

ORDINANCE NO. 2018-026

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF FRANKLIN, KENTUCKY, AUTHORIZING THE GRANT OF AN INDUCEMENT FOR THE ACQUISITION AND CONSTRUCTION OF A PROJECT PURSUANT TO THE KENTUCKY BUSINESS INVESTMENT PROGRAM (KRS 154.32-010 TO 154.32-100) WHEREBY THE CITY AGREES TO FOREGO THE COLLECTION OF THE ONE PERCENT (1%) CITY OCCUPATIONAL LICENSE FEE ON WAGES FROM TOYO AUTOMOTIVE PARTS (USA), INC. THAT WOULD OTHERWISE BE DUE WITH RESPECT TO PROJECT EMPLOYEES, WHICH AMOUNTS SHALL BE COLLECTED AND RETAINED BY SAID EMPLOYER OVER A TERM OF NOT LONGER THAN TEN (10) YEARS FROM THE ACTIVATION DATE ESTABLISHED BY SAID PROGRAM; AND TAKING OTHER RELATED ACTION

WHEREAS, it is the public policy of the Board of City Commissioners of the City of Franklin, Kentucky (“City Commission” and “City”) to encourage, promote, and support economic development, new job formation, and the development and growth of industry and commerce, and to preserve existing jobs in Kentucky for the public purposes of providing employment opportunities for its citizens and residents, alleviating conditions of unemployment, stabilizing and promoting the economy of Kentucky, and creating new tax bases and sources of revenue for the Commonwealth;

WHEREAS, the Kentucky Business Investment Program, Sections 154.32-010 through 154.32-100 of the Kentucky Revised Statutes (“KRS”), the (“Program”), authorizes and empowers the Commonwealth and certain local jurisdictions to promote economic development in Kentucky by inducing the creation of economic development projects by eligible companies, as more particularly described therein;

WHEREAS, KRS 154.32-090 authorizes an eligible company to deduct certain wage assessments from payments of wages to economic development project employees and each employee paying the assessment, in turn, to credit the assessment against their Kentucky individual income tax and, subject to the approval of the local levying authority or authorities, local occupational license fee or fees otherwise due;

WHEREAS, Toyo Automotive Parts (USA), Inc. (the “Company”), 521 Page Drive, Franklin, Kentucky 42134, has proposed to acquire, construct and install within the City a project consisting of the facilities and properties described in Exhibit A attached hereto (collectively, the “Project”);

WHEREAS, the Company has represented to the City that the acquisition, construction and installation of the Project, if constructed, will result in a substantial number of new job opportunities in the community, and the Company agrees to comply with the provisions of City of Franklin Ordinance No. 221.10-06-2014;

WHEREAS, the Company has filed an application with the Kentucky Economic Development Finance Authority (the “Authority”) for approval of the Project for the Program as authorized in KRS 154.32-030;

WHEREAS, it is appropriate and in the public interest that the City Commission make a formal, binding commitment of financial resources in order to encourage and support economic development endeavors generally and the Project specifically if and when approved by the Authority pursuant to KRS 154.32-030; and

WHEREAS, the City Commission has approved the granting of an inducement to the Company for the Project, pursuant to the Program, whereby it would forego the collection of the one percent (1%) occupational license fee on wages that otherwise would be due the City, which fee shall be retained by the Company, with respect to Project employees whose jobs meet the criteria and requirements established by the Program (“Qualifying Employees”) for a term of not longer than ten (10) years from the date the Company properly activates the Program’s incentives pursuant to KRS 154.32-030 and any agreement relating to the Project that the Company has with the Authority (the “Activation Date”).

NOW, THEREFORE, IT IS ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF FRANKLIN, AS FOLLOWS:

Section 1. It is hereby found, determined and declared that the recitals set forth in the preambles to this Ordinance, which are incorporated in this Section by reference, are true and correct.

Section 2. Inducement. The City shall forego collection of, and Company shall be entitled to collect and retain the one percent (1%) City occupational license fee due on wages paid to Qualifying Employees for a term of not longer than ten (10) years from the Activation Date (the "Inducement Term"), as specified herein.

Section 3. Company to Deduct and Withhold Occupational License Fee on Wages. The Company when making payment of wages to Qualifying Employees earned with respect to the Inducement Term shall deduct and withhold upon the wages the one percent (1%) City occupational license fee. The Company shall report such withheld amounts on the forms and reconciliations required by KRS 67.783(4) and (5) and §110.24, and comply with the provisions of §35.04 of the City Code of Ordinances.

Section 4. Company Entitled to Credit for Withheld Amounts. The Company shall not remit to the City but shall retain the amounts withheld from wage payments pursuant to Section 3 of this Ordinance. The Company shall be entitled to an offsetting credit against its liability to the City under KRS 67.780 to 67.785 and §110 of the City Code of Ordinances for withheld amounts equal to the amounts withheld from wage payments pursuant to Section 3 of this Ordinance.

Section 5. Qualifying Employees Entitled to Credit for Withheld Amounts. Each Qualifying Employee shall be entitled to a credit against his or her occupational license fee liability to the City under KRS 67.785(3) and §110 equal to the amounts withheld from his or her wages pursuant to Section 3 of this Ordinance.

