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Regional Tourism Act

Guidelines and Application Checklist

Colorado Economic Development Commission

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Regional Tourism Act Guidelines

Background

The Colorado Economic Development Commission (“EDC” or “Commission”) was legislatively created in 1987 to encourage, promote, and stimulate economic development in Colorado, through the use of incentive and marketing funds. The EDC consists of nine members, with one member being the Governor or the Governor’s designee, four members appointed by the Governor, two members appointed by the Speaker of the House and two members appointed by the President of the Senate. Of the Governor’s four appointees, one person is appointed from west of the continental divide and one person is appointed from the eastern Colorado. The Colorado Office of Economic Development and International Trade (OEDIT) provides support for the Commission.

The EDC supports economic development initiatives such as marketing, incubators, job creation incentives and other economic development projects through various funding sources. The EDC has oversight for the Strategic Fund, Enterprise Zones, the Job Growth Incentive Tax Credit program and the Regional Tourism Act (RTA or Act) program. The RTA allows for the EDC to approve up to two large-scale Regional Tourism Projects to be partially financed with a portion of state sales tax revenue above an existing base amount. **The information contained in this document pertains to any Local Government (Applicant) applying for a Regional Tourism Project (Project), including designation of a Regional Tourism Zone (Zone), the creation of a Regional Tourism Authority (Authority), if applicable, and designation of a Financing Entity to receive, utilize and distribute State Sales Tax Increment Revenue for Eligible Costs.**

Program Overview

The Regional Tourism Act establishes a program that gives Local Governments the opportunity to apply with the EDC for approval of a large scale Regional Tourism Project that is of an extraordinary and unique nature that is anticipated to result in a substantial increase in out-of-state Tourism and that generates a significant portion of the sales tax revenue by transactions with nonresidents of the Zone. The Local Government must provide reliable economic data demonstrating that in the absence of State Sales Tax Increment Revenue, the Project is not reasonably anticipated to be developed within the foreseeable future. The EDC can approve a total of two Projects through the RTA and shall not approve any Project that would create a state sales tax revenue dedication of more than \$50 million (present value) to all Projects in any given year. Final approval may be obtained from the Governor.

Involved Parties and Responsibilities

There are several parties that have various roles and responsibilities in the RTA program.

- Applicant – Local Government applying for RTA program
- Colorado Department of Revenue – collects sales taxes and issues incremental revenue
- Colorado Purchasing Office – coordinate the Request For Proposal (RFP) for a Third Party Analyst on behalf of the Colorado Office of State Planning and Budgeting (OSPB)
- EDC - approves an eligible RTA application(s)
- Financing Entity – responsible for issuing required reports and managing and approved RTA project(s)

- Local Communities – provided 30 days by statute to review applications that impact their community
- OEDIT – manages the RTA program and provides administrative support to the EDC
- OSPB – manages the Third Party Analyst
- Third Party Analyst – chosen through an RFP to conduct an independent analysis required as part of the application submitted for the RTA program

Definitions

“Base Year Revenue” the state sales tax revenue collected during the twelve-month period immediately prior to the month in which the Project is authorized, as determined by the Department of Revenue.

“Debt Maturity Dates” no single debt issuance of the Financing Entity shall have a maturity date in excess of 30 years; except that the Financing Term may exceed 30 years to the extent that the Financing Entity anticipates issuing a series of bonds or other forms of debt and provided that the Financing Entity shall have the ability to consolidate or refinance previously issued debt or bonds with a maturity date for such consolidated or refinanced debt or bonds not to exceed 30 years.

“Eligible Costs” are the costs of designing, constructing, financing, and maintaining Eligible Improvements designated by the EDC as part of an approved Project, including but not limited to costs of engineering, construction engineering, surveying, construction surveying, construction labor and materials, designing, planning, legal services, accounting, overhead or administrative staffing, financing, bond issuance or reissuance, underwriting, interest payments, loan origination fees, and similar necessary and convenient costs incurred by the Financing Entity in exercising its powers, moneys advanced by private developers within the Project to the Financing Entity for Eligible Improvements, and the Financing Entity’s costs for purchasing Eligible Improvements constructed and owned by third parties either prior to or after of the Project. Costs and expenses incurred by the Financing Entity pursuant to section 24-35-118, C.R.S. and in complying with its annual report shall also be considered Eligible Costs.

