

## Appendix E: Interlocal Agreement between the City of Bartlett and Shelby County

### INTERLOCAL AGREEMENT BY AND AMONG SHELBY COUNTY, TENNESSEE AND THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF BARTLETT, TENNESSEE

This Interlocal Agreement is entered into this 10 day of December, 2010, by and between Shelby County, Tennessee, and The Industrial Development Board of The City of Bartlett, Tennessee (the "BIDB").

#### PREAMBLE

The Tennessee General Assembly enacted legislation permitting the creation of Industrial Development Corporations and under such legislation provided that such corporation and all properties at any time owned by it may be exempted from taxation from the State of Tennessee.

The various towns and cities of Shelby County, except The Town of Lakeland, have created their Industrial Development Board (the "Board" or "Boards") and have delegated to such Board the authority to negotiate and accept from any of its lessees, payment in lieu of ad valorem taxes ("PILOT"), upon determination that such an agreement is undertaken for the furtherance of the public purpose as defined in section 7-53-305(b) of Tennessee Code Annotated.

The Boards have used this authority to provide PILOTs as an economic development incentive and thus encourage the location or expansion of an industrial and commercial activity ("Project") in their city or town.

The Boards also have the authority to exempt Shelby County taxes for properties in their city or town and to have their own criteria and processes for evaluating and providing a PILOT incentive to an eligible industrial or commercial activity.

Shelby County recognizes the need to provide its share of economic development incentives throughout the County and to provide such incentives in an equitable, consistent and coordinated manner, and to ensure the cooperation of all the municipalities in the pursuit of economic development opportunities for Shelby County.

#### AGREEMENTS AND UNDERSTANDINGS

Shelby County, Tennessee, and the BIDB hereby acknowledge that the following provisions: (i) represent their mutual understandings as to the matters addressed herein; (ii) reflect their mutual intent to do all things necessary and proper to implement these understandings; and (iii) serve as an agreement that satisfies Tennessee Code Annotated Section 7-53-305(g). Shelby County and the BIDB for and in consideration of the covenants and agreements set forth herein, hereby agree as follows:

1. When the BIDB considers a Project, it shall request a letter of approval and the terms thereof, from the Mayor of Shelby County for any Shelby County PILOT incentives provided to a project before accepting any property into its PILOT program which has the effect of freezing or exempting any county ad valorem taxes.
2. Shelby County's PILOT incentive shall in all cases be the level of incentives that the Project would be granted if the Project were scored using the Memphis & Shelby County Industrial Development Board ("M&SC IDB") matrix (as modified, amended and/or interpreted from time to time),

including the additional points available under the Location category for sites within a Renewal Community, New Market Tax Credit Area, State & Federal Designated Brownfield, and Urban Economic Revitalization Areas as designated by the County &/or Municipality. Provided the PILOT applicant, any of its affiliates and/or owners is not relocating from a Shelby County location, nor has a PILOT application pending with the Memphis & Shelby County IDB, the BIDB may provide up to 10 additional location points for projects located in a targeted development area established by the BIDB which comprises less than 25% of the territory of the municipality. Except when the M&SC IDB matrix provides for more years than the maximum years allowed under a published and publicly available BIDB matrix as of the effective date of this Resolution and when the BIDB PILOT is at the maximum term allowed, neither the term nor the percentage of the county taxes reduced for the PILOT shall be greater (i.e., more favorable to the PILOT recipient) than the BIDB PILOT. Jobs created by the Project shall provide wages not less than \$10 per hour and shall include health benefits. Each applicant seeking a PILOT incentive shall develop a Diversity Plan, approved by the BIDB and the Shelby County Mayor's Office, to encourage the support of minority, women, and locally owned small businesses and citizens in the economic development of the local community, which will allow for the award of up to two additional years of PILOT benefit in the event the Project meets or exceeds such Diversity Plan's goals. Furthermore, no Shelby County PILOT incentive shall be granted if the Project's cost benefit ratio exceeds 1.5 in regard to Shelby County's ad valorem taxes, unless the County Mayor grants an exception in writing. Shelby County, by and through the Shelby County Mayor's Office, shall give written notice to representatives of the parties to this agreement prior to any changes to the M&SC IDB matrix or written policies. Shelby County may charge closing fees consistent with the typical M&SC IDB closing fees as to the Shelby County portion of the benefit.

3. All Real and Personal Property Lease Agreements shall contain language that stipulates that non-compliance with PILOT application representations on jobs, wages and capital investment as approved by the BIDB is a cause for default under the Lease. Such language will establish a process for evaluating compliance with PILOT application representations and institute default provisions, which may result in increased PILOT payments, lease term adjustment or termination. Compliance requirements related to jobs, wages and capital investment shall be established by the BIDB but may be no less stringent than those set forth by the M&SC IDB with respect to Shelby County's portion of the tax benefit. The BIDB will provide annual reports to the Shelby County Mayor's Office regarding its compliance review of each Project. The BIDB shall follow procedures and schedules similar to those the M&SC IDB has with its PILOT grantees with respect to the reporting and default proceedings. If the Memphis and Shelby County IDB amends their PILOT program policies to provide for less frequent reporting, then the BIDB may provide similar reporting. The BIDB will notify Shelby County when exercising default provisions.
4. In regard to any provisions pertaining specifically to Shelby County PILOT incentives, all real and personal property lease agreements shall contain the language in a form substantially similar to that utilized in leases executed by the M&SC IDB, as amended from time to time, consistent with the requirements of this Agreement. Shelby County, by and through the Shelby County Mayor's Office, agrees to advise BIDB of changes to its lease language as soon as practicable, but in no case later than 20 days after said change is approved.
5. The BIDB shall submit a copy of each executed real and personal property lease agreement to the Mayor of Shelby County as currently stipulated by state law on January 1 of each calendar year.

6. The BIDB shall submit an annual listing of projects under the BIDB PILOT program to the Mayor of Shelby County as currently stipulated by Tennessee state law no later than January 1<sup>st</sup> of each calendar year.
7. In the event the M&SC IDB considers a PILOT Project located in the unincorporated area of Shelby County but within the annexation reserve area of The City of Bartlett, Shelby County, by and through the Shelby County Mayor's Office, shall do the following:
  - a. Inform the Mayor of Bartlett of the PILOT incentive granted by the M&SC IDB.
  - b. Include stipulations in the real and/or personal property lease agreement that the City of Bartlett's PILOT schedule applicable upon annexation by The City of Bartlett be equal to the tax that would otherwise be due. Furthermore, the real and/or personal property lease agreement shall state that the Project must request a PILOT incentive from the BIDB before changes to its PILOT schedule can be initiated as a result of annexation.
  - c. Provide copies of the real and/or personal property lease agreement for such property to the Mayor of The City of Bartlett.
  - d. Provide an annual listing of projects under PILOT agreements located in the annexation reserve area of The City of Bartlett to the Mayor of The City of Bartlett no later than January 1<sup>st</sup> of each calendar year.
8. Either party to this Agreement may terminate this Agreement upon sixty (60) days written notice to the other party.

IN WITNESS WHEREOF, the parties acting in their duly elected and authorized capacities, have executed this Agreement effective as of the date and year first above written.

SHELBY COUNTY



Mark H. Luttrell, Jr.  
Mayor

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF BARTLETT, TENNESSEE



Burk Renner  
Chairman