

Industrial Development Board of the County of McMinn

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TAX INCREMENT INCENTIVE PROGRAM POLICIES AND PROCEDURES

I. Introduction

As authorized by Chapter 53 of Title 7 of the Tennessee Code Annotated (the "IDB Act"), The Industrial Development Board of the County of McMinn (the "Board") is establishing a tax increment incentive program (the "Program") in order to promote economic development in the McMinn County (the "County") and the Cities of Athens and Etowah (the "City" or "Cities"). Pursuant to the Uniformity in Tax Increment Financing Act of 2012, which is codified as Chapter 23 of Title 9 of the Tennessee Code Annotated (the "Uniformity Act"), the Board and the County may agree upon and approve these Policies and Procedures for implementing the IDB Act and the Uniformity Act with respect to tax increment incentives. These Policies and Procedures will assist the Board in evaluating requests from private entities to use tax increment incentives in support of qualifying projects. These Policies and Procedures additionally set forth the terms and requirements of the Program and provide for its implementation and administration.

These Policies and Procedures shall be applicable to projects located in the County and City as to which approval is requested from the McMinn County Commission, Athens City Council, and Etowah City Commission. If a municipality in which a project is located has not approved these Policies and Procedures, the municipality may consider approval of a tax increment incentive in such manner and upon such terms as the municipality's governing body deems appropriate.

The approval of any tax increment incentive is within the discretion of the Board acting within the parameters of these Policies and Procedures and is subject to the approval of the County and the Cities, respectively. In no event shall these Policies and Procedures be construed to create any contractual right in any Person or to limit the Board's discretion to decline to approve any tax increment incentive.

These Policies and Procedures only apply to any tax increment incentives requested by a private party. If the County, the Cities, or other governmental entity requests the Board to provide a tax increment incentive, the Board shall utilize such procedures as the Board and the County and the Cities deem appropriate under the circumstances.

These Policies and Procedures are in addition to any other rules and procedures applicable to the Board, including the Board's debt management policies. From time to time, these Policies and Procedures may be amended by the Board with the approval of the County and the Cities.

The Board may waive any requirement of these Policies and Procedures as to any procedural matter that only affects the actions of the Board, but the Board shall not waive any other limitation or requirement of these Policies and Procedures as to any Project without the consent of the County, and if appropriate, the City.

II. Enabling Legislation and Statutory Authority of the Board with regard to Tax Increment Incentive Program

The Board is a public, non-profit corporation which was formed in 1964 pursuant to the IDB Act. The Board's statutory purposes include financing, owning, and leasing certain real and personal properties, which will have the effect of maintaining and increasing employment and otherwise promoting new industry, commerce and trade in Tennessee and the County, in particular.

In 2004, the Tennessee General Assembly amended the IDB Act to vest industrial development corporations with the authority to utilize tax increment incentives to assist with the financing or payment of costs associated with certain eligible projects. The Board's primary responsibilities relating to the provision of tax increment incentives include the following:

- A.** Preparation and submission of an economic impact plan for a designated plan area that complies with the statutory criteria;
- B.** Holding a public hearing relating to the economic impact plan after proper, published notice; and
- C.** Administering any tax increment incentive and the application of incremental tax revenues.

The 2004 amendment, which is codified as Tennessee Code Annotated §7-53-312, additionally provides that the County Commission must approve any economic impact plan affecting property taxes due to the County, and, if applicable, the governing body of any applicable City must approve any economic impact plan affecting property taxes owed to the City.

As the use of tax increment incentives became more prevalent throughout the State due to the 2004 amendment, the Tennessee General Assembly adopted legislation designed to clarify key provisions related to the use of tax increment incentive by housing authorities and industrial development corporations, as well as to address inconsistencies found in the multiple laws governing tax increment incentive. The resulting legislation was the Uniformity Act. While the Uniformity Act did not alter the basic provisions for developing and submitting a tax increment plan, it did, however, introduce additional standards, requirements and parameters for approving and administering tax increment incentives, including generally:

- A.** The Uniformity Act requires that incremental tax revenues may only be used to pay the cost of or debt service relating to public infrastructure, which includes parking and facilities located on private property, unless other expenditures are approved by State Commissioner of Economic and Community Development (the "Commissioner") and the State Comptroller of the Treasury (the "Comptroller"). The Uniformity Act also prohibits the allocation of incremental property tax revenues with respect to any parcel of property for a period of more than twenty (20) years without receiving the approval from the Commissioner and the Comptroller.
- B.** The Uniformity Act protects the base year tax amount from "shrinking" as a result of applicable tax rates decreasing to a "tax-neutral" rate in a year of reappraisal. In other

words, the base tax amount is a fixed amount based upon taxes in effect the year before an economic impact plan is adopted. Additionally, a tax increment incentive plan may now calculate the allocable tax increments on a parcel-by-parcel basis or on an aggregate basis for an entire plan area, and/or delay allocation of the increment otherwise due for a particular parcel or group of parcels in a plan area.