“Eligible Improvements” are the specific improvements authorized by the EDC as part of an approved Project, including but not limited to storm sewer and sanitary sewer collection, conveyance, distribution, treatment, and related facilities and real property interests necessary or convenient thereto; potable and nonpotable water supplies and collection, conveyance, distribution, treatment, and related facilities and real property interests related thereto; roads; streets; state highways; rights-of-way; lighting; traffic signals and signs; direction and location signage and similar signage; land acquisition; surveying, engineering, soils testing, site planning, grading, and similar activities necessary for site preparation and development; park and recreational facilities; trails and paths; public safety facilities; landscaping; Tourism and entertainment facilities; transportation facilities; surface and structured parking facilities; and any other facilities or improvements necessary for the completion of an approved Project.

“Financing Entity” is the entity designated by the EDC in connection with its approval of a Project to receive and utilize State Sales Tax Increment Revenue. A Financing Entity may be a metropolitan district, an urban renewal authority or any Regional Tourism Authority approved by the EDC.

“Financing Term” is the aggregate period authorized by the EDC where the Financing Entity is authorized to receive and utilize State Sales Tax Increment Revenue to finance Eligible Costs.

“Local Communities” are any county or counties where the proposed Regional Tourism Project will be implemented and any municipalities adjacent to the proposed Project.

“Local Government” or **“Applicant”** refers to a city, county, city and county, or town or a group of contiguous cities, counties, city and counties, or towns.

“Regional Tourism Authority” or **“Authority”** is a corporate body organized pursuant to the Regional Tourism Act for the purposes, with the powers, and subject to the restrictions set forth pursuant to 24-46-306, C.R.S. and the formation of which has been approved by the EDC.

“Regional Tourism Project” or **“Project”** is a development project that is planned to include a Tourism or Entertainment Facility together with ancillary uses, structures, and improvements, and that has been approved by the EDC.

“Regional Tourism Zone” or **“Zone”** is the geographic area defined by the EDC as part of an approved Project. A Zone shall not extend into the territorial boundaries of any Local Government except for the Local Government that is requesting the designation of the Zone. The Zone may be limited to portions of a Local Government and may include noncontiguous tracts or parcels of property.

“State Sales Tax Increment Revenue” is the portion of the revenue derived from state sales taxes collected within a designated Regional Tourism Zone in excess of the amount of the Base Year Revenue.

“Third Party Analyst” or **“Analyst”** is the expert hired through a Request for Proposal (RFP) coordinated by the Colorado Purchasing Office on behalf of the Colorado Office of State Planning and Budgeting (OSPB) to conduct an independent analysis that will be submitted by the Applicant as part of its final application submission. The Applicant is required to pay the Third Party Analyst for this report. Only one revision requested by the Applicant is allowed under this program.

“Tourism or Entertainment Facility” is a facility or group of interrelated facilities constructed primarily for use as a Tourism or entertainment venue that is reasonably anticipated to draw a significant number of regional, national, or international patrons. A Tourism or Entertainment Facility may include but need not be limited to museums, stadiums, arenas, major sports facilities, performing arts theaters, theme or amusement parks, conference center or resort hotels, or other similar venues.

Statutory Authority

The Regional Tourism Act, pursuant to 24-46-300, C.R.S. was established by the Colorado legislature to create a mechanism for a Local Government to undertake a Project to attract out-of-state visitors/non zone residents, to create a Zone in which the Project will be built, and to create an Authority or to designate other Financing Entities with the power to receive and utilize the increment of state sales tax revenues collected in the Zone that is above the designated base amount to be used to finance Eligible Improvements related to the Project.

