

GUILFORD COUNTY

COMMERCIAL INVESTMENT POLICY

PREAMBLE

WHEREAS, Guilford County has for a number of years provided support for and investments in targeted commercial and industrial projects, to incentivize growth and development; and

WHEREAS, it is the desire of the Board of County Commissioners to adopt this additional policy to further encourage job creation, growth of the County property tax base and overall improvement in the County's commercial business climate; and

WHEREAS, Guilford County values the contribution of all commercial businesses regardless of size and seeks to underscore this commitment by providing opportunities for a broad base of businesses, including small businesses, to benefit from an investment grant; and

WHEREAS, improvements to qualified properties over an extended period of time will be a significant factor in shaping the image of Guilford County as a compelling location for new technologies and dynamic entrepreneurial activities; and

WHEREAS, it is well accepted policy in North Carolina that a local government may make investments by way of grants to and support for industrial and commercial projects which will create job opportunities and add to the local government's property tax base.¹

NOW, THEREFORE, BE IT RESOLVED, that the following commercial investment policy shall be adopted and implemented by the Guilford County Board of Commissioners:

**ARTICLE 1
QUALIFIED PROPERTIES AND INVESTMENTS**

All real property which is located in Guilford County ("the County") shall qualify for consideration for grants under the Commercial Investment Policy if: (1) such real property is a "Use Type" listed in "Table 4-3-1 Permitted Use Schedule" of "Guilford County Development Ordinance 4-3-1, Schedule for Permitted Uses", other than the "Use Types" defined as "Agricultural Uses", "Mining Uses", "Residential Uses",

¹ Statutory authority exists for this type of local government support. N.C.G.S. §158-7.1 (a) provides in pertinent part that "(e)ach county and city in this State is authorized to make appropriations for ...purposes which, in the discretion of the governing body of the city or county commissioners of the county, will increase...taxable property..." within the jurisdiction of the local government.

“Accessory Uses and Structures” and “Other Uses”; but provided however that a “Congregate Care Facility”, a “Family Care Facility”, or a “Group Care Facility” under “Residential Uses” will be eligible for consideration for grants under this policy; and provide further however that improvements, renovations and/or additions to an area in a residence, which area is used solely as an office or commercial space will also be eligible for consideration for grants under this policy; and (2) is subject to County property taxation.

In order to qualify for any grants under this Commercial Investment Policy all of the following conditions must be met by the applicant as determined by the designated County official or his/her designee:

1.1 The subject real property must be located within the County and prior to any qualifying expenditures, be on the property tax rolls of the County;

1.2 The applicant must be the record owner(s) of the subject real property;

1.3 The expenditures in question must be for improvements, renovations and/or additions to the subject real property and not for personal property;

1.4 The total increase in property tax valuation that will result from the improvements, renovations and/or additions to the subject property is anticipated, at the time of the application, to exceed ten thousand dollars (\$10,000), and in fact, at the time of payment of any grants, does exceed that amount;

1.5 The improvements, renovations and/or additions to the subject real property must have been undertaken after the date of the adoption of this policy and after the application for an appropriate permit from the applicable local government jurisdiction;

1.6 The Guilford County Board of Commissioners (the “Board”) following at least a ten (10) day notice to the public and a public hearing on all of the applications submitted under this policy, must decide by a majority vote to make or not make such grants to each applicant, in accordance with the procedures which follow herein; and

1.7 In the event an application is submitted for a mixed use development, the designated County official, who will administer this policy, shall only consider the portion(s) of such development which is composed of a type of real property as described above, for purposes of determining whether a higher property tax value was achieved.

An applicant for grants under this Commercial Investment Policy shall complete and submit the designated application form to the designated County official or his/her designee, as such form is established and modified from time to time by the designated County official and approved by the Board. Qualified grants made pursuant to this Commercial Investment Policy shall be paid to the owners of qualified real property within thirty (30) days of approval of the grant by the Board, and after property taxes attributable to the relevant improvements, renovations and for additions, and any other

fees or other liabilities owed to the County, are paid. An application must be filed in each of the three (3) grant years in order for the grant in each year to be paid.