- C. The Uniformity Act provides that up to 5% of incremental tax revenues may be allocated to costs of administering a tax increment incentive plan.
- D. The Uniformity Act requires central filing of tax increment incentive plans with the Comptroller after their local approval, which filing must include a description of all property within the plan area, a copy of resolutions approving the tax increment incentive plan and the base tax amounts for all property within the plan area. Moreover, the Board must annually file with the Comptroller a statement of all incremental tax revenues allocated to the Board.
- E. As noted in the introduction, the Uniformity Act, and specifically Section 9-23-107 thereof, provides that the Board, the County and any applicable City may agree upon and approve policies and procedures for allocating and calculating tax increment revenues and implementing tax increment incentives as an economic development tool, to the extent that such policies and procedures are not in conflict with the Uniformity Act and the IDB Act.

Accordingly, and in conformance with the Uniformity Act, the purpose of these Policies and Procedures is to set forth the procedures for private parties to apply for tax increment incentives from the Board, specify the information that will be required of an applicant, establish the process for evaluating an application, establish policies of the Board, the County and any applicable City with respect to tax increment incentives, and prescribe the role the Board will play in the process. These Policies and Procedures shall not be effective until approved by the Board and the County and will not be effective as to any City unless approved by such City.

III. Tax Increment Incentive – Description and General Process

Tax increment incentives are an important economic development tool that is used in many states to provide public assistance to economic development projects. Through tax increment incentives, incremental taxes from a designated economic development area are allocated to pay debt service on debt incurred to pay for eligible costs relating to an eligible project or are used to directly reimburse the party for such eligible costs (without undertaking a financing). In some states, the incremental tax revenues that may be utilized for these purposes include property tax revenues, sales tax revenues and other tax sources. Pursuant to the IDB Act, in Tennessee, only incremental property taxes, including personal property taxes, and not sales tax or other tax revenues, may be used to provide a tax increment incentive.

Projects which may warrant the use of Tax Increment Financing are those in which the use or reuse of property will:

- A. Remove, prevent, or reduce blight, blighting factors, or the cause of blight;
- B. Stabilize and upgrade existing residential, commercial, and industrial areas;

- C. Create economic stability;
- D. Strengthen the employment and economic base of the County;
- E. Increase property values and tax revenues; or
- F. Any or all of the above.

Some of the benefits of utilizing tax increment incentives as an economic development tool include:

- A.** Tax increment incentives can be effective as "off balance sheet" financing of components of public infrastructure such as utilities and road and traffic improvements. Bonds and notes that are secured by incremental tax revenues are non-recourse obligations of the Board and are not general debt obligations of the County or the Cities. The structure of these transactions allows local governments to utilize the new incremental revenue streams to accelerate funding of public improvements. This enables local governments to complete public infrastructure that it otherwise could not afford at the time.
- B.** Because of the accelerated development of public infrastructure improvements, the ad valorem property tax base from associated properties often increases, which produces even greater benefits for the local governments.
- C.** Tax increment incentives are derived from increases in tax revenues that the development itself generates and not from tax subsidies from other areas.
- D.** Projects that benefit from tax increment incentives may attract significant new jobs, businesses, and investment to the community, and/or may retain jobs and businesses, that otherwise would be missed or lost without the investment made possible through tax increment incentive.

The IDB Act establishes certain requirements relating to the Board's use of tax increment incentives. Under the IDB Act, the Board initiates the tax increment incentive process by preparing a document known as an economic impact plan. The economic impact plan must identify the area designated as the "Plan Area," from which the incremental tax revenues will be derived, identify the qualifying project that will be located in the area, discuss the benefits of the project to the municipality in which the project will be located, including anticipated tax receipts and job creation, and specifically provide for the allocation of the incremental property taxes within the Plan Area to the Board subject to the limitations of the Uniformity Act. The incremental property taxes that may be allocated to the Board include both real and personal property taxes.

