

1 REVISED DRAFT PROPOSAL  
2 RESOLUTION ESTABLISHING AN ECONOMIC  
3 DEVELOPMENT FINANCIAL ASSISTANCE AND  
4 INCENTIVE POLICY FOR JOB CREATION, JOB  
5 RETENTION AND CAPITAL INVESTMENT  
6

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

10  
11 NOW, THEREFORE, BE IT RESOLVED that the City of Durham hereby adopts the following  
12 economic development Job Creation and Retention and Investment Incentive Policy:  
13

14 1. Definitions.

- 15  
16 a. The “Community Development Area” (CDA) is identified as such on the map titled  
17 “The Durham Community Development Area, Targeted CDA Corridors, the Downtown  
18 Development Tier and the Parrish Street Project Area,” dated April 2010, which is kept in  
19 the Office of Economic and Workforce Development or such other location as the City  
20 Manager may direct, and hereinafter referred to as the “Development Map.”  
21
- 22 b. “Targeted CDA Corridors” are those properties with at least one building entrance on  
23 the streets identified on the Development Map as “Targeted CDA Corridors,” within the  
24 Community Development Area.  
25
- 26 c. “Downtown Development Tier” is the area identified in the Downtown Design  
27 District Map as the proposed tier that was approved by City Council on February 1, 2010  
28 as an ordinance to amend provisions of the Unified Development Ordinance regulating  
29 Downtown zoning and which area is identified as “Downtown Development Tier” on the  
30 Development Map.  
31
- 32 d. “Targeted Areas beyond the CDA” (refers to the area formerly named Urban Growth  
33 Area –UGA) is a geographic area identified on the map prepared by GIS on 5/3/2013  
34 entitled Targeted Neighborhood Community Development; Commercial Area Map.  
35
- 36 e. “Targeted Industry” shall be the industry segments identified by the Department of  
37 Commerce’s Labor and Economic Analysis Division.  
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. “Ninth Street Compact Neighborhood-Commercial District” is the commercial  
45 district that runs along Ninth and Iredell from West Main on the south to Green on the  
46 north and adjacent streets from Ninth on the West to Broad on the East (but excluding  
47 Broad Street) that include Perry, Markham, and Green and Safeway.  
48
- 49 h. Where this policy requires a site to be in the CDA or other area, it must be in that area  
50 on the date of approval of the incentive agreement.  
51
- 52 i. The term “business” in this resolution includes not-for-profit activities.  
53

54 j. Recommended targeted community development areas refer to those areas targeted  
55 for special economic incentive initiatives and shown on the map titled “The Durham  
56 Community Development Area, Targeted CDA Corridors, The Downtown Development  
57 Tier and the Parrish Street Project Area,” dated April 2010, which is kept in the Office of  
58 Economic and Workforce Development or such other location as the City Manager may  
59 direct, and hereinafter referred to as the “ Durham Community Development Area (CDA)  
60 map.  
61

62 2. Incentive Programs. A project can qualify for incentives under this policy in any of the  
63 following ways:  
64

65 a. Small Development Projects within the CDA and Targeted Areas beyond the CDA.  
66

67 (i) Capital Investment. The project directly creates, in the CDA and Targeted  
68 Areas beyond the CDA, within 2 years of the City’s approval of the agreement, at  
69 least \$300,000 in non-residential capital investment. The project must be  
70 developed by the business entity that owns the property or its agent; however the  
71 development agreement shall be between the City and the property owner.  
72

73 (ii) Total Maximum Incentives Amounts. The incentive may be up to 4.5% of  
74 the non-residential capital investment, but not more than \$1,000,000.  
75

76 b. Mid-size Projects within a CDA.  
77

78 (i) Capital Investment. The project directly creates, in a CDA, within 3 years of  
79 the City’s approval of the agreement, at least (A) \$500,000 in non-residential  
80 capital investment, or (B) any amount of non-residential capital investment less  
81 than \$500,000 and at least 10 full-time jobs, or (C) \$500,000 in non-residential  
82 capital investment and at least 10 full-time jobs.  
83

