2016-15615 RESOLUTION
06/29/2016 04:41:55 PM Pages: 12 Fees: $0.00
Requested By:BOARD OF SUPERVISORS
Recorded By: rroman
Robyn Stallworth Pouquette County Recorder, YUMA County AZ

Please return original document
to the **Board of Supervisors Office,**
ATTENTION: Christy Isbell, 928-373-1107
(Name & phone number)

TYPE OF DOCUMENT:

RESOLUTION NO. 2016-18
YUMA COUNTY
ECONOMIC DEVELOPMENT INCENTIVE POLICY

DOCUMENT APPROVAL:

Approved by Yuma County Board of Supervisors:
June 20, 2016, Discussion Item No. 3.

/cpi: P:\Followup\COMPLETED FU Documents\2016\06-20-16\D3 Recordation coversheet.doc

YUMA COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 2016-18

Yuma County Economic Development Incentive Policy

WHEREAS: Yuma County is authorized to participate in Economic Development activities pursuant to ARS §§11-251.21, 11-254, and 11-254.04, and

WHEREAS: The Yuma Board of Supervisors is interested in promoting economic development that increases employment opportunities for Yuma County residents, and

WHEREAS: As an incentive for business creation and expansion, Yuma County will reimburse qualifying businesses for specific infrastructure improvements that benefit Yuma County, and

WHEREAS: A qualifying business will also be required to demonstrate achievement and maintenance of identified economic benchmarks, including full time jobs created, salary levels and offered benefits, and increases in property tax revenues, and

WHEREAS: This resolution repeals all previous economic development policies;

NOW, THEREFORE, BE IT RESOLVED, that the Yuma County Board of Supervisors hereby adopts Resolution No. 2016-18 establishing an Economic Development Policy for Yuma County, as attached hereto.

Adopted this 20th day of June, 2016.

RUSS CLARK, Chairman

ATTEST:

SUSAN K. THORPE
County Administrator/Clerk of the Board

APPROVED AS TO FORM AND DETERMINED TO BE WITHIN THE SCOPE OF PERFORMANCE OF DUTY OF THE YUMA COUNTY BOARD OF SUPERVISORS:

JON R. SMITH, County Attorney

Yuma County Economic Development Incentive Policy

(per Resolution No. 2016-18 adopted June 20, 2016)

Part One: Policy Intent and General Information

The intent of this policy is to establish the framework by which Yuma County (County) will award incentives to qualifying businesses. The specific incentives will be related to reimbursement for the infrastructure a business constructs that becomes a County asset. Types of infrastructure eligible for reimbursement include, but are not limited to, improvements to the County roadway system, solid waste facilities, storm water management system, or other similar improvements. Yuma County will consider partnerships with other municipalities and government agencies as appropriate.

The County will consider incentive requests on a case-by-case basis. This is a performance-based incentive policy whereby incentive payments are made to qualifying businesses based on benchmarks established as part of an Economic Development Agreement (Agreement) approved by the Yuma County Board of Supervisors. The program is designed to support and encourage business development and expansion that generate new jobs in Yuma County. Benchmarks for incentive payments will be established based on results of an economic analysis.

Any economic incentive or other commitment of County funds provided to a business through this Incentive Policy must serve a public purpose as determined by the County at its discretion, including such items as providing economic benefits to the residents of the County in the form of jobs, increased tax revenues, and cultural and social opportunities. The value of consideration that is part of an agreement must be equal to or exceed the value of the incentives provided. If said improvements would become part of the County's roadway system, the County could consider those improvements eligible for reimbursement and consideration for an Agreement.

For example, Company A is required to construct roadway improvements related to the development of its project at a cost of $1,000,000, and the improvements are listed as part of the county capital improvement program. The results of an economic development analysis show that Company A's business operations will create 200 primary jobs with salaries and benefits at a value of $5,000,000 per year and that construction of the new facility will increase County property tax revenue by $500,000 per year.

Since the project will generate primary jobs and increase tax revenues, the public purpose appears to be met. Since the roadway improvements will become part of the County roadway system, the |County will be receiving something of value, and the requirement for consideration is met. Thus, the County could negotiate incentives to reimburse Company A for part or all of the roadway improvements.

Based on economic priorities established in the Investing in Manufacturing Communities Partnership Plan and other Yuma County plans, it is anticipated that businesses in the following sectors are the most likely to apply for incentives:

- *Renewable Energy*
- *Logistics*
- *Manufacturing*
- *Aerospace/Defense*
- *Food Production.*

However, Yuma County will also consider incentive requests from qualifying businesses from other business sectors.

In order for Yuma County to justify payment of incentives to an business applying for incentives (Applicant) as part of an economic development agreement, County staff will be required to monitor and verify that identified benchmarks are met. To ensure that payments are disbursed appropriately, staff must verify the results of the benchmark reports provided by the Applicant. The County will make incentive payments only in accordance with an approved Agreement.