Pursuant to the IDB Act, the Board must hold a public hearing on any economic impact plan. Notice of such public hearing must be published in the local newspaper at least two weeks before the public hearing. In addition to giving details regarding the time and location of the public hearing, the notice must inform the public where a map of the proposed Plan Area can be reviewed.

After a public hearing is held with respect to an economic impact plan, the Board may then submit the plan to the County Commission for approval and, if applicable, the governing body

of the City in which the project is located. The County Commission and, if applicable, the governing body of the City, may approve an economic impact plan at one reading by resolution, notwithstanding any local charter provision to the contrary.

Pursuant to the Uniformity Act, incremental tax revenues may not be allocated to the Board as to any parcel within the Plan Area for a period in excess of twenty (20) years (without the approval of the Comptroller); however, the plan may provide for a shorter allocation period. During the allocation period the County Trustee and the applicable finance officer of any applicable City are required to pay the incremental property taxes from the Plan Area to a separate fund created by the Board for that purpose. A separate fund is usually established for each tax increment incentive, and that fund is usually held by or for the benefit of the holder(s) of the tax increment debt, if applicable.

The Plan Area must include a "project" within the meaning of the IDB Act. For purposes of the IDB Act, the term "project" includes the types of facilities that are typical economic development projects, such as manufacturing and warehousing facilities. Qualifying projects under the IDB Act also include, however, commercial facilities such as retail shopping facilities, office buildings and pollution control facilities, including wastewater facilities.

In addition to the area on which the qualifying project is located, the Plan Area may also include any other property that the Board determines will be directly improved or benefited due to the undertaking of the qualifying project. For example, if a retail shopping center is the qualifying project for purposes of an economic impact plan, and, as a part of the construction of the retail shopping center, a new public road provides access to other properties, those other properties would directly benefit from the project.

Once an economic impact plan is approved by the County and, if applicable, the City, the property taxes imposed on property within the Plan Area are divided between the Board, the County and, if applicable, the City where the project is located and party to these Policies and Procedures. The base tax amount for each of the County and any City is allocated to the City and the County. The base tax amount is equal to the amount of taxes payable with respect to the property in the Plan Area for the year prior to the date the economic impact plan was approved. Therefore, if an economic impact plan was approved in 2018, the tax year for determining the base tax amount would be 2017. Any excess over the base tax amount generally is allocated to the Board. However, taxes levied by a taxing authority to pay debt service on bonds or other obligations of the County and any applicable City are not subject to allocation to the Board and are referred to by the Uniformity Act as dedicated taxes. Also, an economic impact plan may provide for a lesser amount of the incremental property tax revenues from the Plan Area to be allocated to the Board.

Incremental tax revenues may be used to pay or to pay debt service for the financing of any costs authorized by the IDB Act, which is essentially any cost that promotes economic development. However, as was discussed above, incremental tax revenues may not be used to pay for costs of or debt service relating to the financing of any costs other than costs for public infrastructure without first obtaining the approval of the Commissioner and the Comptroller. If any Applicant requests the payment or financing of any costs that do not relate to public infrastructure, the Applicant shall pay all costs incurred relating to requesting and obtaining the approval of the Commissioner and the Comptroller, whether or not such approval is successfully obtained.

Once an economic impact plan has been approved by County Commission and, if applicable, the governing body of the City, the Board can proceed to undertake a tax increment incentive, which may involve an agreement to reimburse the Applicant for eligible costs or may require the issuance of tax increment debt secured by the incremental property tax revenues from all or part of the Plan Area. All documents relating to any tax increment incentive are subject to the Board's approval.

