TOWN OF PAGOSA SPRINGS, COLORADO
TOWN COUNCIL

RESOLUTION NO. 2009-20

A RESOLUTION PROVIDING ECONOMIC DEVELOPMENT INCENTIVES BY MEANS AUTHORIZING THE PARTIAL REBATE OF SALES TAX REVENUES AND/OR LODGERS TAX REVENUES AND/OR PROPERTY TAX REVENUES; AND OTHER INCENTIVES

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution and the Pagosa Springs Home Rule Charter, the Town Council has the authority to provide economic development incentives, including waivers, refunds and abatements of fees, charges and sales taxes associated with land development and building activities; and

WHEREAS, pursuant to Section 1.4 A) of the Charter, The Town shall have all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, the national economy is in recession and experiencing considerable volatility, resulting in negative impacts on the Town of Pagosa Springs' economy including: business closures; job losses; and a significant downturn in the construction and real estate industries; and

WHEREAS, the Town of Pagosa Springs is committed to providing an excellent return on the taxes its citizens invest in their government by taking action to: enhance the wealth of Town citizens and businesses; promote the preservation and creation of jobs; support local businesses; and stimulate the economy; and

WHEREAS, the establishment of a policy guiding the use of economic incentives to encourage business retention and attraction in the Town will preserve jobs, encourage new employment, encourage new development, and enhance the Town's tax base; and

WHEREAS, it is in the best interests of Town citizens to: offer incentives available under the Enterprise Zone Tax Credit statutes; encourage reasonable business development activities; provide economic development incentives; stimulate the local economy; adopt a program of reasonable sales, lodgers, and property tax rebates; abate and rebate of fees (including impact fees); provide infrastructure cost waivers; and/or any other incentives within the means of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Section 1. **Incorporation of Recitals**. The recitals contained above are incorporated as if resolved and set forth in full.

Section 2. **Authorization**. The Town Council authorizes the Town manager to partner with businesses by negotiating packages of economic development incentives that reward: downtown development (one and one half miles east and one and one half miles west along Hwy 160 from the intersection of Hot Springs Blvd and Hwy 160 and within the Town boundaries to the north and south); primary employment; job creation;

increased retail sales; and increased tourist bookings. Unless approved by the Town Council, incentive packages/ rebates may not exceed 50% of the applicant related sales tax received by the Town; 50% of the applicant related lodgers tax received by the Town; and 50% of the applicant related property tax received by the Town. All rebates and other incentives must be applied for by the property owner/business/developer.

Section 3. **Expedited Review**. To enhance business profits and promote the creation of jobs, the Town shall expedite development review and approval schedules, as well as building plan review schedules. The Town shall speed development by cutting the review time in half, as measured by the time elapsed from initial application to final decision, while conforming to the mandates in state statutes regarding timelines required for public notices.

Section 4. **Local Business Preference**. The Town continues to support Section 2.4.9, Local Purchases of the Town's Municipal Code which specifies that: "When a *Local Bidder* submits a bid pursuant to this Chapter, the Town Manager may give preference to the Local Bidder if the bid is not more than ten percent (10%) higher than that of the next lowest qualified bidder." Note: State and federal law prohibit local preference when bidding projects funded by state and/or federal funds.

Section 5. **Existing Business Capacity Building**. The Town manager is authorized to provide a rebate of ***up to*** 25% of new town received sales tax/lodgers tax rebate on new/expanded sales/bookings for ***existing businesses owners*** that complete *Marketing for Smarties, Business Finance, Customer Service* and one other Chamber or Archuleta County Economic Development Association (AEDA) course, or any two of the following courses offered by Fort Lewis College or Southwest Community College: *NxLevelTM* Leading Edge Entrepreneurial Class. The Town manager is authorized to expand the number of classes included for this incentive (*after consultation with the college and the community college).*

a. A 12.5% sales tax/lodgers tax rebate on new sales/bookings shall be provided if a business owner completes two of the courses listed above, plus the existing business increases payment of sales tax/lodgers tax by 5%. The benefit under this section shall be 12.5% rebate of retail sales taxes/lodgers tax in the first year after courses, 6% rebate in the second year, and 3% rebate in the third year; and shall be based on the annual increase in tax collection in each successive year compared to the previous year's tax collection.

b. A 25% sales tax/lodgers tax rebate on new sales/bookings shall be provided if a business owner satisfactory completes two of the courses listed above and the *NxLevelTM* Leading Edge Entrepreneurial Class, plus the existing business increases payment of sales tax/lodgers tax by 5%.. The benefit under this section shall be 25% rebate of retail sales taxes/lodgers tax in the first year after courses, 12% rebate in the second year, and 6% rebate in the third year; and shall be based

on the annual increase in tax collection in each successive year compared to the previous year's tax collection.

c. The maximum benefit of this tax increment financing initiative shall be a 25% rebate on the increase of applicant related retail sales taxes/lodgers tax received by the Town, based on the annual increase in tax collection and paid annually. The rebate shall begin after satisfactory completion of the classes has been certificated to the Town. The business must apply for the rebate by July 1st of each year.