Eligibility

Qualified applications submitted by a Local Government for designation as a Regional Tourism Project shall be approved by the EDC upon finding by a majority of its members that each of the following criteria are materially met:

- The Project is of an extraordinary and unique nature and is reasonably anticipated to contribute significantly to economic development and Tourism in the state and communities where the Project is located.
- The Project is reasonably anticipated to result in a substantial increase in out-of-state/non zone resident Tourism.
- A significant portion of the sales tax revenue generated by the Project is reasonably anticipated to be attributable to transactions with nonresidents of the Zone.
- The Local Government has provided reliable economic data demonstrating that in the absence of State Sales Tax Increment Revenue, the Project is not reasonably anticipated to be developed within the foreseeable future.

Timeline for Application Submission and Review*

Deadline Dates	Action Item
Thursday, June 30, 2011	Local Government submits complete application to OEDIT.
Thursday, July 14, 2011	Applicant notified by OEDIT of any missing or incomplete items.
Thursday, July 21, 2011	Applicant submits all missing or incomplete items to OEDIT
Tuesday, August 2, 2011	Final application review concluded by OEDIT and payment requested (certified check/cashiers check) from Applicant for Third Party Analyst.
Tuesday, August 9, 2011	Payment due from Applicant and forwarded to the Third Party Analyst along with the application.
Monday, November 28, 2011	Third Party Analyst completes independent analysis and copy of report is forwarded to Applicant.
Thursday, December 15, 2011	Applicant submits an independent analysis revision request to OSPB. Applicant submits amendments to OEDIT.
Tuesday, January 17, 2012	Third Party Analyst completes revision of independent analysis and copy of final report is forwarded to Applicant upon receipt of payment for revision.
Friday, January 20, 2012	Applicant submits final report from Third Party Analyst to OEDIT to finalize application.
Friday, February 3, 2012	OEDIT Director reviews application and forwards to Local Communities for comments.
Monday, February 13, 2012	Notice to public regarding two public hearings (April 10 th and April 23 rd). Public provided opportunity to reserve a speaking time at one of the two public hearings.
Monday, March 5, 2012	Final comments due back from Local Communities.
Thursday, March 8, 2012	EDC Meeting – RTA Applicants will have 30 minutes to make a presentation to the EDC.

Tuesday, March 27, 2012	Last day for public to request a time to speak at the April 10 th public hearing.
Friday, March 30, 2012	OEDIT will notify public as to reserved time to speak at the April 10 th public hearing.
Tuesday, April 10, 2012	EDC's first public hearing meeting to take input on RTA applications.
Wednesday, April 11, 2012	Last day for public to request a time to speak at the April 23 rd public hearing.
Monday, April 16, 2012	OEDIT will notify public as to reserved time to speak at the April 23 rd public hearing.
Monday, April 23, 2012	EDC's second public hearing meeting to take input on RTA applications and EDC Q&A with RTA Applicants.
Friday, May 11, 2012	OEDIT Director forwards to the EDC a recommendation to approve or deny the application, or approve with conditions.
Friday, May 18, 2012	EDC meeting to approve/deny RTA applications.

**Dates subject to change as necessary. The timing of the application review by the Third Party analyst may extend beyond two months, dependent on the quantity of applications received by OEDIT.*

All Applicants must submit one original (with original signatures), one hard copy and one electronic copy of the application and the final report from the Third Party Analyst by 5:00 p.m. on or before the corresponding deadline dates. Applicants shall not knowingly submit an incomplete application.

A Second Cycle may be offered if two Projects are not selected during the First Cycle review. All timelines/deadlines are subject to change throughout this process at the discretion of the EDC.

Application Review

- OEDIT will review all submitted RTA Project applications for completeness (based on guidelines and statutory requirements) and will contact potential Applicants to discuss its application. Applicants are given seven days to submit missing or incomplete items.
- Final independent third party analysis from OSPB contractor is submitted by Applicant to OEDIT in order to complete RTA application.
- OEDIT Director reviews independent analysis and forwards complete RTA application to Local Communities for comments.
- Local Communities review application and submit comments to OEDIT within 30 calendar days.
- OEDIT reviews applications with the EDC at its scheduled public hearing meeting with recommendations to approve or deny. Applicants will be provided time to discuss their application with the EDC and answer questions. EDC will approve or deny applications at the scheduled public hearing meeting or at a later meeting. Final approval may be obtained from the Governor.