IV. Tax Increment Incentive Procedures

- A. Application.** To apply for a tax increment incentive, the Applicant must complete the Application found in Appendix A including all supplemental data, financial information, schedules, and exhibits required by the Board as set forth in the Application. The Applicant must also submit the required Application Fee in Section VI (A). If the Board, upon its initial review of the Application, determines additional information is needed, the Applicant will be required to provide such information before the Application will be considered complete. No action will be taken with respect to the Application until the Board determines that it has received all information which may be relevant or necessary in determining the qualifications of the Applicant and the Project. Acceptance of the Application does not imply evidence or confirm the Board's support for, or recommendation of, the Project and the tax increment incentive request.
- B. Initial Review by Application Review Committee.** The Board shall appoint a committee of Board members (the "Application Review Committee") to undertake the functions described in these Policies and Procedures for such committee. Application Review Committee should at a minimum include officers of the Board, the Board attorney, McMinn County Mayor, McMinn County Trustee, McMinn County Property Assessor, and the following from the respective city of the project: City of Athens Community Development Director, City of Athens City Manager or his/her designee and City of Etowah City Manager or his/her designee. Before an Application is presented to the entire Board, the Application Review Committee will review the Application and make a recommendation to the Board whether an economic impact plan should be prepared for presentation to the Board for the area described in the Application. The Application Review Committee will not recommend that an economic impact plan be prepared unless the Committee determines, in its reasonable judgment, that the Project described in the Application will (1) substantially benefit and enhance the economy of the County and municipalities therein, and (2) the Project would not be acquired, constructed and/or installed unless tax increment incentive was made available to finance a portion of the eligible Project costs. Notwithstanding the foregoing, the Application Review Committee may waive the second requirement of the previous sentence if the Project was commenced prior to adoption of these Policies and Procedures by the Board and the Applicant certifies that the Project was undertaken in the anticipation of the availability of a tax increment incentive, and in such a case, the Application for such Applicant shall be amended to reflect the foregoing certification instead of the certification contained in the Application as to such matters.
- C. Initial Resolution by the Board.** After review of the Application by the Application Review Committee, the Board as a whole will consider such Application. After such consideration, the Board will vote on whether an economic impact plan should be prepared for the area that is the subject of the Application. The Board will not

approve the preparation of an economic impact plan unless the Board makes the same findings as are required above for the Application Review Committee, and in reviewing an Application, the Board will give deference to the recommendations of the Application Review Committee. If the Board votes to cause an economic impact plan to be prepared, the Board will also decide whether the plan will be prepared by the Applicant (or a third party retained by the Applicant) or whether the plan will be prepared by the Board (or a third party retained by the Board). If the plan is to be prepared by a third-party retained by the Applicant, such third-party shall be subject to the reasonable approval of the Board. The expenses of the Board in connection with the preparation of the economic impact plan shall be paid by the Applicant as provided in Section VI (A).

In connection with an initial approval pursuant to this subsection, the Board may provide, at its discretion, that the preparation of an economic impact plan shall be contingent upon County Commission, and if appropriate, the City governing body adopting a resolution requesting the Board to proceed with the preparation of an economic impact plan. In such case, the Board shall not proceed to prepare an economic impact plan unless directed to do so by County Commission, and if appropriate, the City governing body.

D. Economic Impact Plan. If the Board approves the preparation of an economic impact plan, the Applicant or the Board, as the case may be, will cause a proposed economic impact plan to be prepared and submitted to the Application Review Committee. The plan shall contain the information required by Section 7-53-312(b) of the IDB Act and such other information as the Board deems necessary, including but not limited to:

- (i) Identification of the boundaries of the area subject to the plan;
- (ii) Identification of the project located within the area subject to the plan;
- (iii) Discussion of the expected benefits to the County and any applicable City from the development of the area subject to the plan, including anticipated tax receipts and jobs created; and
- (iv) A provision providing that the property taxes imposed on the property, including the personal property (if applicable), located within the area subject to the plan will be distributable among the Board, the County and, if applicable, the City in accordance with the IDB Act.

If the Applicant prepares the initial draft of the economic impact plan, the Applicant shall submit such draft to the Board no later than ninety (90) days after the Board adopts an initial resolution requesting the plan. If the Applicant does not submit the proposed plan within that period, the Board will take no further action with respect to the Application. The Board will consider any requests of the Applicant after the 90-day period as a new request requiring a new Application and may require the payment of additional application fee. The Applicant may contract with the Board for preparation of the plan. If the Board assumes responsibility for preparing the initial draft of a plan, such draft shall be submitted to the Application Review Committee within sixty (60) days after the Board adopts an initial resolution requesting the plan.

If the Applicant prepares the initial draft of an economic impact plan, the Board's designated representative or representatives will review such draft and will advise the Applicant of any recommended changes to the plan, and the Applicant may cause the draft plan to be amended accordingly. The Applicant shall then submit the plan to the Application Review Committee. If the Applicant contracts with the Board to prepare the initial draft of the plan, the Applicant shall provide any information reasonably requested to assist in the preparation of the plan. Fees associated with the Board preparing the economic impact plan are outlined in Section VI. B.

