

RESOLUTION #

Resolution Authorizing County to Pay Economic Development Incentives and to Sign Economic Development Agreement; to make Appropriations and Expenditures to Acquire and Develop Properties and Enter into a Real Estate Exchange Agreement; and to enter into a Lease Agreement for Real Property

WHEREAS, Buncombe County [or "County"] has been negotiating and has reached tentative agreement with a company known herein as "Project X" whereby Buncombe County will pay Economic Development Incentives to Project X and for Buncombe County and Project X to sign an Economic Development Agreement; Buncombe County will commit to make appropriations and expenditures in order that Project X will commit to locate in Buncombe County; and Buncombe County will acquire, improve and exchange Facility "B" for Facility "A" and then the County will lease Facility "A" to Project X; and

WHEREAS, details related to Project X is confidential information and the release of any information relating to the proposed expansion or location of specific business or industrial projects would frustrate the purposes and objectives of Project X at this time; and

WHEREAS, Project X will lease from the County a new approximately 125,000 square foot facility [Facility "A"] the County will acquire and construct, with the intent of locating a business there to manufacture components for customers in a particular market that will have long term worldwide impacts; and

WHEREAS, when Project X leases that property from the County and then locates the project in Buncombe County, it make investments in the County to make improvements to Facility "A" and make expenditures to acquire and install machinery, equipment and other property at Facility "A" which will increase the taxable values in the County, as determined by the Buncombe County Tax Department, regardless of the funding sources for said property, in the amount of \$126,674,000; and

WHEREAS, this economic development package will require the acquisition and construction of a separate facility [Facility "B"] and once Facility "B" is constructed and accepted it will be exchanged for property on which Facility "A" will be constructed; and

WHEREAS, the County plans to acquire property by general warranty deeds conveying fee simple title subject only to typical exceptions for Facility "B" for the sum of \$1,075,000; the estimated costs to perform site due diligence investigation, site preparation and construction of an approximately 20,000 sq. ft. building is

approximately \$3,500,000; and, upon acceptance by transferee, exchange Facility "B" for Facility "A;" and

WHEREAS, the fair market value of Facility "B" at time of exchange will be approximately \$4,907,750; and

WHEREAS, the proposed exchange will be made by general warranty deeds conveying fee simple title subject only to typical exceptions whereby County will become the owner of the real property at Facility "A" and the County will convey all of its interests in Facility "B;" and

WHEREAS, the current value of the property at Facility "A" is \$1,550,000, and the estimated costs to perform site due diligence investigation, site preparation and construction of an approximately 125,000 sq. ft. building is approximately \$10,600,000; and

WHEREAS, the fair market value of Facility "A" at time of exchange will be approximately \$11,354,700; and

WHEREAS, the stated consideration for the property exchange will be a nominal fee and this Board takes into account the prospective tax revenues from improvements to the properties as well as machinery, equipment and other business personal property located at the facilities which, over the next ten years years, is estimated to be \$3,730,969; and

WHEREAS, the cost of the construction of the improvements to Facility "A" will be recovered through a lease by and between County and Project X for Project X's use of the premises of Facility "A" for an initial term of at least fifteen (15) years (with renewal options) at an initial annual base rent of \$4.64 per square foot; such annual base rent is found to be equal to or higher than fair market value and higher than private rents for similar spaces in the Buncombe County market; and over a period of ten [10] years rental revenues will be \$5,858,000; and

WHEREAS, the lease between County and Project X for its use of Facility "A" as described above shall comport with reasonable and customary contract remedies regarding the rights and obligations of landlord and tenant; and such lease shall also include a provision for liquidated damages assessable only due to material default of Project X depreciable straightline over a period of five [5] years to zero; and

WHEREAS, County will advance approximately \$75,000 for fees associated with construction management services and these costs will be incorporated into the lease rate for Project X which will be adjusted accordingly; and

