

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 04-061

Adopting an Updated Strategic Investment Program Policy for Multnomah County

The Multnomah County Board of Commissioners Finds:

- a. Industries using advanced technology are especially desirable to a region because they invest heavily in developing the skill levels of their employees, pay their employees well, and contribute in other ways to the economic development of a region.
- b. Such industries usually require extensive capital outlays to establish their operations; under Oregon's tax structure, such capital-intensive businesses are subject to disproportionately high property taxes when compared to typical production facilities and this tax burden is a factor in such industries' consideration of location and expansion in Oregon.
- c. The Portland Metropolitan Region has developed a globally competitive and renowned semiconductor industry cluster, which continues to benefit thousands of Oregonians through direct employment, supplier relationships, and secondary jobs and investment which grow from this specialization.
- d. ORS 285C.600 et. seq. was originally passed by the Oregon Legislature in 1993 (House Bill 3686) in order to encourage additional investment and employment within the State by capital-intensive firms, particularly those in the semiconductor industry, through the Strategic Investment Program.
- e. ORS 285C.609(5) specifies that the governing body in an Oregon county may impose any other requirements related to the project for an SIP application, and the County has created a policy setting out those additional requirements which will ensure that SIP tax abatements are granted only to firms that share the County's goals.
- f. Multnomah County has previously implemented the Strategic Investment Program with great success through agreements with LSI Logic and Microchip Technology Inc. that are built upon the premises of exemplary corporate citizenship and performance-based public/private partnership.
- g. Based on these successes, and the recent recommendation of the Multnomah County Auditor, it is prudent for Multnomah County to adopt a policy that sets the standards and goals for such SIP agreements.

The Multnomah County Board of Commissioners Resolves:

1. The attached MULTNOMAH COUNTY STRATEGIC INVESTMENT PROGRAM POLICY shall be the guiding document used by the County to review applications from firms seeking SIP tax abatements.
2. An application for SIP tax abatement will only be approved if it demonstrates that the proposed investment will promote the goals set out therein.

ADOPTED this 13th day of May 2004.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Sandra N. Duffy, Assistant County Attorney

MULTNOMAH COUNTY STRATEGIC INVESTMENT PROGRAM POLICY

I. Background

The Strategic Investment Program (SIP) is an economic development instrument created by the Oregon Legislature in 1993 for the purpose of attracting large-scale high-technology investments that will result in local job creation and other economic benefits. While the program was established by State statute, its implementation occurs at the county level. It is incumbent on the County Board of Commissioners to recognize that competition between jurisdictions for attracting large-scale development is strong both within our national borders and at the global level. Nonetheless, when any firm makes an application to the SIP, the Multnomah County Board of Commissioners must thoughtfully and responsibly consider how granting the SIP request furthers its goals for the County and its citizens.

II. Purpose

The purpose of this Strategic Investment Program (SIP) Policy is to ensure that:

- a consistent set of standards and criteria are employed when the County considers any application to the SIP;
- the procedures for evaluating an application to the SIP are clearly outlined and that this process is undertaken in a fair and open manner;
- the goals of the County as they relate to employment, transportation, infrastructure and public services, environmental protection, and local procurement and the standards that any company entering into an SIP agreement is expected to meet are clearly delineated and are used as the basis for decision making when considering any firm's SIP application;
- the appropriate deliberation and formal analysis of the potential impacts to the County are made.

III. Limits

The Board will not approve SIP contracts based upon applications that fail to meet the standards set forth in this SIP Policy. The Board may also refuse to ratify an SIP contract that, in its judgment, would not meet the goals set forth in this policy or because the extent to which it meets the goals does not justify the value of the abatement. Section IV of this policy describes the process by which the Board reviews and makes decisions on SIP tax abatements.

The Board will grant SIP tax abatements only to companies that have demonstrated a commitment to obeying all applicable laws and regulations including, but not limited to, environmental laws, labor laws, laws requiring notice before layoffs, land use laws, and tax laws.

Each and every provision of an SIP contract entered into under this policy is binding on any and all successors-in-interest to the applicant by virtue of sale, lease, assignment, merger, or any other transfer of any interests in the applicant corporation to any other person or entity.

In the event of a corporate dissolution or a bankruptcy proceeding under Chapter 7, the full real market value of the development project shall be placed on the tax roll as taxable property.

IV. Procedures for Review and Negotiation

A. Application Fee and Deposit

A deposit of \$10,000, to cover the actual cost of review and processing by all public agencies and consultants, may be collected at the time of application at the discretion of the County. The prospective applicant may choose to expedite the review process by paying the deposit in advance of making application. The deposit will be collected by the Multnomah County Budget Office. If a deposit is collected, any amount collected in excess of actual cost will be reimbursed. Actual costs in excess of the deposit collected will be billed and paid by the applicant.