- E. Review of Plan by Application Review Committee.** The Application Review Committee will review each proposed economic impact plan. The Application Review Committee will make a determination whether the economic impact plan complies with the IDB Act and these Policies and Procedures and should be submitted to County Commission and the governing body of any applicable City for approval. If the Application Review Committee determines that the Plan meets such requirements, the Application Review Committee will then establish a proposed date for the Board to hold a public hearing relating to the plan and a meeting to determine whether to submit the economic impact plan to the County Commission and the governing body of any applicable City for approval.
- F. Public Hearing and Approval by Board.** After review by the Application Review Committee, the Board will hold a public hearing relative to the proposed plan at a regular or special called meeting. Notice of the public hearing shall be published in a newspaper of general circulation in the County at least two weeks prior to the date of the public hearing, as required by Section 7-53-312(g) of the IDB Act. After such public hearing, if the Board determines that the economic impact plan substantially complies with the IDB Act and these Policies and Procedures, it will submit the economic impact plan to the County Commission and, if applicable, the governing body of the City for consideration and approval. The submission shall include a summary of any comments from the public hearing on the proposed plan and any additional information that the Board deems relevant.
- G. Approval by Taxing Authorities.** Upon approval of an economic impact plan by the Board, the plan will be promptly submitted to the County Commission and, if applicable, the governing body of the City for consideration. Approval is required by both the County and City governing bodies if the project is located within City. If one of these governing bodies approves the plan but the other governing body fails to do so, the Board will not proceed with tax increment incentive unless (i) the economic impact plan provides that the tax increment incentive may proceed without participation from the City or (ii) a revised plan is approved by the Board in the manner described above that only allocates the incremental property tax revenues of the approving body and such revised plan is again approved by respective governing body.
- H. Financing Documents.** If County Commission and, if applicable, the governing body of the City approve the economic impact plan, the Applicant and the Board will use their best efforts to consummate the tax increment incentive. In connection with any tax increment incentive, the Applicant and the Board will enter into a Development Agreement. The Development Agreement will provide for either tax increment financing or payment of eligible costs with incremental tax revenues in compliance with the economic impact plan and provide for such other covenants as the Board deems necessary to protect the interests of the Board, the County and the City. Any tax increment incentive shall be non-recourse as to the Board and payable solely from

incremental property tax revenues, and all relevant documents shall be subject to the review and approval of the Board's counsel and, if applicable, bond counsel.

Any tax increment incentive shall close within one (1) year after the last approval of the economic impact plan by County Commission and, if applicable, the City. If the closing does not occur within such period, unless extended by the Board, the Applicant will be deemed to have withdrawn its Application, and all approvals by the Board will lapse and be of no further force or effect.

V. Policies for Tax Increment Incentive

The following policies shall apply with respect to the tax increment incentives provided by the Board. The Board will not submit an economic impact plan to County Commission and, if applicable, the City that does not comply with these policies unless the Board is specifically directed to do so by County Commission and, if applicable, the City.

- A. **Maximum Term.** No allocation of tax increment revenues shall be made with respect to any parcel of property within an approved plan area for a period of more than twenty (20) years, unless both the Comptroller of the State of Tennessee and the Commissioner of Economic and Community Development have made a written determination that a longer period (not to exceed thirty (30) years) is in the best interest of the State of Tennessee. If the Board determines that a shorter allocation period is sufficient to make a Project feasible, the Board may require a shorter allocation period. The maturity of any tax increment financing shall not exceed the maximum maturity permitted by the IDB Act for debt obligations of the Board.
- B. **Allocation of Tax Increment Revenues.** The Board will allocate a maximum of 80% of the incremental tax revenues from the County or the applicable City in any year to support a tax increment incentive. Dedicated taxes to be used to pay County or any applicable City debt service or maintenance of effort shall count against the percentage not allocated, and if such dedicated taxes exceed 20% of incremental tax revenues, the percentage allocated shall be reduced such that the entire dedicated taxes are retained by the County or any applicable City (and not allocated) in accordance with the requirements of the Uniformity Act. Therefore, the Tax Increment Financing revenue payment equation is as follows: Tax Increment Financing revenues – County and/or City Debt Service – County and/or City Maintenance of Effort = Revenue sent to pay down Tax Increment Financing debt.
- C. **Minimum Percentage of Cost and Minimum Size.** The amount of the tax increment incentive (being the principal amount of any tax increment financing or the amount of costs to be reimbursed) shall not exceed 20% of the total estimated Project cost. The Applicant must also reasonably anticipate an investment of at least \$5,000,000 in capital expenditures with respect to the Project.
- D. **Eligible Costs.** Under the IDB Act, tax increment revenues may be applied by the Board to pay debt service on debt obligations issued to finance Project costs or to directly pay Project costs. The costs of a qualifying Project include the cost of any land, real property and personal property that are deemed necessary by the Board to be incurred in connection with a qualifying Project. An Applicant may request that incremental tax revenues be applied to pay debt service on financing for or to reimburse any Project cost that is eligible under the IDB Act. However, Applicants