Part Two: Applicant Requirements

All Applicants for incentives must:

1. Submit a *Letter of Intent to Request Incentives* to the Yuma County Administrator, including a projected project budget.
2. Meet with Yuma County Administration and Greater Yuma Economic Development Corporation staff prior to submitting a project economic analysis.
3. Submit an economic analysis for the project. The County will recognize the results of an economic analysis performed by an accredited firm, including but not limited to the following firms:

    - Applied Economics
    - Elliot D. Pollack and Company
    - Ernst & Young
    - CBRE
    - Gruen and Gruen

4. Provide company information for negotiation purposes as requested by the County.

Part Three: Application Review

After completion of Items 1-4 above and a determination that an Applicant's proposal is deemed sufficient and of benefit to the County, the County will draft an Agreement to capture all of the details included in the incentive negotiation. Once the County and Applicant agree to terms of

the Agreement, the Agreement will be presented to the Board of Supervisors for consideration. The County reserves the right to reject or modify a request for incentives any time during the application review process.

	Applicant Requirement Checklist	Completed By	Date	Details
1.	Letter of Intent submitted			
2.	Meeting with the Yuma County Administrator and Greater Yuma Economic Development Corporation staff			
3.	Economic Impact Analysis Data Submitted			
4.	Ongoing company information provided as requested by the County List of items requested and received:			

Part Four: Agreement Template

A template for generating an Economic Incentive Agreement is attached as Exhibit 1.

EXHIBIT 1

ECONOMIC DEVELOPMENT AGREEMENT

This Economic Development Agreement ("**Agreement**") is made in accordance with Arizona Revised Statutes ("**A.R.S.**") §§ 11-201, 11-251, 11-254, and 11-254.04, by and between _____ (Company Name) and Yuma County, Arizona, (County), and concerns an economic incentive from the County to _____ for _____.

RECITALS

WHEREAS, it is important to the County to obtain the public benefits which accrue from investment in, and the development of, real property with the County; the public benefits from creation of new employment opportunities; and the public benefits from retention and existing jobs in the Yuma area; and,

WHEREAS, such public benefits include, but are not limited to, the direct benefits of increased tax valuation of the developed real property; revitalization of vacant retail space; creation, retention and expansion of local, full time job opportunities; full time employment of approximately _____ area residents; an investment of more than $_____in training, licensing and specialization of a segment of the County workforce; a reduction in the regional unemployment rate; _____ per cent, employer paid, health insurance costs; the generation of an additional $_____ in taxes from more consumer dollars being earned and spent within the region's boundaries and $_____ in property tax revenues; and an increase in local commercial activity resulting in increased taxes through the economic multiplier effect; and,

WHEREAS, there are direct and tangible public benefits of the proposed _____ (Project Name) that include community stability; furthering the economic prospects and social well-being of all of the County's present and future citizens; stimulation of additional economic development, business opportunities, and additional jobs created within the region; and,

WHEREAS, the County recognizes the global nature of the _____ industry, and that the County and the region must compete with other communities in order to foster and attract this type of job creation; and,

WHEREAS, in order to qualify for the Economic Incentive described in Section 4, _____ (Company or Project Name) will construct and have accepted by the county certain improvements, create and retain a minimum of _____ new full time jobs paying an average wage of _____ per hour over a consecutive _____ month period, beginning on the date that satisfactory evidence of attaining the target number of full time jobs is received by the County; and,

WHEREAS, the Economic Incentive will also require _____ (Company Name) to provide private health insurance to all full time employees with the employer paying a

minimum of _____% of the health insurance costs for each and every full time employee that elects health insurance coverage through _____; and,

WHEREAS, _____ (Company Name) has agreed to construct _____ improvements as detailed in Exhibit _____ valued at $_____ that will become an asset of Yuma County;

WHEREAS, in the current economic environment, the County has made it a priority to encourage and promote retention of job opportunities and increased commerce; and,

WHEREAS, the Board of Supervisors finds that based upon the economic analysis titled _____, the proposed Economic Incentive (as defined in Section 4 below) is anticipated to raise more revenue than the amount of the incentive over the term of this Agreement and without the proposed Economic Incentive, _____ (Company Name) would not have chosen to locate the _____ (Project Name) in Yuma County in the same time, place, or manner.

NOW therefore in consideration of the foregoing Recitals, the sufficiencies of which are hereby acknowledged, the parties have entered into this Agreement based upon the following terms and conditions.

1. **Incorporation of Recitals.** _____(Company Name) and the County agree that the above Recitals are true, accurate and incorporated by reference.

2. **Term**. This Agreement will commence upon the date of execution by both parties (the "**Effective Date**") and will terminate when the parties mutually provide for termination in writing, or (_____) years from the Effective Date, whichever occurs first.

3. **Construction of Improvements.** The County must accept all public improvements constructed as part of this agreement as described in Exhibit _____ prior to the distribution of incentive payments. Incentive payments shall not exceed the value of accepted improvements.