B. Summary of the Application Procedure

- A pre-application exchange of information between prospective applicants and relevant agencies is expected. State and local economic development agencies may facilitate this exchange. The prospective applicant will inform Multnomah County as soon as possible of the date it intends to submit an application.
- Multnomah County may retain independent consultants to coordinate the review of the application for compliance with this policy and perform other analyses as deemed appropriate by the County, including fiscal and economic analyses. Local agencies may evaluate the application in light of the consultants' reports and make recommendations to the Board.
- A negotiating team consisting of a representative from the Chair's Office, the County SIP Coordinator, a representative from the County Attorney's Office, and the County's Chief Financial Officer will be established. Upon receipt of the completed application, the County's negotiating team will work

with any consultant retained to determine the completeness of the application and develop a negotiation strategy, taking into consideration the results of any fiscal and economic impact analyses performed.

- The Multnomah County SIP negotiating team will work in partnership with representatives of the affected City who have been designated by that City for purposes of negotiating a SIP agreement.
- Multnomah County will maintain strict confidentiality, unless explicitly waived by all parties, during both the application and negotiation process until such time as an agreement has been reached.
- The team will then begin the negotiating process, which will be complete upon the creation of a draft contract that meets the approval of both the County's negotiating team and the SIP applicant. The negotiating team will then submit a draft of the contract between the County, City, and the applicant, along with the consultants' report, to the Board. The contract document will follow the process for a Class II contract as outlined in the County's Administrative Manual except that Board approval will be required. The Board will forward a copy to the City Council of the affected City. Public notice will be given.

C. Public Review and County Approval

No less than 14 days after public notice, a joint City/County public hearing will be held. The County Board will take action on the contract within seven days after the hearing. The Board may vote to

- accept the contract as submitted.
- accept the contract with conditions that, if agreed to by the applicant, will not require further negotiations.
- refer the contract back for further negotiations with instructions to the negotiators.
- reject the contract and provide reasons for rejection.

V. Contents of Application

A. General Information

The applicant will describe itself and the proposed project.

B. Compliance with Standards and Consistency with Goals

Section VIII of this policy lists categories of concern for Multnomah County and one or more goals and related standards for each category. The standards are clear and measurable and must be met in advance of an application being approved. The applicant will demonstrate that it meets every standard by including sufficient evidence in the application.

The goals are less clearly defined and, in many cases, progress toward their attainment cannot be measured until after a project is operational. The applicant will describe how the proposed project will advance each of the County's goals. Statements made in the application regarding the applicant's commitment to meeting these goals may become a part of the SIP contract. The SIP contract will contain negotiated terms and conditions that specify performance measures appropriate to the applicant's operations, as well as sanctions that will be applied should agreed-upon performance not be achieved, including possible repayment of abated taxes.

C. Past Practices

Multnomah County is interested in encouraging the location of companies that will help the County to achieve its goals and will bring benefits to the community. Learning about the applicant's experience in other communities will allow the County to have confidence that the applicant will be a beneficial addition to the community.

The applicant will report any sanctions or consent agreements related to violations of U.S. federal or state laws or rules relating to environmental protection, worker safety, or labor relations. The applicant also will report all prior and existing tax abatement agreements in other U.S. jurisdictions so that the County may verify that the applicant has upheld the terms of those agreements.

VI. Reporting, Compliance Auditing, Noncompliance, and Changes to the Contract

Once an SIP contract is in place, the applicant will report annually on how it is meeting each of the terms and conditions of the contract. Performance measures for each of these will have been agreed to as part of the contract and the contract will specify which terms and conditions of the contract must be reported on in the annual report. The County's SIP Coordinator or another designated County staff will report annually to the Board and the public at a regularly scheduled Board meeting on the performance of each SIP contract.

If the County receives information indicating a potential violation of the contract terms, it may ask the applicant for a written response. In the event that the applicant's written response fails to satisfy the County, the County may retain an outside firm or ask the County Auditor to verify compliance. The City in which the

project is located may also investigate complaints. The applicant will provide access to necessary records.

In the event a violation is found, the costs of such verification would be billed and paid by the applicant, over and above the application fee and community service fee. If no violation is found, the County and City will pay for the investigation.

In the event of noncompliance, repayment of abated taxes (i.e. penalties) must be equal to or greater than the savings the company would realize by not meeting the requirement. Specific terms for repayment will be negotiated for each standard and condition and included in the SIP contract. In any case, total repayment for noncompliance will not exceed 75 percent of the total abatement for the year the penalty is cited.

Conditions beyond the control of the parties may lead to renegotiation of the contract upon agreement of both parties.