should note that, other than for land, improvements, or equipment utilized for public infrastructure, tax increment revenues may not be used to pay for or to pay debt service relating to debt incurred by the Board to finance privately-owned land, improvements, or equipment, or for other purposes authorized by Tenn. Code Ann. § 7-53-101, et seq., but not specified in Tenn. Code Ann. § 9-23-108, unless both the Comptroller and the Commissioner have made a written determination that the use of tax increment revenues for such purposes is in the best interest of the State of Tennessee.

- E. Plan Area.** The Plan Area, from which the tax increment revenues will be generated, will consist of no more than (1) the parcels included on which the Project is located, and (2) those parcels, determined by the Board, to be directly affected and substantially benefited by the Project. The Board may rely upon the opinion of an appropriate consultant in determining whether a parcel would be directly affected and substantially benefited by a Project, including related public infrastructure.
- F. Transfer of Tax Increment Incentive.** No rights to a tax increment incentive may be assigned unless otherwise specified in the Development Agreement, provided however that the Board will consent to the collateral assignment of tax increment incentive revenues to secure financing for the financing of Eligible Costs. The Applicant will also not be permitted to sell, assign or lease any Project except once the Project is completed and only to the extent permitted by the Development Agreement.
- G. Necessity of Tax Increment Incentive.** The approval, size and term of allocation with respect to any tax increment incentive shall be conditioned upon the Applicant demonstrating the necessity of the availability of the tax increment incentive in order to make a Project economically feasible such that the owner of the Project can receive a reasonable return on investment. An Applicant shall permit a designated representative of the Board to meet with its designated representatives in order to determine the necessity of the requested tax increment incentive and will permit such designated representative of the Board to review such budgets and projections as are reasonably necessary to make such determination. The Board may also retain a third-party consultant to assist with such determination.
- H. Designated Parcels and Commencement of Allocation Period.** In its Application, the Applicant shall identify the specific parcel or parcels within the Plan Area from which tax increment revenues shall be allocated in order to provide the tax increment incentive for the Applicant's Project. If any of such parcels are subdivided or combined after an Application is submitted or while a tax increment incentive is ongoing, the Applicant shall give notice of such circumstance to the Board. In its Application, the Applicant shall also identify the year in which the Applicant requests the allocation period to commence with respect to each parcel in the Plan Area. Pursuant to the Uniformity Act, a plan may permit the allocation of tax increment revenues with respect to a parcel or group of parcels within a Plan Area to begin in different years. For a multi-phase Project, in which the phases of the Project are expected to be completed in different years, the Applicant may request the allocation period for different parcels in the Plan Area to commence in different years provided that the allocation period for all parcels must commence not later than 24 months from when the incentive is closed.