84 (ii) Total Maximum Incentive Amounts.  
85 If the incentive is based on part 2(b)(i)(A) above, the incentive may be up to 3%  
86 of the non-residential capital investment, but not more than \$1,000,000. If the  
87 incentive is based on part 2(b)(i)(B) above, the total incentive (including job  
88 incentives) may be up to 3% of the non-residential capital investment, but not  
89 more than \$1,000,000. If the incentive is based on part 2(b)(i)(C) above, the total  
90 incentive (including job incentives) may be up to 6% of the non-residential  
91 capital investment, but not more than \$2,000,000.  
92

93 (iii) Job Creation. To be eligible for job creation incentives, the project must  
94 directly create, within 2 years of the City’s approval of the agreement, at least 25  
95 jobs in any of the following categories:  
96

97 Targeted Industries as defined under section 1 (e), hotels and the  
98 following facility types: corporate headquarters, office uses, healthcare  
99 facilities, research and development operations, manufacturing,  
100 assembly, fabrication, processing operations, warehouse or distribution  
101 operations, business incubators and the commercial component of  
102 mixed-use developments.  
103

104 Job Incentive Amount. The incentive may be up to \$2,500 per jobs  
105 created, but not more than \$1,000,000 of the total maximum incentive  
106 amount.  
107

108 (iv) Job Retention. The firm retains more than 100 jobs during the 5-year period  
109 beginning on the date of the Council's approval of the agreement.  
110

111 Job Incentive Amount. The incentive may be up to \$2,500 per jobs  
112 retained, but not more than \$1,000,000. If an incentive agreement  
113 provides for payments for job retention and job creation under this  
114 Section 2(b), the total incentive payment shall not exceed \$1,000,000.  
115

116 c. Major Property Investments within a CDA. Within 10 years of the Council's  
117 approval, the project (i) directly results in capital investment of at least \$45,000,000 in  
118 mixed-use development within a CDA, or (ii) directly results in capital investment of at  
119 least \$10,000,000 in mixed-use development within a CDA and the project is an addition  
120 to a project that was previously incentivized either pursuant to this subsection (c) or  
121 pursuant to the Downtown Historically Significant Property subsection of previous  
122 versions of this resolution. Notwithstanding Section 3(b) (Types of Expenditures),  
123 expenditures made under this subsection (c) must be in property that is assessable for real  
124 property tax purposes, rather than equipment, personal property, or otherwise. Such  
125 expenditures may include related engineering and design fees, as well as associated  
126 development fees that are charged by the City.  
127

128 Amount and Nature of Incentives. The incentive may be up to the lesser of 16%  
129 of the capital investment or \$10,000,000. However, the 16% and \$10,000,000  
130 limits stated in the preceding sentence may be exceeded to the extent required to  
131 offset increases in rates for parking spaces that are leased by the City of Durham  
132 or the County of Durham. The incentives may be in any form allowed by law,  
133 including but not limited to conveyances of interests in real property, including  
134 but not limited to, transfers of real property at no charge or at less than market  
135 rate, options to purchase City-owned real property, leases of City-owned real  
136 property at no rent or rent at less than market rate, and agreements to construct  
137 and provide parking spaces in parking garages.  
138

139 d. Targeted Areas beyond the CDA.

140  
141 (i) Capital investment and Job Creation. The project directly creates within the  
142 the city limits, but outside the CDA , within 3 years of the Council approval of  
143 the agreement, at least \$20,000,000 in non-residential capital investment or 100  
144 jobs, unless the job creation is within a Targeted Industry, in which case the job  
145 threshold will be reduced to 50.  
146

147 (ii) Total Maximum Incentive Amounts. If the incentive is based on only the  
148 capital investment, the incentive may be up to 1.5% of that capital investment,  
149 but not more than \$1,000,000.  
150

151 If the incentive is based solely on the creation of jobs, the incentive may be up to  
152 1.5% of the non-residential capital investment in the project created within 3  
153 years of the City's approval of the agreement, but not more than \$1,000,000.  
154

155 If the incentive is based on the capital investment and jobs creation, the incentive  
156 may be up to 3% of the non-residential capital investment in the project created  
157 within 3 years of the City's approval of the agreement, but not more than  
158 \$2,000,000.  
159

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

162  
163 Job Incentive Amount. The incentive may be up to \$2,500 per jobs  
164 retained, but not more than \$1,000,000. If an incentive agreement  
165 provides for payments for job retention and job creation under this  
166 Section 2(d), the total incentive payment shall not exceed \$1,000,000.  
167