Section 6. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of this Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

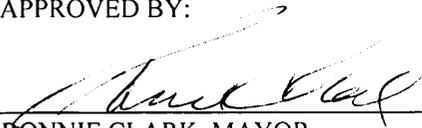
November 19, 2018 - FIRST READING

December 10, 2018 - SECOND READING

At a meeting of the Board of City Commissioners of the City of Franklin, Kentucky, held on December 10, 2018, and Bon Barnes motion made by Commissioner Powell and seconded by Commissioner Barnes, the foregoing ordinance was adopted, after full discussion, by the following vote:

- Yes LARRY DIXON
- Yes JAMIE POWELL
- Yes MASON BARNES
- Yes WENDELL STEWART
- Yes RONNIE CLARK, MAYOR

APPROVED BY:



RONNIE CLARK, MAYOR

ATTEST:



CATHY DILLARD, CITY CLERK
CITY OF FRANKLIN, KENTUCKY

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Franklin, Kentucky, and as such City Clerk I further certify that the foregoing is a true, correct and complete copy of an Ordinance (including Exhibit A) duly adopted by the Board of City Commissioners of said City at a duly convened meeting held on December 10, 2018, on the same occasion signed by the Mayor, duly filed, recorded and indexed in my office and now in force and effect, and that all action taken in connection with such Ordinance was in compliance with the requirements of KRS 61.810 through 61.825, all as appears from the official records of said Board of City Commissioners in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 10th day of December, 2018.

(SEAL)





Cathy Dillard, City Clerk



Exhibit A

Project Description for Toyo Automotive Parts (USA), Inc.

See letter and KBI Report attached hereto and incorporated herein collectively by reference.



January 13, 2014

Secretary Larry Hayes
Economic Development Cabinet
300 West Broadway
Frankfort KY 40601

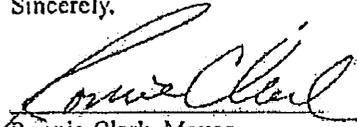
Dear Secretary Hayes:

This letter is to demonstrate our support of the KBI application being submitted by Toyo Automotive Parts, USA, INC which is located in Franklin Kentucky in our Sanders Interstate Industrial Park. Toyo, which was named "Industry of the Year" in Franklin for 2013, has been a part of our community for at least twelve years. They were the first plant to locate in our Sanders Interstate Industrial Park and because of their presence, helped spur further development in that part of Simpson County.

It is my understanding that in order to keep up with the production needs of their customers, Toyo is planning an expansion at their Franklin facility that will add at least ten or more jobs and invest several million dollars in the facility. The City of Franklin is prepared to participate with our one percent occupational tax in the KBI incentive for Toyo's expansion. Toyo is a major supplier of Toyota and Nissan and employs some 200 people in Simpson County.

Your consideration of their KBI application is appreciated.

Sincerely,


Ronnie Clark, Mayor
City of Franklin, KY

**KENTUCKY ECONOMIC DEVELOPMENT FINANCE AUTHORITY
KBI REPORT - PRELIMINARY APPROVAL**

Date: May 29, 2014
Approved Company: Toyo Automotive Parts (USA), Inc.
City: Franklin **County:** Simpson
Activity: Manufacturing **Prelim Resolution #:** KBI-I-14-19924
Bus. Dev. Contact: C. Peek **OFS Staff:** S. Fisher

Project Description: Toyo Automotive Parts (USA), Inc. is a manufacturer of anti-vibration automotive parts sold primarily to Toyota and Nissan OEM's and Tier One suppliers. The company is considering an expansion to modernize and internalize processes which are currently outsourced.

Facility Details: Expanding existing operations

Anticipated Project Investment - Owned	Eligible Costs	Total Investment
Land	\$0	\$0
Building/Improvements	\$0	\$0
Equipment	\$200,000	\$6,000,000
Other Start-up Costs	\$0	\$0
TOTAL	\$200,000	\$6,000,000

NEGOTIATED TARGETS AND INCENTIVE AMOUNTS:

Year	Job Target	Average Hourly Wage Target (Including Employee Benefits)	Annual Approved Cost Limitation
As of Activation Date	10	\$14.00	
1	10	\$14.00	\$15,000
2	10	\$14.00	\$15,000
3	10	\$14.00	\$15,000
4	10	\$14.00	\$15,000
5	10	\$14.00	\$15,000
6	10	\$14.00	\$15,000
7	10	\$14.00	\$15,000
8	10	\$14.00	\$15,000
9	10	\$14.00	\$15,000
10	10	\$14.00	\$15,000

Other County Minimum Wage Requirements:

Base hourly wage: \$10.88

Total hourly compensation: \$12.51

TOTAL NEGOTIATED TAX INCENTIVE AMOUNT:

\$150,000

Ownership (20% or more):

Publicly traded

Active State Participation at the project site:

None

Requested Wage Assessment / Local Participation:

State: 3.0%

Local: 1.0% - City of Franklin

Unemployment Rate

County: 6.9%

Kentucky: 8.4%

Existing Presence in Kentucky:

Simpson County

Special Conditions:

The company will be required to maintain a base employment equal to the number of full-time, Kentucky resident employees as of the date of preliminary approval. The company reported 160 full-time, Kentucky resident employees as of the application date.

71 per base
listings
supplied
2/11/2016.
- MF