Third Party Analyst

The Colorado Purchasing Office will issue an RFP on behalf of the Office of State Planning and Budgeting during the first quarter 2011. OSPB is ultimately responsible for issuing this RFP to select a Third Party Analyst. The Third Party Analyst will conduct an independent analysis that will be included as part of the complete RTA application submitted by the Applicant to OEDIT. Attached is a sample RFP. **Please note that this RFP is an example and is not an indication of what a future RFP may include if/when issued in 2011 by OSPB and the new administration.**

The selected Analyst will be an expert in the field of economic or public financial analysis. The Third Party Analyst will contract and report directly with/to OSPB. The independent analysis will provide a review of the Project outcomes and impacts included in the economic and fiscal impacts associated with the Project submitted in the Local Government's application. Each Applicant will share its data and reasoning with the Third Party Analyst and is solely responsible for submitting payment for the independent analysis. Analyst fees will be communicated to each Applicant once a Third Party Analyst has been chosen.

OEDIT will provide OSPB with a copy of all complete applications submitted by the application deadline date. *(Please note that an application may be withdrawn at anytime prior to submission of the application to the Third Party Analyst without incurring costs related to the TPA.)* OSPB will release the Analyst's independent analysis to the Applicant upon completion and confirmation of payment. If deemed necessary, the Applicant may request one revision per application – payment for the revision will be required by the Applicant. Applicant will submit the final independent analysis to OEDIT in order to complete the RTA application.

Legal Agreements with OEDIT- Resolution

Projects approved by the EDC may be subject to the Governor's review as part of the final approval process prior to receiving a Resolution adopted by the EDC. The Resolution will specify the Local Government, Zone area, creation of an Authority (if applicable), a statement that the Department of Revenue will collect an incremental percentage of state sales tax on behalf of the Financing Entity (after the effective date of the EDC's approval of the Project), Financing Entity to receive and utilize the State Sales Tax Increment Revenue for the duration of the Financing Term, date by which final funding commitments are in place, conditions of approval (including list of Eligible Costs), and appointment of EDC designees for the Authority board (if applicable) and other necessary provisions.

Any approved Projects must commence within five years from the date of the Project approval date by the EDC.

Incremental Tax Process

Per the authorization by the EDC as stated in the adopted Resolution, any state sales taxes levied and collected after the EDC's approval date of the Project shall be distributed by the Department of Revenue as follows:

- The portion of state sales taxes collected within the boundaries of the Zone equal to the Base Year Revenue shall continue to be paid into the state treasury.
- The portion of state sales tax revenue in excess of the Base Year Revenue shall be allocated to a separate fund established by the Financing Entity. The Department of Revenue will remit incremental tax revenue to the Financing Entity on a monthly basis promptly after collection.

Please note that there is the possibility that the Department of Revenue will be unable to pay out revenues in one or more years if sales taxes do not exceed the Base Year Revenue. In addition, an Applicant should take into consideration potential impacts from an adjustment on the Base Year Revenue as a result of audits completed that identify incorrect reporting (can occur up to three years out from Base Year Revenue). For example, if it is determined that incremental payments have been overpaid, the Department of Revenue typically offsets the

overpayment by making adjustments to future distributions. It is recommended that the Applicant account for these situations when forecasting revenues and reserve requirements.

Reporting Requirements

By the end of each month, the following information and any additional information shall be submitted to the Department of Revenue in an excel spreadsheet format for any approved RTA Project(s):

- Current business name(s)
- Owners – note any ownership changes
- Address
- Sales tax number
- Note if a new business
- Not if business closed
- Note if it is a business that moved but is still in the Zone
- Note if it is a business that moved out of the Zone

Within 90 days of the end of the first full state fiscal year after the EDC approves a Project (and by the same date each year), the Financing Entity shall submit an annual report (noting what information is considered a trade secret or confidential information) to the EDC including:

- Name, address and contact information
- Total amount of State Sales Tax Increment Revenue that the Project has collected over the past year
- How the revenue was spent
- Projected revenue for the remainder of the Project period
- Summary of construction status and Eligible Improvements
- Certification statement by the governing body of the Financial Entity that the information included in the report is accurate
- Independent audit of Financial Entity's financial status prepared by a CPA
- Statement if any incremental revenue is being used for purposes other than Eligible Costs
- Number of net new jobs directly created by the Project in each category as defined by the Colorado Department of Labor and Employment's occupational employment statistics survey, wages and to the extent that it is reasonably possible, information on health benefits for jobs in each category
- If the Financing Entity is a metropolitan district or an urban renewal authority, it shall submit a copy of any reports required and submitted to the Local Government
- Any other financial or other information required by the EDC

Confidentiality and Open Records

OEDIT is subject to Colorado Open Records laws (24-72-101 through 24-72-112, C.R.S.). Thus, documents and other materials received by OEDIT and its employees may be subject to public disclosure.

Upon receiving an official open records request, OEDIT will immediately notify the Applicant and as needed, seek legal guidance for a ruling on confidential information. Applicants should be aware that OEDIT can only respond to requests to review records to the extent that such information is contained in OEDIT's files.

OEDIT will deny the right of inspection of records considered trade secrets, privileged information, and confidential commercial and financial data. Applicants should clearly mark areas of the application they consider to be trade secrets, privileged information, and confidential commercial and financial data. The entire application may not be marked “confidential”. Please note that information considered confidential at the time of application may cease to be so at a later date.

For further information, please contact:

Colorado Economic Development Commission
c/o Colorado Office of Economic Development and International Trade
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Regional Tourism Act Application Checklist

THE FOLLOWING ITEMS MUST BE INCLUDED IN THE APPLICATION. ALL APPLICANTS MUST SUBMIT ONE ORIGINAL (WITH ORIGINAL SIGNATURES), ONE HARD COPY AND ONE ELECTRONIC COPY OF THE APPLICATION TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE STAFF. IF THE ITEM IS NOT APPLICABLE, PLEASE PROVIDE A STATEMENT AS TO WHY IT IS NOT APPLICABLE. THE COMPLETED APPLICATION SHOULD BE ORGANIZED IN THE ORDER REQUESTED BELOW.

1. An original letter from the Local Government (Applicant) requesting review and approval of a Regional Tourism Project, Regional Tourism Zone designation, Regional Tourism Authority (if applicable), and acknowledgement of a Financing Entity to administer the State Sales Tax Increment Revenue on behalf of the Project. Letter should also include the name of Applicant, address, contact information and Project name.
2. Narrative description of the Project including:
 - Brief description
 - List of entities involved with development of Project, background of entities, organization charts of the entities and specified contributions by the entities to the Project
 - Location
 - Estimated overall cost and status of financing commitments
 - Estimated Eligible Costs and identification of Eligible Costs that will be covered.
 - Anticipated scope
 - Phasing of Eligible Improvements
 - Infrastructure existing or needed in connection with Project
3. Maps of proposed Project area showing both current conditions and conceptual rendering of the proposed Project in its anticipated condition. The maps must include boundaries of the proposed Regional Tourism Zone and a list of businesses/properties, owners, address and sales tax number in an excel spreadsheet.
4. Discussion of how the Project meets the following criteria:
 - Project is of an extraordinary and unique nature and is reasonably anticipated to contribute significantly to economic development and Tourism in the state and communities where Project is located.
 - Project is reasonably anticipated to result in a substantial increase in out-of-state Tourism (include increase projected amount and percentage).
 - Significant portion of the sales tax revenue generated by the Project is reasonably anticipated to be attributable to transactions with nonresidents of the Zone (include % of transactions from nonresidents of the Zone - - delineate by in state and out of state).
 - Local Government has provided reliable economic data demonstrating that in the absence of State Sales Tax Increment Revenue, the Project is not reasonably anticipated to be developed within the foreseeable future.