4. **Payment of Economic Incentive.** Within thirty (30) days of written acknowledgement from the County of satisfactory documentation demonstrating that the Target Employment as defined in Section 5.1 has been reached and that County has accepted the construction related to (Project Name), the County shall pay _____(Company Name) the sum of ($) (the "**Economic Incentive**"). For agreements that extend beyond one year, the County shall make installment payments each year within thirty (30) days of the Target Date as defined in Section 5.2 in the amount of ($) for which _____(Company Name) meets the Target Employment requirements as defined in Section 5.1.

5. **Obligations of** _____(Company Name) will provide the County with satisfactory evidence of each of the following:

5.1 Target Employment. _____ (Company Name) will achieve target employment of _____ full time equivalent ("**FTE**") jobs (as defined by Housing and Urban Development) for the _____(Project Name). The _____ FTE jobs will pay no less than _____ per hour, and will include employer-paid health benefits of at least _____% of the costs for each employee that elects coverage under the employer's health insurance plan ("**Target Employment**"). The annual payroll for the _____ (Project Name) will be no less than _____ dollars per year.

5.2 Target Date. Upon presentation of satisfactory and accepted documentation demonstrating the date of achievement of _____ FTE jobs with the annual payroll, insurance and salary benefits described in Section 5.1, the County will provide _____ (Company Name) with written acknowledgement of this "**Target Date**" and subsequent "**Target Dates**" for agreements that extend beyond one year.

5.3 Documentation. _____(Company Name) acknowledges that the County is subject to Arizona public records laws and will have the right to request additional documentation or copies of documents from _____(Company Name) at any time through the term of this Agreement, including payment of property taxes. If proprietary, trade secret or confidential information is requested by the County, _____(Company Name) shall so inform the County of the nature of the documents requested prior to delivery. In certain cases, an abstract of such information, acceptable to both parties and verified by the County, may be substituted in lieu of actual copies of proprietary, trade secret or confidential documents.

6. No Substantial Compliance. Each and every covenant, condition, material term, time period, obligation, and requirement of this Agreement must be fully complied with, and the parties expressly waive any rights, legal or equitable, to payment of any part or portion of the Economic Incentive where less than full compliance is demonstrated.

7. **Assignment.** Company shall have the right to assign all of its rights and obligations under this Agreement to any person or entity any time during the duration of this Agreement.

8. **Severability.** If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

9. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the Party at the address set forth below, (ii) deposited in the U.S. mail, registered or

certified, return receipt requested, to the address set forth below, or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

The County:

Yuma County Administration
198 S. Main Street
Yuma, AZ 85364
Attn: County Administrator

The Company:

[Name and address of Company]
Attn: General Counsel

or to such other addresses as either party hereto may from time to time designate in writing and delivery in a like manner.

10. **Waiver of Terms and Conditions.** The failure of the County to insist in any one or more instances of performance of any of the terms of conditions of the Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

11. **Entire Agreement**. This Agreement, including the exhibits which are incorporated herein by reference, constitute the entire understanding and agreement of the Parties.

12. **Construction.** This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of Arizona.

13. **Cancellation for Conflict of Interest.** This Agreement is subject to the cancellation provisions for conflicts of interest pursuant to A.R.S. § 38-511.

14. **No Partnership.** This Agreement does not create and is not intended to imply a partnership or joint venture between (Company Name) and County. Governing Law.

15. Governing Law. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yuma, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action. The parties irrevocably consent to jurisdiction and venue in such courts and agree not to seek transfer or removal.

SIGNATURE PAGE FOLLOWS

Company:

[NAME OF COMPANY]
A[n] [State] [type of entity e.g. LLC, Corporation, etc.]

By:_____
Name:_____
Title:_____

County:

YUMA COUNTY, ARIZONA
A political subdivision of the State of Arizona

By:_____
Name:_____
Title:_____

Attest:

By:_____
Clerk of the Board of Supervisors

Approved as to form:

By:_____
Attorney for Yuma County

)
) ss.
)

The foregoing instrument was acknowledged before me this __ day of _____, _____, by [Name] [Title] of [Company], a[n] [type of entity e.g. LLC, Corporation, etc.], on behalf of the company.

_____
Notary Public Signature

My Commission Expires:_____

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

The foregoing instrument was acknowledged before me this __ day of _____, 2013, by _____, the Chairman of the Board of Supervisors of Yuma County, Arizona, an Arizona political subdivision, on behalf of the political subdivision.

_____
Notary Public Signature

My Commission Expires:_____

ACKNOWLEDGEMENTS

State of)
) ss
County of)

The foregoing instrument was acknowledged before me this _____ of _____, 20_____ by _____, manager, on behalf of the limited liability company.

My commission expires: By: _____
Notary Public

State of)
) ss
County of)

The foregoing instrument was acknowledged before me this _____ of _____, 20__ by _____, manager, on behalf of the limited liability company.

My commission expires: By: _____
Notary Public

State of)
) ss
County of)

The foregoing instrument was acknowledged before me this _____ of _____, 20__ by _____, on behalf of the limited liability company.

My commission expires: By: _____
Notary Public