facilities, research and development operations, manufacturing,  
93 assembly, fabrication, processing operations, warehouse or distribution  
94 operations, business incubators and the commercial component of  
95 mixed-use developments.

96  
97 Job Incentive Amount. The incentive may be up to \$2,500 per jobs  
98 created, but not more than \$1,000,000 of the total maximum incentive  
99 amount.

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

103 Job Incentive Amount. The incentive may be up to \$2,500 per jobs  
104 retained, but not more than \$1,000,000. If an incentive agreement  
105 provides for payments for job retention and job creation under this  
106 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.

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

(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.

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

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

233  
234 (ii) Amounts of Incentives. The maximum total incentive will be no more than  
235 \$75,000.00:

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

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

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

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

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

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

266  
267 (iii) Amount of Incentives. The incentive may be up to 50% of the cost of the  
268 Qualifying Improvements but not exceed \$15,000.00.

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

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

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

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

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

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

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

(iii) Amounts of Incentives. The maximum incentive shall not exceed \$2,500 for the signage portion of a grant and \$5,000 overall. In no case shall the incentive exceed 50% of total project cost.

### 3. Capital Investment.

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

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

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

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

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

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

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

359  
360 5. Payments.

361  
362 a. Schedule.

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

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

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

375

376 (iv) Payments based on job creation or retention shall be made only after the  
377 relevant job creation or retention levels have been met and shall be eliminated for  
378 any continuous 12-month period in which, for the majority of that 12 month  
379 period, whether continuous or not, the relevant employment levels fall below the  
380 required minimum. Payment will be based upon certified copies of the  
381 employer's unemployment insurance filings with the Employment Security  
382 Commission of North Carolina. The Office of Economic and Workforce  
383 Development, or such other office or department as may be specified by the City  
384 Manager, will verify the number of jobs using a certified copy of the employer's  
385 most recent unemployment insurance filing.  
386

387 b. Proration. The agreement may provide that the City will prorate the incentive  
388 payments according to the percentage of jobs that are created or retained, if the number of  
389 jobs created or retained equals or exceeds 85 percent of those agreed to in the agreement.  
390 For new jobs, no payment will be made for any continuous 12 month period in which, for  
391 the majority of that 12 month period, whether continuous or not, the number of new jobs  
392 falls below the 85 percent or higher level set in the agreement. For retained jobs, no  
393 payment will be made for any continuous 12 month period in which, for the majority of  
394 that 12 month period, whether continuous or not, the number of retained jobs falls below  
395 either the 85 percent or higher level set in the agreement or 100.  
396

397 6. Evaluation Criteria.  
398

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

- 413 A. Analysis has determined profitability and viability of project.
- 414 B. "But for" financial analysis demonstrates need for assistance.
- 415
- 416 C. Clearly documented financial commitments such as letters of interest  
417 from investors or banks.
- 418 D. Level of experience that developer, or development partner, has  
419 successfully developed similar projects.
- 420 E. Developer equity in project, including cash and basis in property  
421 Creates sufficient number of permanent jobs based upon the amount  
422 of City incentive.
- 423 F. Tax increment revenue, based on current rate, exceeds City  
424 incentive.
- 425 G. Increases the tax base of the property being redeveloped.
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427 (ii) For projects proposed in the Downtown Development Tier and Parrish Street  
428 Project Area. The following additional factors will be considered for projects to  
429 be located in the Downtown Development Tier and Parrish Street Project Area:

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- A. Corporate headquarters and other significant office space projects.
- B. Unique project for downtown – e.g. downtown hotel.
- C. Retail use exceeding 1,500 square feet.
- D. Regional draw due to uniqueness of use.
- E. Appropriate rehabilitation of contributing building in a designated historic district or individually listed historic property.
- F. Project is mixed-use.
- G. Commercial space is provided on first floor.
- H. Eliminates a blighted property.
- I. Reuses a vacant or underutilized property.
- J. Development of an environmentally impaired site.
- K. Greater than 50% of first floor frontage is transparent windows.
- L. Provides enclosed off street parking hidden from street view.
- M. High quality and general compatible architectural design and materials.
- N. Bonus Criteria.
  - 1. Provides rental apartments.
  - 2. Provides workforce housing.
  - 3. Project has obtained a LEED designation indicating high level of sustainability in design and construction.
  - 4. Approved deconstruction techniques for demolition work.
  - 5. Creates or enhances downtown parks, plazas or greenways.
  - 6. Adds street activity, such as outdoor eating areas or public art space.
  - 7. Accommodations for bike racks, transit shelters and other pedestrian amenities.