5. Discussion on how the Project will meet each of the criteria in an Economic Analysis (along with a copy of the Economic Analysis) that includes the following items:
 - Projected economic development
 - Impact on future state sales tax revenue during and after the Financing Term (including any potential or competing negative impacts to revenue from neighboring communities or similar tourist locations statewide.)
 - Average useful life of all facilities in the Project
 - Number of new jobs to be created by the Project by category as defined by the Colorado Department of Labor and Employment occupational employment statistics survey and the wages and, to the extent that it is reasonably possible, information on health benefits for jobs in each category (see link below for survey categories)
http://lmigateway.coworkforce.com/lmigateway/analyzer/wagechoice.asp?cat=HST_EMP_WAGE_OCC&session=oeswage&time=&geo=
 - Market impact
 - Anticipated regional and in-state competition
 - Ability to attract out-of-state tourists
 - Fiscal impact to Local Governments within and adjacent to the Regional Tourism Zone
 - Analysis of the impact to local school districts
 - Estimate of percentage of total Project that the state is anticipated to fund through the state's share of total program (22-54-106, C.R.S.) in the event that an urban renewal authority is the Financing Entity for the Project and uses property tax revenue to finance the Project (include total costs of the Project including eligible costs and ineligible costs).
 - All information necessary to comply with the term of OSPB's Request For Proposal

Applicant will need to work with the Department of Revenue to determine the baseline revenue for the project and identify the percent of incremental revenue that may be available.

6. Third party independent analysis that contains a report completed by a Third Party Analyst. It is anticipated that this analysis will be submitted by the Applicant at a later date in the application timeline (see Timeline for Application Submission and Review and Third Party Analyst for details and see OSPB's Request for Proposal).
7. Third Party Analyst Payment Commitment Form
8. Description of the Financing Entity
 - A general description of the Financing Entity's plan for financing the Eligible Costs and providing the Eligible Improvements
 - Request for Regional Tourism Authority (if applicable), which includes a description of the proposed Authority's geographic boundaries, requested powers, anticipated sources of revenue (if any) in addition to State Sales Tax Increment Revenue, and recommended board members
 - General description of any contractual arrangements the Financing Entity will enter into with specific entities regarding the financing methods for Eligible Costs and providing Eligible Improvements.
9. If it is anticipated that the Eligible Improvements will be constructed in phases or that financing of the Eligible Costs will be accomplished in phases, a description of the contemplated phases and anticipated timing of phases.
10. Proposed Financing Terms including the percentage of State Sales Tax Increment Revenue to be allocated to the Financing Entity and the portion of the Financing Term during which such percentage is to be allocated to the Financing Entity (refer to Debt Maturity Dates definition for additional details.)

11. Project Certification Form

12. W-9

ADDITIONAL INFORMATION MAY BE REQUIRED IF NECESSARY.

Regional Tourism Act Third Party Analyst Payment Commitment Form

We, as Applicants to the Colorado Economic Development Commission for a Regional Tourism Project, commit to paying a Third Party Analyst (to be named at a later date) for an independent analysis (and one revision if requested) that will be included as part of the final application and sharing data and reasoning to a Third Party Analyst to assist with the independent analysis. We understand that the Colorado Office of State Planning and Budgeting is responsible for selecting, contracting directly with, and managing the Third Party Analyst, but the payments for such analysis is fully our responsibility and will be made upon request payable to the Third Party Analyst. The application may be withdrawn at anytime prior to submission of the application to the Third Party Analyst without incurring any costs related to the Third Party Analyst.

Name of Applicant

Representative Signature

Typed or printed name

Title/Capacity

Regional Tourism Act Project Certification Form

I, as an Applicant or as the entity involved in the development of the Regional Tourism Project to the Colorado Economic Development Commission for a Regional Tourism Project, certify that the information, exhibits and schedules contained herein are true and accurate statements, and represent fairly the financial condition of the enclosed entity (ies) as of the date stated herein and demonstrate that in the absence of State Sales Tax Increment Revenue, the Project is not reasonably anticipated to be developed within the foreseeable future. I give my unconditional consent to allow the Colorado Economic Development Commission, the Colorado Office of Economic Development and International Trade and its agents to verify financial information, obtain business-related credit reports or discuss information regarding the application and its primary developers/shareholders/guarantors herein with participants in the Project or with others as deemed necessary solely by OEDIT.

In some cases personal financial statements will be needed. If required, OEDIT will provide a consent form required to access such information during its review of the application.

Name of Entity

Signature

Typed or printed name

Title/Capacity for legal entity above