168 e. Targeted Areas Outside the CDA.  
169

170 (i) Capital Investment and Job Creation. The project directly creates, outside the  
171 City Limits and outside of a CDA, within 3 years of the Council approval of the  
172 agreement, at least \$25,000,000 in non-residential capital investment or 150 jobs,  
173 unless the job creation is within a Targeted Industry, in which case the job  
174 threshold will be reduced to 100.  
175

176 (ii) Total Maximum Incentive Amounts. If the incentive is based on only the  
177 capital investment, the incentive may be up to 1.5% of that capital investment,  
178 but not more than \$1,000,000.  
179

180 If the incentive is based solely on the creation of jobs, the incentive may be up to  
181 1.5% of the non-residential capital investment in the project created within 3  
182 years of the City's approval of the agreement, but not more than \$1,000,000.  
183

184 If the incentive is based on the capital investment and job creation, the incentive  
185 may be up to 3% of the non-residential capital investment in the project created  
186 within 3 years of the City's approval of the agreement, but not more than  
187 \$2,000,000.  
188

189 (iii) Job Retention. The firm retains more than 100 jobs during the 5-year period  
190 beginning on the date of the Council's approval of the agreement.  
191

192 Job Incentive Amount. The incentive may be up to \$2,500 per job  
193 retained, but not more than \$1,000,000. If an incentive agreement  
194 provides for payments for job retention and job creation under this  
195 Section 2(e), the total incentive payment shall not exceed \$1,000,000.  
196

197 f. Neighborhood Revitalization Fund Project within the CDA (outside Downtown),  
198 Targeted Portions of the CDA and Targeted Areas beyond the CDA. Within 1 year after  
199 the City's approval of an incentive agreement, a business makes capital investments as  
200 part of a Neighborhood Revitalization Fund Project.  
201

202 (i) Amount of Incentives. For non-residential capital investments by a business  
203 qualified under the Neighborhood Revitalization Fund Program, the incentive  
204 may be up to 50% of the total capital investment made for a total incentive  
205 payment not to exceed \$500,000.00. Incentive payments are to be made only for  
206 expenditures of qualified capital investment after the investment has been made.  
207

208 (ii) Incentive Agreement Conditions. An incentive agreement negotiated for a  
209 Neighborhood Revitalization Fund Project shall require full performance of a  
210 project pursuant to the incentive agreement and appropriate financial  
211 mechanisms or tools to ensure the city's ability to recoup public payments in the  
212 case of a non-performing project. Such tools may include the structuring of a  
213 forgivable loan or conditional grants secured by recorded promissory note and  
214 deed of trust or other financial security sufficient to recoup the City's incentive  
215 payments for non-performance. Given the unique fact specific circumstances of

216 each potential project, the precise structure of such a clawback provision will be  
217 determined on a case-by-case basis.

218  
219 g. Building Improvement Grants (BIG) within the Downtown Development Tier, Parrish Street  
220 Project Area, the CDA (outside the Downtown Development Tier), Targeted Areas beyond the  
221 CDA and in the Ninth Street Compact Neighborhood-Commercial District.  
222

223 (i) Capital Investment. Within 18 months after the contract execution date (or  
224 City Council Approval, if required), a business entity, which owns its own  
225 building, directly creates capital investment improvements on an existing  
226 building having vacant space(s) for the purpose of improving and/or upgrading  
227 the interior and exterior as necessary to make it more rentable or “retail-ready.”  
228 The first floor must be included within improvements. These improvements  
229 could include window replacements, installations of walls, painting, installation  
230 of support mechanisms, HVAC, electrical systems, plumbing, stairs etc. Only  
231 building owners would be eligible for this type of incentive. To be eligible for  
232 this program, the minimum total project capital investment must be at least  
233 \$225,000.00 if within the Downtown Development Tier, \$50,000 if within the  
234 CDA (outside the Downtown Development Tier) and \$300,000.00 if in the  
235 Targeted Areas beyond the CDA. Projects must be completed no later than 18  
236 months after City approval.