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

- A. Significant office space projects greater than 3,000 square feet.
- B. Renovation and reuse of existing retail and industrial buildings exceeding 3,000 square feet.
- C. New or adaptive reuse housing construction of 50 or more units.
- D. Extent market is already supporting similar projects in the area.
- E. Appropriate rehabilitation of contributing building in a designated historic district or individually listed historic property.
- F. Project is mixed-use.
- G. Project promotes compact, efficient development.
- H. Provides neighborhood businesses and services to underserved areas.
- I. Eliminates a blighted property.
- J. Reuses a vacant or underutilized property.
- K. Development of an environmentally impaired site.
- L. Compatible with surrounding developments or with objectives contained in an adopted neighborhood, corridor or activity center plan.
- M. Adds pedestrian amenities, such as first floor retail, outdoor eating areas, connected sidewalks, street trees, on-street parking, and public art space.

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- N. Provides connected and shared access and parking areas.
- O. Provides additional off-street parking screened from street view.
- P. High quality and generally compatible architectural design and materials.
- 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.

- 537 I. Project makes all reasonable connections to pedestrian, transit, and  
538 bicycle networks off-site.  
539 J. Project located in a transit corridor shows dedicated “Park and Ride”  
540 lots.  
541 K. Project’s landscaping plan is sensitive to its specific site location,  
542 and complies with the Landscape Guidelines for Durham, North  
543 Carolina as maintained in the City-County Planning Department.  
544

545 7. Taxes and Fees. Nothing in this policy shall be construed to relieve any obligation to make  
546 payment of any fee or charge, including but not limited to taxes, capital facility fees, impact fees,  
547 frontage fees, inspection fees, or other development fees. No incentive payment will be made to  
548 a business when it is not incorporated, in violation of the City’s privilege tax ordinance or  
549 delinquent in other debts owed to the City, including but not limited to property taxes and  
550 assessments.  
551

552 8. Public Hearing. All appropriations or expenditures, and all incentive agreements, made under  
553 this policy will be considered by the City Council for approval after a public hearing, excluding  
554 (a) those appropriations or expenditures and incentive agreements made pursuant to (i) Section  
555 2(g) (Building Improvement Grant), (ii) Section 2(h) (Retail and Professional Services Grants),  
556 and (iii) Section 2(i) (Sign and Façade Grant Projects) and (b) when the incentive agreement  
557 amount is within the contracting authority of the City Manager and/or his designee pursuant to  
558 City Council approved resolution. When a public hearing is required, the City Manager may set  
559 the hearing without the necessity of Council action. The hearing will be held before the approval  
560 of an incentive agreement requiring City Council approval that incorporates an appropriation  
561 pursuant to this policy. When published notice is required by law, the City Manager shall publish  
562 notice of the hearings once at least ten days (including weekends) before the hearing is held. The  
563 notice will be in the daily newspaper and will briefly describe the proposal to make the  
564 appropriations or expenditures, including the following information when relevant: the amount  
565 of the appropriations or expenditures being considered, the improvements or activities being  
566 funded with City funds, the number of new jobs to be created or jobs to be retained to qualify for  
567 City funds, the source of the funding (when City property is involved as a potential incentive), the  
568 public benefit to be derived, and such other information needed to reasonably describe the  
569 proposal.  
570

571 9. City Not Obligated or Limited. Payments by the City shall be allowed only pursuant to an  
572 incentive agreement. This policy states the minimum requirements of the agreements, and  
573 nothing in this policy is intended to prohibit an agreement that imposes additional conditions  
574 precedent to City payments. The statements contained in this policy are guidelines and shall  
575 neither obligate the City to pay any money, nor limit the discretion given to the City Council for  
576 the promotion of economic development under G.S. § 158-7.1 and other applicable laws. Any  
577 assistance will be limited by the availability of funds, which determination of availability shall be  
578 made by the City Council at the time of the consideration of the appropriations or expenditures.  
579

580 10. Local Government Budget and Fiscal Control Act. Any appropriations or expenditures made  
581 to an enterprise or project shall be subject to applicable provisions of the Local Government  
582 Budget and Fiscal Control Act. The City shall make such disclosures in such detail as the Local  
583 Government Commission may direct.  
584

585 11. Enabling Legislation. All appropriations and expenditures made under this policy shall be  
586 funded by the levy of property taxes pursuant to G.S. chapter 160A, and by the allocation of  
587 other revenues whose use is not restricted by law. This resolution is adopted pursuant to G.S. §  
588 158-7.1.  
589

590 12. Authority Delegated to City Manager. Except to the extent prohibited by law and where the  
591 total city monetary incentive value does not exceed \$50,000 for any single instrument, including  
592 all amendments, the City or City Manager's designee is authorized to make, approve, award,  
593 amend, and execute instruments described under the following Incentive Programs without a  
594 prior public hearing: 2(g) (Building Improvement Grants), 2(h) (Retail and Professional Services  
595 Grants) and 2(i) (Sign and Façade Grants). The City Manager may appoint only City employees  
596 as the City Manager's designees under this section. All such appointments must be made in  
597 writing by the City Manager and must specify the type and limits of the designee's authority. The  
598 instruments containing appointments are to be maintained as required by the records retention  
599 schedule.

600

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

609

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

616

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

624

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626