VII. Community Service Fee

Consistent with State law, a Community Service Fee (CSF) equal to the lesser of \$2 million or 25 percent of the abated taxes will be paid to the County by the firm receiving an SIP tax abatement or its successors each year an abatement is in effect. If the property is located in a rural area, the CSF is limited to an amount of no more than \$500,000. State statute requires the CSF to be distributed based on an agreement between the County, City, and other local taxing districts that meet the criteria established in the statute.

It is the policy of Multnomah County to establish an administrative allocation for management of its SIP Agreements as part of the distribution formula for the CSF. This allocation shall be consistent with previously negotiated administrative fees for prior SIP agreements and shall diminish over time.

In addition to the CSF, the County may ask for financial contributions from the applicant to address the goals of this policy as part of the terms and conditions of the contract negotiated under this policy.

VIII. SIP Goals and Standards

The County currently maintains two SIP contracts: one with LSI Logic that was signed in 1995, and one signed with Microchip Technology in 2002. The County will make every effort to approach any future SIP agreements in a manner consistent with its previous practices, both while engaging in the review and negotiation process and in monitoring compliance with the contracts once in place. As it has in the past, the County will make every effort to ensure that the

benefits received by the community are proportionate to the size of the abatement granted.

The County also seeks to grant SIP tax abatements only to projects that would otherwise not locate in Multnomah County. However, by approving a firm's SIP application, and thus granting an abatement, the County necessarily removes the conditions that would make it possible to determine such a fact. Nonetheless, a SIP applicant must describe in sufficient detail why an abatement is needed.

The following goals and standards are established for the County's SIP:

A. Employment (Hiring, Wages, Benefits, Training, and Retention)

Multnomah County Goals:

- Create long-term jobs with competitive wages and benefits and excellent working conditions for residents of Multnomah County.
- Provide educational opportunities to enhance upward mobility for both technical and management roles.
- Minimize the number of contracted on-site jobs, particularly those performing core business functions.

Standards:

Multnomah County wishes to attract firms that will offer stable employment to County residents and offer attractive pay and benefits for residents of different education and skill levels. The applicant will agree to a minimum number of jobs to be created at the project as part of the terms and conditions of the SIP contract.

- The applicant will demonstrate that a clear path exists for advancement from entry-level positions to positions that provide higher pay, including positions that pay more than the average annual wage in the County.
- The applicant will describe its wage scale for occupations with entry-level positions and describe how an entry-level employee might typically move through pay levels and job classifications.
- The applicant will describe how their employment practices facilitate the retention of employees and will agree to negotiate contract terms that specify appropriate measures and standards for employee retention, as well as mechanisms for achieving retention, such as an Employee Assistance Program.

- The applicant will describe a credible program to assist employees who need child care, taking into account the hours and shifts that employees will work, and will make assurance that such a program will be implemented.
- The applicant will describe by category (e.g., entry-level production, skilled production, technical and professional, management, administrative and support, sales, clerical, maintenance, security, shipping and receiving, food service, etc.) the number of jobs and wage scales of those jobs that will be created at the project. The applicant also will specify which of these are regular full time, part time, temporary, or contract positions.
- As required by State statute, the applicant will agree to enter into an exclusive full-service First Source agreement with Multnomah County or its designated contract agency. Consistent with prior SIP agreements, Multnomah County shall establish a fee-based system for First Source services.
- In the event that an applicant has an established fee-based referral system with a local, County-approved first source service provider, that agreement shall not be diminished or adversely affected by the SIP First Source agreement.
- The applicant will describe training and education programs available to entry-level employees and training and education programs available to other employees. In-house programs, tuition assistance for job-related training and education, or contracts directly with community colleges or universities would meet this standard.
- The applicant will demonstrate its commitment to its employees by describing company benefits (specifying which parts are employer-paid and which employees qualify), which may include: health insurance, dental insurance, life insurance, accidental death insurance, disability insurance, retirement plans, profit sharing, employee ownership/stock purchase, educational assistance, day care, and transportation assistance. As a part of these benefits, the applicant must permit members of employees' families to purchase health insurance at or below cost, to the extent that the applicant's health-insurance carrier will write coverage for such persons.

B. Transportation

Multnomah County Goal:

- To encourage conservation of natural resources through the use of transit, car pools, van pools, or alternative modes of transportation.

Standards:

- The applicant will describe a credible program to encourage employees to use transit, car pools, van pools, or alternative modes of transportation and will make assurance that such a program will be implemented.

C. Infrastructure and Public Services

Multnomah County Goal:

- Any development project undertaken in the County should produce no unmitigated adverse impacts on the level of services provided to existing residents of Multnomah County and the region.