- WHEREAS, the total cost for Project X incentives, including but not limited to, property acquisition, property exchange, site prep, due diligence, and building is \$15,700,000; and
- WHEREAS, the source of funding for Project X will be through the County borrowing with Limited Obligation Bonds; and the County will advance approximately \$400,000 for the carrying costs of this loan during the period of construction for Facility "A" and then these costs will be incorporated into the lease rate for Project X which will be adjusted accordingly; and
- WHEREAS, Project X will sign an economic development agreement ("EDA") with the County and commit to create and maintain in Buncombe County for a ten (10) year period, from and after December 31, 2017, positions for at least 52 new full-time positions who will be employed in Buncombe County starting from the current baseline of employment and retain all current full-time persons it has employed in Buncombe County; and
- WHEREAS, the average wage of the significant number of current full-time persons of the parent of Project X in Buncombe County is \$57,000 [which is equivalent to an average hourly wage of \$27.40] and the average wage to be paid to the persons holding the 52 new full-time jobs in Buncombe County will be approximately \$40,000 per year [which is equivalent to an average hourly wage of \$19.23], and these wages are higher than the County's average wage of \$36,348 [which is equivalent to an average hourly wage of \$17.48]; and
- WHEREAS, the average hourly wage to be paid by the new owner of Facility "B" to its twenty-five [25] employees working at Facility "B" will be over \$20.00 per hour; and
- WHEREAS, Project X has requested that the County provide economic development incentives to induce it to make investments in Buncombe County and for the creation and retention of the full-time jobs in the County; and
- WHEREAS, the County is willing to make cash grants totaling \$2,680,000 over a period beginning in 2016 and continuing through 2025 in exchange for the Company's commitment to retaining and maintaining these jobs at the wages indicated above; and
- WHEREAS, Project X has informed the County that if the County does not provide such economic development incentives then Project X will not make those investments in the County and it would consider changes to its current facility in Buncombe County, which may include outsourcing the current work or relocating production to its other facilities outside of Buncombe County and

thereby cause a substantial number of high paying jobs to be lost in Buncombe County; and

WHEREAS, Project X's location of the Project at Facility "A" would, in addition to bringing the jobs described above, produce revenue for local businesses and the County due to the employment of individuals and the spending of Project X and those new employees, which will expand the economic impact to the County and local businesses; and

WHEREAS, Project X's investment at Facility "A" would substantially enhance the County's property tax base and increase the County's property tax revenues; and

WHEREAS, the employment of persons at Project X facilities will create a substantial number of jobs in the County and provide a positive impact for the County; and

WHEREAS, the County has determined that the acquisition, development and property exchange as described above for Project X and its resulting location of the project in Buncombe County will stimulate the local economy and will promote business in the County; and

WHEREAS, this Board recognizes that the retention of the significant number of current jobs and the creation of 52 new jobs will have a total labor income impact for the County of more than \$34,000,000 per year, and the total jobs impacted would be more than 760 positions; further, the total local tax revenue for these Project X positions will be more than \$3,000,000 per year; and

WHEREAS, the considerations described above that the County will receive over the next ten years is greater than the fair market value of the interests it will grant, lease and convey; and

WHEREAS, the Board of Commissioners deems it desirable and in the best interests of County and its businesses and residents to offer certain economic development incentives to Project X and to enter into an EDA with Project X; to proceed with the acquisition, development and property exchange as herein described; and to proceed with the acquisition, improvements and exchange of Facility "B" for Facility "A" followed by the County's lease of Facility "A" to Project X as herein described.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Buncombe County, North Carolina, as follows:

1. The Board of Commissioners approves the making of cash grants totaling \$2,680,000 over a period beginning in 2016 and continuing through 2025, such amounts and

payment schedule to be more specifically described in an economic development agreement which shall include the refund obligations as generally described above.

2. The Board of Commissioners approves appropriating and spending of the sums set forth above for the acquisition, development and property exchange as described above for Project X to be financed through the sale of Limited Obligation Bonds;

3. The Board of Commissioners approves appropriating and spending of the sums herein set forth for the acquisition, improvements and exchange of Facility "B" for Facility "A" followed by the County's lease of Facility "A" to Project X as herein described to be financed through the sale of Limited Obligation Bonds;

4. To implement these incentives and Project X's associated refund obligations for failure to meet its promised investment and jobs benchmarks, the Board of Commissioners hereby authorizes the Chairman of the Board of Commissioners and the County Manager, or either of them, by and with the approval of the County Attorney, to execute an Economic Development Agreement on the County's behalf and to take all actions necessary to implement the actions and grants required by that Agreement.

5. To implement these incentives for the said acquisition, improvements, exchange and lease the Board of Commissioners hereby authorizes the Chairman of the Board of Commissioners and the County Manager, or either of them, by and with the approval of the County Attorney, to execute any and all documents necessary on the County's behalf and to take all actions necessary to implement the actions and grants required for Project X.

6. By and with the approval of the County Attorney, the Chairman and County Manager, or either of them, are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, including without limitation to negotiate and approve changes to the Economic Development Agreement's language that do not increase the amounts of the cash grants the County is required to pay Project X; except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution.

7. All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.

8. This Resolution shall be effective upon its adoption.

This ___ day of May, 2013.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

By: _____
David Gantt, Chairman

APPROVED AS TO FORM

Michael C. Frue, County Attorney