- I. **Calculation of Increment.** The Board, in its discretion, shall determine whether to make calculations of tax increment revenues on the basis of each parcel within the Plan Area or on an aggregate basis as permitted by the IDB Act and the Uniformity Act and shall make such determination prior to the closing of the tax increment incentive.
- J. **Payment Dates.** The incremental tax revenues to be allocated to the Board for any tax increment incentive shall be paid by the County, and if applicable, the City, each year no later than sixty (60) days from the last day that such tax revenues are not overdue. Delinquent taxes to be allocated to the Board shall be paid by the County or the City no later than sixty (60) days after each date such delinquent taxes are collected, together with interest thereon to the extent required by the Uniformity Act.
- K. **Non-Recourse Obligations.** The liability of the Board for any obligations under any debt obligation relating to a tax increment incentive or any other contractual obligation shall be limited solely to its interest in incremental tax revenues allocated to the Board in connection with such tax increment incentive, and no other assets of the Board shall be subject to levy, garnishment or otherwise to satisfy any obligation of the Board as to a tax increment incentive. Neither the County nor the City shall have any obligations or liabilities with respect to any tax increment incentive other than to allocate incremental tax revenues to the Board as required by the economic impact plan, the IDB Act and the Uniformity Act.
- L. **Calculation of Allocated Increment.** Not later than forty-five days after the last day that property taxes are due, the County Trustee for the County and the appropriate finance officer for any City, as applicable, shall calculate the tax increment revenues to be allocated to the Board under the economic impact plan at such time. At the request of the County Trustee or such finance officer of the City, the Board may undertake such calculation. In connection with such calculations, the portion of the dedicated taxes (within the meaning of Section 9-23-102 of the Uniformity Act) excluded from allocated Tax Increment Revenue shall be calculated by the County based upon the debt service tax rate and maintenance of effort of the County and shall be determined by the City, if applicable, each year based upon a methodology consistently applied during the allocation period. The City may agree to a specific methodology as to such calculation with the Board in connection with any tax increment incentive.
- M. **Tax consequences of Transaction.** If the tax increment incentive is a financing, the Board may retain bond counsel to advise whether interest on the financing is exempt from federal income taxes. Applicants should obtain their own legal and accounting advice relating to the tax consequences of receiving the benefit of any tax increment incentive, and the Board will make no representations relating thereto.

The foregoing policies are in addition to any other rules and procedures of the Board.

VI. Fees and Expenses of the Board

- A. **Application Fees.** The Applicant will submit the Application with a non-refundable Application Fee in an amount equal to \$3,000 to be shared between the approving authorities (Board, County, and applicable City). The Application Fee is non-refundable whether the application is approved or denied.

- B. **Expenses relating to Preparation of the Plan.** The Applicant shall pay all expenses, including attorney's fees, incurred by the Board in connection with the preparation of an economic impact plan, whether or not such plan is approved and whether or not the plan is prepared by or on behalf of the Board or the Applicant. The Board may require that these expenses be paid in advance. In connection with the preparation of an economic impact plan, the Board may retain third-party consultants to determine the economic impact to the County and the City from the Project and to evaluate whether the amount and term of the tax increment incentive is appropriate for the Applicant to receive a reasonable return with respect to the Project. In such case, and without limiting the Applicant's general obligation to pay expenses, the Applicant shall pay the cost of the Board retaining such consultants.
- C. **Expenses Relating to Tax Increment Incentive.** The Applicant shall pay all expenses, including attorney's fees, incurred by the Board in connection with the implementation of any proposed tax increment incentive, whether or not such incentive is closed. The Board may require that these expenses be paid in advance of any Board action with respect to a tax increment incentive.
- D. **Annual Administrative Fee.** To reimburse the Board, the County, and the City, if applicable, for the ongoing administrative expenses in connection with administering a tax increment incentive, the Board shall receive as an Annual Administrative Fee equal to the lesser of \$6,000 or 5% of the incremental property tax revenues allocated to the Board, which will be deducted by the Board upon receipt. The administrative fee shall be shared equally between the Board, County, and applicable City.
- E. **Amendments.** The Applicant will pay all expenses, including attorney's fees, incurred by the Board in connection with any Amendments to an economic impact plan or to any documents entered into in connection with a tax increment incentive. The Board may require that these expenses be paid in advance of any Board action.

VII. Definitions

For purposes of this Program, including the Application, the following terms shall have the following meanings, whether or not capitalized:

"Administrative Fees" means the fees collected by the Board for the purpose of off-setting the costs of administering the tax increment incentive Program by the Board and applicable tax collecting agencies.

"Amendment" means an amendment to an existing economic impact plan.

"Applicant" means the Person submitting the Application for a tax increment incentive. The Applicant shall be the Person that is expected to be an initial owner of all or a portion of the Project that is within a Plan Area.

"Application" means the Application submitted hereunder in the form designated by the Board and as amended from time to time. The initial form of the Application is attached hereto as Appendix A.

"Application Review Committee" means a committee of members of the Board formed for the purpose of reviewing Applications, economic impact plans and related documents.

"Development Agreement" means a development agreement between the Board and the Applicant or similar agreement or contract providing for the expenditure of the proceeds of any tax increment financing or the application of tax increment revenues to pay project costs.

"Economic Impact Plan" means a written document as codified under T.C.A. § 7-53-312 (b), identifying a Plan Area, and among other requirements, discusses the expected economic benefits to be derived from such area, included the anticipated tax receipts and jobs created.