237  
238 (ii) Amounts of Incentives. The maximum total incentive will be no more than  
239 \$75,000.00:

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

242  
243 (B) In the CDA (outside the Downtown Tier), the total available  
244 incentive payment shall not exceed 40% of total capital investment  
245 project costs; and

246  
247 (C) Outside the CDA, but within the city limits, the total available  
248 incentive payment shall not exceed 25% of total capital investment  
249 project costs.

250  
251 (D) In the Ninth Street Compact Neighborhood-Commercial District, the  
252 total available incentive payment shall not exceed 33% of total capital  
253 investment project costs;

254  
255 h. Retail and Professional Services Grants (“RPSG”) within the CDA and Targeted Areas beyond  
256 the CDA and in the Ninth Street Compact Neighborhood-Commercial District. Within 1 calendar  
257 year after the contract execution date, a business makes or installs qualifying improvements to a  
258 building in the CDA or Targeted Areas beyond the CDA or in the Ninth Street Compact  
259 Neighborhood-Commercial District. The project property must be a street level retail business,  
260 restaurant or certain professional or personal services types such as childcare centers or beauty  
261 salons. Projects must be completed no later than 12 months after City approval.

262  
263 (i) Qualifying Improvements. Funds granted must be spent on interior or exterior sign  
264 and façade improvements which will remain on the property and be used for the business.  
265 Qualifying Improvements include but are not limited to:  
266 Security systems, telephone systems, point of sale equipment, kitchen equipment,  
267 millwork, built-in display furnishings and shelving, HVAC, coolers, plumbing,  
268 demolition, flooring, grease traps, sprinkler systems, electrical, installation of walls,  
269 package and labeling equipment. Additionally, the eligible exterior sign and facade



270 portion of the RPSG will be provided for the purpose of assisting business owners with  
271 aesthetically enhancing exterior buildings within targeted areas of the community.  
272

273 Facade improvements must be made to the exterior of one or more sides of the building  
274 and/or property visible from a public street or municipal parking lot. At least 50% of  
275 improvements must be attributed to costs as listed under (i) Qualifying Improvements a-i  
276 below.  
277

278 Exterior sign and façade projects must be completed no later than 12 months after City  
279 approval.  
280

281 Exterior sign or façade improvements include, but are not limited to:

- 282
- 283 a. Restoration, repair, or replacement of windows, doors, exterior walls,  
284 chimneys, or other architectural elements;
- 285 b. Exterior painting;
- 286 c. Signage, awnings, marquees, and related exterior lighting and electrical  
287 fixtures;
- 288 d. Masonry repair and cleaning;
- 289 e. Non-flat roof repair for portion noticeable from the public line of site;
- 290 f. Exterior work necessary for conversion to a retail or entertainment storefront;
- 291 g. Removal of modern facades, in order to restore back to vintage quality;
- 292 h. Restoration of vintage elements;
- 293 i. Removal of deteriorated building materials, such as plywood or metal;
- 294 j. Property improvements, including landscaping, fencing, screening, and  
295 paving ; and
- 296 k. Parking lot improvements  
297

298 Façade improvements must be consistent with Design Guidelines, development review,  
299 streetscapes and enhancement of the pedestrian experience.  
300

301 (i) Non-eligible Entities. The following are expressly excluded from eligibility  
302 for an incentive agreement under this section: government entities and  
303 businesses that exclude minors from any portion of the business where adult  
304 customers are allowed.  
305

306 (ii) Amount of Incentives. The incentive may be up to 50% of the cost of the  
307 Qualifying Improvements but not exceed \$20,000.00.  
308

### 309 3. Capital Investment. 310

311 a. Types of Facilities. The capital investments with respect to which an incentive  
312 payment under this policy may be made must be within the following lists:  
313

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

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

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

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

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

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

357 5. Payments.

358 a. Schedule.