Standards:

As part of its application, the applicant will describe impacts in the following areas and what it has committed to do to mitigate negative impacts. The applicant will provide statements from the relevant agencies that there will be no unmitigated adverse impacts on the level of service or infrastructure or describe what unmitigated adverse impacts will result from the project. Remedies for unmitigated adverse impacts will be negotiated as part of the terms and conditions of the SIP contract.

- Transportation infrastructure (including traffic and congestion, transit, port, rail, air, multimodal).
- Utility infrastructure (water and sewer capacity; solid and hazardous waste disposal).
- Public safety (police, fire, emergency medical services, disaster preparedness).

D. Environmental Protection, Land Use, and Development

Multnomah County Goals:

- To promote responsible stewardship of the environment by all businesses and individuals doing business or living in the County.
- To ensure implementation of leading sustainability practices in all phases of the project including design, construction, resource utilization, and land use.

Standards:

The applicant will demonstrate its commitment to achieving a “no impact” environmental goal. The applicant will describe an exemplary environmental management system (EMS) to include credible resource approaches in each of the following areas, will present verification by the relevant regulatory authorities

that the EMS and specific resource approaches are reasonable, and will demonstrate a commitment to ongoing monitoring and continuous improvement.

- Reducing the use of toxic and hazardous materials.
- Water conservation, reuse, and waste water discharge.
- Maintaining or improving air quality.
- Waste reduction and recycling.
- Energy conservation and efficiency

E. Stimulation of Local Economy

Multnomah County Goal:

- To encourage the purchase of goods and services produced or sold by businesses in Multnomah County and the region.

Standards:

- The applicant will have a plan for the procurement of locally produced or sold goods and services and to solicit bids from local suppliers. This plan shall include demonstrable outreach to minority, women, and emerging small businesses (MWESBs), and will include a good-faith commitment to procurement for construction, installation, and equipment maintenance which recognizes and rewards responsible contractors based on the following factors: necessary technical requirements (including licensure), past performance record (including safety and cost effectiveness), and business location.

IX. Impact Analysis

The impact analysis will be assembled and included in the application. It will address the following points:

- A. Fiscal Impacts (impacts on revenues and capacity constraints). This analysis will show projected property-tax revenues under each of two scenarios and will calculate their differences from each other: (1) without the project, (2) with the project with an abatement. Community service fees will be shown separately and will not be counted as property tax revenue.
 1. Education Districts.

2. County.
 3. City.
 4. Special Districts.
 5. Projected impacts on existing property taxpayers (tax bills relative to no development).
 6. Projected cumulative fiscal impacts including those of SIP tax abatements already granted.
- B. Economic Impacts
1. Labor market impacts (number and types of jobs; incomes; impacts on other employers).
 2. Indirect and induced business activity (additional demand for locally produced goods and services; resulting changes in employment and income).
 3. Competitive impacts on existing businesses (would abatements give a new firm an unfair advantage over direct competitors already located here?)
 4. Dollars of abated taxes per job created.

X. Glossary of Terms

Actual Cost of Review and Processing includes the cost of administrative time expended by personnel of relevant agencies (defined below) to investigate, review, and report on the applicant's compliance with adopted County policies. Those costs are to be calculated based on the number of hours expended by each employee at a rate representing actual gross salary per hour plus benefits at the time the service is provided. Other costs, including but not limited to reproduction, fax, telephone, and experts, are to be calculated at the actual cost to the relevant agency.

Board means the Multnomah County Board of Commissioners.

Complete Application means an application that addresses each and every policy in this policy document as adopted by resolution by the Board of County Commissioners. The application must identify each goal separately and describe with particularity how the proposed project is consistent with that specific goal. Additionally, every standard which is set out in the policy document which is designed to meet a specific goal must be addressed in the application. The County's SIP negotiating team or any consultant it retains will determine whether the application is complete, i.e., if every policy, goal, and standard has been addressed and whether it is supported by sufficient detail or documentation to allow an analysis of compliance with the policies. The SIP negotiating team or any consultant it retains may request additional information and will notify the applicant in writing of the date the application was determined to be complete.

Average Annual Wage means the figure computed by the Oregon Employment Department by dividing total wages earned by employees who are covered by unemployment insurance within the County by average annual covered employment within the County. This figure is adjusted annually; for 2002 it was \$38,239.

Repayment means the payment due by the applicant to the unsegregated property tax fund of Multnomah County on account of a breach of the negotiated agreement setting the special provisions which induced the County's, and City's, if any, approval of and request for applicant's project to be funded by revenue bonds pursuant to ORS 285.330, resulting in property tax abatement.

SIP Contract means the contract between the applicant and the County that specifies the terms and conditions under which property taxes will be abated.

SIP Tax Abatement means the exemption of real or personal property from taxation for key industry development projects under ORS 307.123.