"Eligible Costs" means costs related directly to improvements that qualify as a Project.

"Person" means any individual, sole proprietorship, corporation, limited liability company, association, partnership (general, limited, or limited liability partnership), organization, business, trust, individual and governmental entity.

"Plan Area" means the area subject to an economic impact plan.

"Project" means a project within the meaning of Section 7-53-101(13) of the IDB Act that is within a Plan Area.

"Public Improvements" has the meaning assigned to it in the Section 9-23-102 of the Uniformity Act.

"Tax Increment Revenues" means the property tax revenues generated from the Plan Area, including personal property taxes, after deduction of base taxes and dedicated taxes within the meaning of Section 9-23-102 of the Uniformity Act.

Appendix A - Application

Industrial Development Board of the County of McMinn

9 E Madison Ave., Suite 201

Athens, TN 37303

(423) 745-1506 office

(423) 745-1507 fax

TAX INCREMENT INCENTIVE APPLICATION

I. Applicant Information

1. Name of Applicant: _____

2. Business Name and Address: _____

State of Organization (if an entity): _____

3. Contact Person: _____

Phone Number: _____

E-Mail Address: _____

4. Website of Applicant (if any): _____

5. Type of Business Entity (check one):

Sole Proprietorship

For-Profit Corporation

Limited Liability Company

Limited Partnership

General Partnership

Nonprofit Corporation

6. Development Team

Please list the business name, contact person, address, phone number and email address for the following members of the Applicant's development team for the Project (if not known, please so indicate):

10. If the Project is to be leased to tenants, identify tenants or, if tenants are not known, describe types of tenants to which the Project will be marketed:

III. Tax Increment Incentive

11. Indicate the amount of tax increment financing requested. \$ _____

12. Indicate maximum allocation period of tax increment revenues requested: _____ years.

13. Has any other government assistance (federal tax credits, grants or other economic benefits) been requested by the Applicant to assist with the Project? (Circle one):

Yes No

If yes, describe the type, source, and amount of assistance requested:

14. Provide a list of all properties comprising the Project Site by parcel identification number, along with the current tax assessment and taxes paid or payable for the prior tax year for each parcel. Also identify the initial year in which the Applicant requests the allocation period for each parcel to commence (attach additional sheets if necessary).

Parcel Identification #	Assessed Value	Taxes	Initial Year of Allocation Period

15. Attach a detailed budget for the Project showing anticipated sources of funds to pay Project costs and anticipated uses of those funds.

16. Attach a list by category of each cost to be paid or financed with the requested tax increment incentive.

IV. Supplemental Information

Please attach to this Application the following:

- Brief business history of the Applicant
- Resumes of all principals of Applicant
- Timetable for the Project
- Site Plan of Project Site (if available)
- Rendering of Project (if available)
- Survey of Project Site (if available)
- Map of the Plan Area showing parcels included
- Letter of intent of financial institution or accredited investor to purchase the tax increment financing, if applicable

V. Representations of Applicant

By executing this Application, Applicant hereby represents, certifies and agrees as follows:

- (a) The Project would not result in a reasonable rate of return on investment to the Applicant without the requested tax increment incentive, and the Applicant would not undertake the Project as described in this Application unless the tax increment incentive is available.
- (b) The undersigned Applicant hereby agrees that the Applicant shall meet with a designated representative of the Board, upon request, to answer any questions that may arise in connection with the Board's review of this Application and that Applicant shall provide to the Board, upon request, any supplemental information requested in connection with the Board's review of the Application, including, without limitation, such financial information as the Board may request in order to determine that the Project would not be undertaken without the tax increment incentive requested.
- (c) The Applicant shall pay all expenses required by the Policies and Procedures of the Board relating to the tax increment incentive and shall otherwise comply with such Policies and Procedures.
- (d) The Applicant shall indemnify and hold harmless the Board, its employees, officers, directors, attorneys and consultants against all losses, costs, damages, expenses (including reasonable attorney's fees), and liabilities of any nature directly or indirectly resulting from, arising out of or relating to the acceptance, consideration, approval or disapproval of this Application for a tax increment incentive.

VI. Signature

The undersigned Applicant affirms that the information provided in this Application is true and complete. The Applicant hereby confirms that the Applicant has read and understood the requirements in the Policies and Procedures relative to tax increment incentive.

Applicant Signature: _____

Printed or Typed Name: _____

Title: _____

Date: _____