The designated County official shall make a report quarterly to the Board identifying the recipient(s) of investment grants, the amounts of such grants, general information regarding job growth and other information which may be required by the Board from time to time. This report shall be made available to the public.

ARTICLE 2 UNQUALIFIED PROPERTIES AND INVESTMENTS

Improvements, renovations and/or additions to real property shall not qualify for grants under the Commercial Investment Policy for any year in which one or more of the following disqualifying factors exist:

2.1 The subject real property is a nonconforming use for the zoning district in which it is located, as determined by the relevant local government jurisdiction;

2.2 The subject real property is in violation of any applicable County or Municipal Code or Ordinance or is the subject of an unresolved code enforcement action, as determined by the relevant local government jurisdiction; or

2.3 Any owner of the subject real property is delinquent in the payment of any taxes, assessments, fees or other debts owed to the County or a municipality within the County and such tax delinquency is not resolved to the satisfaction of the designated County official.

In the event any of the above factors exists in a year in which the owner(s) of the subject real property would otherwise qualify for a grant under the Commercial Investment Policy, the grant funds will be withheld by the designated County official until such time as that official determines a satisfactory resolution has been achieved.

In addition, the Board may, in its sole discretion, choose to deny grants for all of the grant term or for any year of the grant term for a property, or improvement, renovation and/or addition project to a property which the Board deems in its sole discretion to be inconsistent with the best interests of the County. In this regard, the grants described in this Commercial Investment Policy are not vested rights of any owner(s) of real property, but instead are in the discretion of and subject to an annual appropriation by the Board. Moreover, no grant under this Commercial Investment Policy will be paid to the owner(s) of any real property who have been approved for grants and chosen to accept such grants under the County's ED Investment Policy.

ARTICLE 3 INVESTMENT GRANT AMOUNT AND TERM

Any owner of real property which has qualified for investment grants hereunder may receive investment grants each year for three (3) consecutive years, subject to the

terms herein. The investment grant for each of the three (3) years may be an amount up to 0.7374% of the increase in the County property tax base, over the amount of the property tax base prior to the improvements, renovations and/or additions, which increased amount of property tax base is the result of qualified improvements, renovations and/or additions. Specifically excluded from the calculation of investment grant amounts, are any increases in property tax valuations due to periodic property revaluations.

If at any time in the three (3) year grant period, the improvements, renovations and/or additions to the subject real property are removed, the subject real property is destroyed, or the subject real property is changed in any way, such that the level of property taxes collected falls below the level of property taxes prior to the improvements, renovations or additions, the investment grant amount for that year shall abate and not be paid.

ARTICLE 4 GRANT PROCESS

Any grants to be made pursuant to this Commercial Investment Policy shall be administered and approved in accordance with the following process for all years that a real property owner qualifies for a grant under this policy:

4.1 The real property owner(s) must obtain any appropriate permits from the applicable local government jurisdiction before any improvements, renovations and/or additions, which are intended to be a basis for grants under this policy, are undertaken;

4.2 After obtaining the necessary permits, the real property owner must complete an application for grant consideration for a planned improvement, renovation and/or addition to a qualified property. This application shall be in a form and contain substance as deemed necessary by the designated County official, and approved by the Board, and may in that official's discretion, as approved by the Board, require attachments such as the above cited permits for the project. The application shall have the applicant indicate how many jobs, if any, will be created as a result of the planned improvement. For projects which will increase the County's property tax valuation by an amount in excess of three million dollars (\$3,000,000) the application shall include a schedule of the jobs to be created, categorized by skill type and showing the average salary/wages of the jobs by skill type. This schedule shall be in a form and contain substance as deemed necessary by the designated County official, and approved by the Board. The real property owner may be required to annually verify the creation of the number of jobs indicated in a manner as may be required by the designated County official.

