

## **DURHAM COUNTY**

### **BUSINESS RECRUITMENT & EXPANSION POLICY**

#### **I. ELIGIBILITY**

Projects eligible for awards under this policy must meet the following base criteria for consideration:

- **Use Types.** Projects must be commercial or industrial in nature. Residential projects are not applicable.
- **Interstate Competition.** Projects must have demonstrated interstate competition.
- **“But For.”** Projects must provide written affirmation that without an award from this program, the project would not occur in Durham County.
- **Criteria.** All non-headquarters projects must either exceed a minimum of \$50 million in new taxable capital investment within five years or create a minimum of 200 new full-time jobs within five years. Projects establishing a national or global headquarters in Durham County may be considered if the project exceeds a minimum of \$25 million in new taxable capital investment and creates a minimum of 50 new jobs within five years.
  - *Capital Investment Criteria.* Capital investment eligible under this policy is defined as taxable capital investment (e.g. real property and business personal property investment) as defined and taxable by the Durham County Tax Administrator. Lease payments are not eligible.
  - *Full-Time Job Criteria.* A new full-time job eligible under this policy is defined as: a permanent-hourly or salaried employee who is employed by the Company for at least 35 hours per week, spends the majority of their work time at the Project site, whose wages are subjected to withholding, and whose job is intended to be performed by one employee during the entire year. The employee must be paid a living wage (as determined annually by the Durham County Living Wage Guidelines, which also apply to its own public employees) and provided with health insurance where the Company (or Professional Employer Organization, with prior disclosure to, and approval by, the County) pays a minimum of 50% of the premiums. The new full-time job cannot include employees transferred or relocated from another Company site in North Carolina and must be a net increase in the Company's number of full-time employees working in Durham County.

#### **II. INITIAL SUBMISSION**

- **Forms.** Project shall complete all relevant in-take forms to the satisfaction of Durham County.
- **Project Information.** Information to be provided by the Company shall include, but is not limited to: physical location and parcel number(s); schedule of investment by year and type; estimated value and square footage of the facility(s) to be constructed or upfitted; estimated value and type of equipment to be installed; number of new full-time jobs created; job title or classification and salary information; salary hiring schedule; projected educational requirements necessary for new jobs; anticipated number of new jobs that will be transferring from out of state; projected number of existing positions that are at risk of relocating out of state if not retained; presence of competition for the project with other states or countries; list of locations in other states being considered by the Company; Company benefits and employee supportive programs; and a list of proposed community partnerships and benefits.

#### **III. COMMUNITY PARTNERSHIPS & BENEFITS**

- **Approach.** The Board of Commissioners places a high priority on a Project's community partnerships and benefits and requires that the Project make specific commitments as a component of the award. The quality of the commitments will be a significant factor in shaping the size of the award offered. In some cases, commitments may be initiatives, benefits, or partnerships the company is already offering or undertaking; in other cases, the commitments

may be new or unique to the Project. These commitments will also benefit the Project by ensuring a pipeline of qualified talent, retention of employees, opportunities for local collaboration, and durable relationships and support with the Durham community. Companies are also encouraged to propose other programs or policies not described below that they believe align with this policy.

- **Focus Areas.** Key focus areas for commitments include, but are not limited to:
  - Minority & Women Owned Business Enterprises (MWBE): e.g. committing to a MWBE participation aspirational goal of 25% of the project's total capital investment.
  - Company Policies & Benefits: e.g. offering paid parental leave, on-site childcare or a childcare subsidy, employee leadership initiatives, flexible schedules, tuition support or reimbursement, etc.
  - Hiring & Workforce Development: e.g. hiring justice-involved individuals, attending local hiring fairs, partnering with the BULLS Academy Life Sciences +, offering paid internships or apprenticeships with local institutions of higher learning, etc.
  - Durham Public Schools (DPS) Partnerships: e.g. participating in career fairs or expos, summer programs, job shadowing, teacher training, hosting site visits, etc.
  - Sustainability: pursuing Leadership in Energy and Environmental Design (LEED) or similar level of certification, adaptive re-use, use of renewable energy, and/or waste reduction strategies, etc.
  - Transportation Strategies: supporting public transit, implementing Transportation Demand Management (TDM) strategies that reduce or redistribute travel demand by coordinating and promoting flex scheduling, carpooling, transit, biking, etc.
- **Commitment Options.** The most up-to-date list of proposed commitments can be found on the Economic Development Department's "Community Partnerships & Benefits" intake form.

#### **IV. AWARD**

- **Amount.** Appropriations may be considered between 10% to 50% of the new property tax revenue resulting from the Company's new taxable capital investment over a five-year stabilized period, as determined by the Durham County Tax Administrator. The amount of the appropriation may further be refined by evaluating the number of new full-time jobs, associated wages and benefits, the type of jobs and opportunities for advancement, the size of the new capital investment, the committed community partnerships and benefits, and/or the type of industry or sector. It may be easier for projects with smaller capital investment (and thus a smaller award size) to obtain a full 50% award than a project with much larger capital investment (and thus a larger award size). The Board of Commissioners is not obligated to make any appropriations for a project.
- **Public Hearing.** Any appropriations of funds pursuant to this policy may only be made following a public hearing before the Board of Commissioners, which notice of such hearing shall be published at least ten days before the hearing is held. The notice shall contain the information as required by N.C.G.S. § 158-7.1(c).
- **Limitations.** In no event shall an appropriation be made to a Company for property which has been or is proposed to be classified as historic for purposes of ad valorem taxation pursuant to N.C.G.S. § 105-278 or any successor statute.