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

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

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

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

377 required minimum. The number of jobs created will be verified by using a listing  
378 of positions created and employees which held those positions which comprise  
379 the Qualified Jobs. Listing(s) will be created by the employer, must be attested  
380 to by the employer and notarized. Verification of wages will be based upon an  
381 employer's quarterly wage reports of employee wages as filed with the NC  
382 Department of Commerce. 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 and wages using the listing of positions  
385 and employees provided by the employer and a copy of the employer's quarterly  
386 wage reports of employee wages as filed with the NC Department of Commerce.  
387

388 Payment will be based upon certified copies of the employer's unemployment  
389 insurance filings with the Employment Security Commission of North Carolina.  
390 The Office of Economic and Workforce Development, or such other office or  
391 department as may be specified by the City Manager, will verify the number of  
392 jobs using a certified copy of the employer's most recent unemployment  
393 insurance filing.  
394

- 395 b. Proration. The agreement may provide that the City will prorate the incentive  
396 payments according to the percentage of jobs that are created or retained, if the  
397 number of jobs created or retained equals or exceeds 85 percent of those agreed  
398 to in the agreement. For new jobs, no payment will be made for any continuous  
399 12 month period in which, for the majority of that 12 month period, whether  
400 continuous or not, the number of new jobs falls below the 85 percent or higher  
401 level set in the agreement. For retained jobs, no payment will be made for any  
402 continuous 12 month period in which, for the majority of that 12 month period,  
403 whether continuous or not, the number of retained jobs falls below either the 85  
404 percent or higher level set in the agreement or 100.  
405

406 6. Evaluation Criteria.  
407

408 a. Factors. When evaluating requests made under this policy, City Staff and/or City  
409 Council shall consider at least these factors: The potential for incentives must be a bona  
410 fide inducement to an entity to make capital improvements, relocate, create and/or retain  
411 jobs; the amount of new or expansion capital investment; the number and type of jobs to  
412 be created, and the corresponding salaries expected to be paid; the type of product or  
413 service to be produced or provided; and the location of the proposed development.  
414

415 b. Project Evaluation Criteria. Some or all of these evaluation criteria will be used to  
416 provide a consistent framework for evaluating proposed development projects.  
417

418 (i) For all projects requesting City incentives. Criteria will be used to evaluate  
419 the project's viability, need for public assistance and benefit to the general  
420 public. The following factors will be considered:  
421

- 422 A. Analysis has determined profitability and viability of project.  
423 B. "But for" financial analysis demonstrates need for assistance.  
424 C. Clearly documented financial commitments such as letters of interest  
425 from investors or banks.  
426 D. Level of experience that developer, or development partner, has  
427 successfully developed similar projects.  
428 E. Developer equity in project, including cash and basis in property  
429 Creates sufficient number of permanent jobs based upon the amount  
430 of City incentive.



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- F. Tax increment revenue, based on current rate, exceeds City incentive.
- G. Increases the tax base of the property being redeveloped.

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

- 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.

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- 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.
- 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 Targeted Areas beyond the CDA. The following additional factors will be considered for projects to be located in Targeted Areas beyond the CDA:

- 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.

- 538 E. Project buildings are architecturally compatible with one another.
- 539 F. Identified historic sites are preserved.
- 540 G. Project complies with the TTA Station Guidelines applicable within
- 541 any of the Compact Neighborhoods as designated in the
- 542 Comprehensive Plan.
- 543 H. Project complies with the Durham Design Guidelines applicable in
- 544 the Downtown Development Tier(s) as designated in the Durham
- 545 Comprehensive Plan.
- 546 I. Project makes all reasonable connections to pedestrian, transit, and
- 547 bicycle networks off-site.
- 548 J. Project located in a transit corridor shows dedicated "Park and Ride"
- 549 lots.
- 550 K. Project's landscaping plan is sensitive to its specific site location,
- 551 and complies with the Landscape Guidelines for Durham, North
- 552 Carolina as maintained in the City-County Planning Department.
- 553

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

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

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

587  
588 10. Local Government Budget and Fiscal Control Act. Any appropriations or expenditures made  
589 to an enterprise or project shall be subject to applicable provisions of the Local Government  
590 Budget and Fiscal Control Act. The City shall make such disclosures in such detail as the Local  
591 Government Commission may direct.

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

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

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

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

15. Effective Date; Repeal of Prior Resolutions. This policy may be used in conjunction with any other economic development or water and sewer extension policies, programs, resolutions, and ordinances, and nothing in this resolution is intended to affect their operation. This resolution repeals the Resolution Establishing an Economic Development Financial Assistance and Incentive Policy for Job Creation, Job Retention and Capital Investment adopted on April 11, 2011, provided that any agreements entered into pursuant to those resolutions shall not be affected by the repeal.

**APPROVED BY  
CITY COUNCIL**

APR 21 2014

**CITY CLERK**

*DeAnn Gray*