4.3 Each application form shall contain language to contractually bind the applicant to the terms of this policy, and other compliance and verification requirements as may be deemed appropriate by the designated County official. The applicant's signature to the application document shall bind the applicant to the terms of the

agreement stated therein. This form of agreement shall explicitly provide and include the following:

- a) Upon the execution of the document, no final commitment on the County's part is made, until such time as the Board makes a final decision as to approving or disapproving the incentive grant.
- b) The execution of the document by the designated County official or his/her designated representative evidences that the application has been received and that it appears on its face to be an application qualified for consideration by the Board. This signature in no way indicates a final approval of the grant application and in no way evidences a commitment by the County.
- c) The real property owner shall be advised on the document that it may choose to proceed with the planned improvements, renovations and additions, before a final determination by the Board as to making the grant; that to do so will not be interpreted to the detriment of the application; and that the real property owner does so at its own risk as to whether or not the Board will approve the requested grant.

4.4 On or before February 15 of each year, the designated County official shall provide a report to the Board of all applications filed in the prior year for grants under this policy. The report shall contain such detail as might be required by the Board as to all of the relevant aspects of each project seeking a grant, such that the Board will be able to exercise its discretion as required by N.C.G.S. §158-7.1.

4.5 No less than ten (10) days prior to the first meeting of the Board in March of each year, the designated County official in conjunction with the County Clerk shall place a public notice in a newspaper of general circulation in the County, as required by N.C.G.S. §158-7.1, of a public hearing before the Board as to all of the grant applications to come before the Board.

4.6 The Board shall at its first meeting in March hear all public comments as to any or all of the grant applications under consideration. Following the close of the public hearing, the Board may in its discretion act upon any or all of the grant applications. In exercising its discretion as to which applicants shall be provided with a grant, the Board will consider the following criteria:

- a) The amount of increase in the County's property tax base.
- b) The number of new jobs to be created, if any, and the types and wage levels of such jobs.
- c) The type and previous condition of the real property to be improved.

- d) The location of the real property within the County, and the overall need for improvements in that area.
- e) The nature of the business to be conducted in or on the real property to be improved.
- f) Such other matters as the Board may in its discretion deem worthy of consideration.

4.7 The designated County official shall give notice to each applicant of the approval or disapproval of each grant application.

4.8 After grants for a real property owner's application has been approved by the Board, grants in future years may be paid to the real property owner without the need for another public notice and public hearing. Provided however that the real property owner must apply each year to the designated County official in order to receive grants in years following the first grant year.

4.9 The property tax base, at the time an application is submitted to the designated County official or his/her designee shall be the base level of property tax base;

4.10 In the event the owner(s) of real property which has qualified for grants hereunder sells or otherwise transfers ownership of the subject real property, the grant shall be issued in the name of the subsequent property owner who paid the property taxes for that year.

4.11 At such time as the above steps have been accomplished and the requirements of Article 1 are satisfied, the grant funds will be paid to all real property owners which have qualified, no later than thirty (30) days following their compliance with the process set forth in Article 1 above and this Article 4. Failure by the County to achieve this timeline shall not be a basis for any claim for damages or interest, on behalf of any real property owner which qualifies for grants under this policy.

ARTICLE 5 SOURCE OF FUNDS

The Board may pay for these grants from any fund source under the County's control, which is not limited to other uses. At the outset of this program, the County has budgeted funds, from which any approved grants will be paid. It remains within the appropriating authority of each successive County Board as to whether to appropriate any other funds for this purpose, and if so the amount or source of such funding.

ARTICLE 6 MISCELLANEOUS

Any decision of the designated County official or his /her designee as to the initial qualification of a particular real property improvement, renovation or addition for

investment grants may be appealed to the Board. The Board retains full discretion as to any investment grants, and its decision on any investment grant shall be final.

Chairman to the Board of
County Commissioners

Clerk to the Board of
County Commissioners