#### **V. PERFORMANCE AGREEMENT & COMPLIANCE**

- **Agreement Template & Term.** Upon approval of an award by the Board of Commissioners in a public hearing, the County will draft a performance agreement for execution by both the Company and the County. The term of the performance agreement shall be up to ten years, with payout occurring over a period of five to seven years, and the subsequent years, as applicable, being maintenance years. Staff will propose to the Board the appropriate duration and payment structure of the agreement, taking into account the size of the award, the type or amount of State participation, and other project attributes.

- **Annual Submissions.** Annual payment requests must be submitted within the annual schedule of payments outlined in the executed agreement or they will be considered forfeited. Annual performance criteria shall include, but not be limited to verification of jobs, capital investment, community partnerships and benefits, and related agreement criteria prior to payment. If for any reason, the Company fails to meet its obligations under the agreement by not achieving jobs, investment and related criteria outlined in the annual schedule of payments, then it may not qualify for payment or may receive a reduced payment. Additional documentation may be required based on the size of the award or type of project.
- **Assignment.** Company shall not assign, transfer, sell or convey any of its rights to incentive payments without advance knowledge and consent of the County, and any approval or denial of any such action shall not be unreasonably withheld, but is also contingent upon the best interest of the County, as well as and consistent with the requirements and spirit of this Policy and Agreement.
- **Minority Vendors.** Company will provide a list of MWBE vendors that they have contracted with in the most recent performance year as part of the annual submission. The Company will work with the County for current strategies to reach these vendors.
- **NC Works.** All new jobs must be posted with the North Carolina Works Career Center.
- **Compliance.** All Companies receiving appropriations shall be and remain current on all Durham County and Durham City levied bills; be in compliance with all applicable Federal, State, and Local environmental laws, ordinances, regulations, and standards; and be in compliance with all applicable Local ordinances. Failure to maintain such compliance may cause refusal of the County to pay the incentive for that period and any period in which a violation of these referenced standards exists. Should a violation be discovered following a payment, the Company may be required to either pay back said payment or to forfeit the upcoming payment.
- **Annual Performance.** Each payment year of the agreement establishes performance requirements for the Company to meet to obtain either a full or reduced payment:
  - All payments require that new property taxes paid for that year are at a minimum twice the payment amount (a 2:1 ratio; e.g. a \$50,000 payment requires a minimum of \$100,000 in new property tax revenue for that year).
  - A full payment requires 100% performance compliance.
  - A reduced, pro-rated payment is available to companies who meet 80% performance compliance. For every percentage reduction in performance, there is an equal percentage reduction in payment. Performance compliance below 80% fails to qualify for payment.
  - Annual performance compliance is determined by equally weighting two percentages: (1) the eligible capital investment achieved against the capital investment requirement for that year and (2) the eligible jobs achieved against the job requirement for that year. 100% is the maximum performance in all such calculations.
  - No payment shall be made unless the Company operated the facility continuously throughout the applicable year except for brief periods necessary for maintenance or repair, facility closures due to extreme adverse weather or other conditions beyond the Company's reasonable control.
- **Overall Performance / "Claw-Back."** Company will be required to re-pay all or some of the issued incentive under the following circumstances:
  - If the Company fails to achieve 80% annual performance for three consecutive payment years, the Company will be required to repay in full all appropriations made under the Agreement.
  - If at the completion of the payment period of the Agreement, a Company did not, or is expected to not, ultimately achieve 60% of the total investment requirement and 60% of the total job requirement, the Company will be required to repay the County, in full,

of all appropriations made under the Agreement.

- If by the end of the maintenance period of the Agreement, a Company fails to maintain a minimum of 50% of the required jobs under the Agreement, the Company shall repay the County up to 25% of the appropriations made under the Agreement.
- If during the term of the Agreement, a Company closes its operations in Durham County, the Company will be required to repay the County in full of all appropriations made under the Agreement. Additionally, the Company shall not be entitled to receive incentive payments after any public announcement by Company of its plan to cease operations at the Facility.

## **VII. ADDITIONAL INFORMATION**

- **No Legal Interest or Expectation.** The provisions of this policy do not create and are not intended to create any legal expectation or interest by any Company.
- **Absolute Board Discretion.** The Board of Commissioners retains full and absolute discretion in making, or not making, an award. Request for incentive grants are evaluated and negotiated on a case-by case basis. Any assistance provided to a Company will be limited to the availability of funds by Durham County, and influenced by the alignment (or lack thereof) of the Project with the County's strategic priorities.