Section 6. **Tax Rebate for Effective Business**. The Town manager is authorized to provide a rebate of ***up to*** 25% of new sales tax/lodgers tax on new/expanded sales/bookings for ***existing businesses owners***.

a. A 12.5% sales tax/lodgers tax rebate on new sales/bookings shall be provided if an existing business increases payment of sales tax/lodgers tax by 15%. The benefit under this section shall be 12.5% rebate of retail sales taxes/lodgers tax in the first year, 6% rebate in the second year, and 3% rebate in the third year; and shall be based on the annual increase in tax collection in each successive year compared to the previous year's tax collection.

b. A 25% rebate on the increase of sales tax/lodgers tax to existing businesses that increase payment of sales tax/lodgers tax by 30%. The benefit under this section shall be 25% rebate of retail sales taxes/lodgers tax in the first year, 12% rebate in the second year, and 6% rebate in the third year; and shall be based on the annual increase in tax collection in each successive year compared to the previous year's tax collection.

c. The maximum benefit of this tax increment financing initiative shall be a 25% rebate on the increase of applicant related retail sales taxes/lodgers tax received by the Town, based on the annual increase in tax collection and paid annually. The business must apply for the rebate by July 1st of each year.

Note: An ***existing business*** may apply for rebates under both sections 5 and 6, thereby being eligible for up to 50% sales tax/lodgers tax rebate.

Section 7. **Downtown Development**. The Town manager is authorized to provide a rebate of ***up to*** 50% of the Town's portion of retail sales tax and lodgers tax generated by an ***expansion of an existing business (e.g.: 25% increase in floor area or 25% increase in employment) or opening a new business*** that employs community residents, for development in ***downtown*** Pagosa Springs, or one and one half (1 1/2) miles east and one and one half (1 1/2) miles west along Hwy 160 from the intersection of Hot Springs Blvd and Hwy 160 and within the Town boundaries to the north and south.

a. The maximum benefit of this economic development incentive is 50% rebate of sales tax/lodgers tax/property tax in the first year of business operations, 25% rebate in the second year, and 12.5% rebate in the third year;

b. In cases of exceptional benefit to the community (i.e.: making a major capital investment in infrastructure, employment of a large number of community residents, creation of jobs paying at least 150% of the County average wage, etc.), the Town may rebate 50% of sales tax/lodgers tax/property tax in the first year of business operations, 50% rebate in the second year and 0% the third year.

c. Rebates under Section 7 are discretionary on the part of the Town and are based on an application for rebate filed by the business. Such rebates shall be written agreements executed prior to opening of the business and are limited to the applicant related retail sales taxes/lodgers tax/property tax received by the Town.

Section 8. **General Development**. The Town manager is authorized to provide a rebate of ***up to*** 40% of the Town's portion of retail sales tax/lodgers tax generated by an ***expansion of an existing business (e.g.: 25% increase in floor area or 25% increase in employment) or opening a new business*** that employs community residents, for development ***outside of the downtown*** Pagosa Springs area (referenced in section seven, above).

a. The maximum benefit of this economic development incentive is 40% rebate of sales tax/lodgers tax/property tax in the first year of business operations, 20% rebate in the second year, and 10% rebate in the third year;

b. In cases of exceptional benefit to the community (i.e.: making a major capital investment in infrastructure, employment of a large number of community residents, creation of jobs paying at least 150% of the County average wage, etc.), the Town may rebate 40% of sales tax/lodgers tax/property tax in the first year of business operations, 40% rebate in the second year and 0% the third year.

c. Rebates under Section 8 are discretionary on the part of the Town and are based on an application for rebate filed by the business. Such rebates shall be written agreements executed prior to opening of the business and are limited to the applicant related retail sales taxes/lodgers tax/property tax received by the Town.

Section 9. **Additional Economic Development Incentives**. The Town manager is authorized to structure a comprehensive portfolio of incentives for primary employment (more than 50% of sales outside of the community), greater private capital investment and creation of higher paying jobs, including, but not limited to: 1) assistance with public infrastructure requirements (e.g.: easements, sidewalks, roads, street lighting, etc.); 2) assistance with applications for state and federal economic development incentives (including tax credits) through the Archuleta County Economic Development Association (AEDA) and/or the Region 9 Economic Development District; 3) other assistance appropriate to achieve Town goals and priorities.

Section 10. **Local Banking**. To build community wealth, the Town manager is authorized to strongly encourage businesses receiving economic development incentives from the Town of Pagosa Springs to bank locally.

Section 11. **Claw-backs**. The purpose of economic development incentives is to provide a long-term economic benefit to the community. Therefore, a new business that receives economic development incentives shall be subject to claw-backs (reimbursement of all incentives) if the business becomes inactive in the community during the first five years.

Section 12. **Waiver and Rebate Agreement And Lien**. Any person wishing to receive the rebate of taxes or other incentive pursuant to this resolution shall, if required by the Town, sign an agreement agreeing to pay the full amount of taxes that will be owed if the terms of their written agreement with the Town is not completed within the required time periods, and acknowledging the creation of a perpetual senior priority lien in favor of the Town against the property that is subject to the development activity.

Section 13. **Implementation Authority**. The Town Manager is directed to take and implement all reasonable actions, procedures and requirements, including procedures and requirements for verification of eligibility and collection of previously rebated taxes or other incentives should a business or development activity fail to meet all requirements to receive tax rebates or other incentives.

Section 14. **Public Review**. A copy of this Resolution and the Amended Fee and Charge Schedule shall be available for public review in the offices of the Town Clerk and Town Planner.

Section 15. **Severability**. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

Section 16. **Effective Date**. This Resolution shall take effect and be enforced immediately upon its approval by the Town Council.

Section 17. **Amendment.** This Resolution amends the economic development policy established by Resolution 2005-5b and any conflict between the resolutions will be resolved in favor of the more recently adopted Resolution.

ADOPTED by a vote of 6 in favor and 1 against, this 1st day of September, 2009.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Ross Aragón, Mayor

I hereby certify that the above Resolution was introduced to and approved by the Town Council of the Town of Pagosa Springs at its meeting of September 1, 2009.

Attest:

_____
April Hessman, Town Clerk

PAGOSA SPRINGS SEAL COLORADO