RESOLUTION NO. 95-1

A RESOLUTION PROVIDING FOR THE ADOPTION OF "STATEMENT OF UNIFORM AND STANDARD POLICY AND PROCEDURES TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT FOR DONIPHAN COUNTY, KANSAS; THE CITY OF ELWOOD, DONIPHAN COUNTY, KANSAS; THE CITY OF HIGHLAND, DONIPHAN COUNTY, KANSAS; THE CITY OF TROY, DONIPHAN COUNTY, KANSAS; THE CITY OF WATHENA, DONIPHAN COUNTY, KANSAS".

WHEREAS, a regional strategic plan has been developed by the Doniphan County Economic Development Commission consisting of Volume 1 (April, 1993) and Volume 2 (June, 1993); and,

WHEREAS, the Doniphan County Economic Development Commission (hereinafter "Commission") has also prepared and submitted to the Kansas Department of Commerce and Housing (hereinafter "Department") an application requesting that Doniphan County, Kansas, be designated as a non-metropolitan region under the Kansas Enterprise Zone Act, K.S.A. 74-510,113 et seq. (hereinafter "Act"); and,

WHEREAS, the Commission has also prepared and completed a Statement of Uniform and Standard Policy and Procedures Tax Exemptions and Incentives for Economic Development for Doniphan County, Kansas; the City of Elwood, Doniphan County, Kansas; the City of Highland, Doniphan County, Kansas; the City of Troy, Doniphan County, Kansas; and the City of Wathena, Doniphan County, Kansas (herein "Statement"); and,

WHEREAS, the Department will approve and designate Doniphan County, Kansas, as a non-metropolitan region under the Act upon receipt of the Statement as adopted by the above described entities; and,

WHEREAS, it is in the best interests of the City of Wathena, Kansas, and its citizens that Doniphan County, Kansas, including the City of Wathena, Kansas, be designated as a non-metropolitan region under the Act;

NOW, THEREFORE, be it resolved by the Governing Body of the City of Wathena, Kansas (hereinafter "Governing Body"):

1. That the Governing Body does hereby approve and adopt in its entirety the Statement, a copy of which is attached hereto and incorporated herein by reference as though set forth at length.

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- 2. That this Resolution shall be executed in duplicate and one copy hereof submitted to the Kansas Secretary of Commerce and Housing.
- $\,$ 3. That this Resolution shall be effective from and after its adoption.

ADOPTED this 17th day of January, 1995.

Mayor

ATTEST:

City Clerk

STATEMENT OF UNIFORM AND STANDARD POLICY AND PROCEDURES TAX EXEMPTIONS AND INCENTIVES FOR ECONOMIC DEVELOPMENT

FOR

DONIPHAN COUNTY, KANSAS;
THE CITY OF ELWOOD, DONIPHAN COUNTY, KANSAS;
THE CITY OF HIGHLAND, DONIPHAN COUNTY, KANSAS;
THE CITY OF TROY, DONIPHAN COUNTY, KANSAS;
THE CITY OF WATHENA, DONIPHAN COUNTY, KANSAS.

<u>SECTION</u> <u>SECTION</u>

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2.	"Tax Incentive" Defined	17.	Application and Renewal Fees
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10.	Special Assessments	24.	Distribution of Revenue
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14.	No Exemptions		Requirements
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SECTION 1. DEFINITIONS. For the purpose of this Statement the words or phrases as used in either the Constitution or this Statement shall have meaning or be construed as follows:

- (a) "Applicant" shall mean and include the business, property owner or owners, and their officers, employees and agents.
- (b) "Associated therewith" as used with respect to tangible personal property shall mean being located within, upon or adjacent to buildings or added improvements to buildings.

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- (c) "Business" shall be limited to enterprises which manufacture articles of commerce, conduct research and develop store goods or commodities which are sold or trade in interstate commerce.
- (d) "Cities" shall mean the City of Elwood, Doniphan County, Kansas, the City of Highland, Doniphan County, Kansas, the City of Troy, Doniphan County, Kansas, and the City of Wathena, Doniphan County, Kansas.
- (e) "Clerk" shall mean the Clerk of Doniphan County, Kansas or the Clerk of the City of Elwood, Doniphan County, Kansas, the City of Highland, Doniphan County, Kansas, the City of Troy, Doniphan County, Kansas, the City of Wathena, Doniphan County, Kansas, as the case may be.
- (f) "Commenced operations" shall mean the start of the business activity housed in the building for which a tax exemption-incentive is requested.
- (g) "County" shall mean Doniphan County, Kansas.
- (h) "County Treasurer" shall mean the Treasure of Doniphan County, Kansas.
- (i) "Economic development purposes" shall mean the establishment of a new business or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment.
- (j) "Expansion" shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which increases the employment capacity of a business eligible for a tax exemption-incentive and which results in the creation of new employment.

- (k) "Manufacturing articles of commerce" shall mean a business engaged in the mechanical or chemical transformation of materials or substances into new products, as defined in the "Standard Industrial Classification Manual."
- (1) "Member" shall mean any individual entity included in the Taxing Entities.
- (m) "Research and development" shall mean the application of science or technology to the improvement of either the process of manufacturing or manufactured products or both.
- (n) "Storing goods or commodities which are sold or traded in interstate commerce" shall refer to the business of storing property which may be exempt from ad valorem taxation under the provisions of K.S.A. 79-201f.
- (o) "Tangible personal property" shall mean machinery and equipment used during the term of the tax exemption which may be granted.
- (p) "Taxing Entities" shall mean Doniphan County, Kansas, the City of Elwood, Doniphan County, Kansas, the City of Highland, Doniphan County, Kansas, the City of Troy, Doniphan County, Kansas, and the City of Wathena, Doniphan County, Kansas.

SECTION 2. "TAX INCENTIVE" DEFINED. Various words and terms used in this Statement have been defined in Section 1 immediately above. The terms "tax incentive" or "tax exemption-incentive" shall mean the difference between the amount of ad valorem property taxes the affected business would pay if there were no Member granted exemption and the amount required to be paid as in lieu taxes or charges. For example, if the taxes required

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with no exemption were \$5,000.00, and the required in lieu payments were \$3,000.00, the "tax incentive" would be \$2,000.00.

SECTION 3. PURPOSE. The purpose of this statement is to establish the uniform and standard official policy and procedures for the Taxing Entities, for the granting of property tax exemptions and tax incentives for real and personal property used for economic development purposes, in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas.

SECTION 4. GENERAL OBJECTIVE. The securing of private economic growth and development and the addition of new jobs within the Taxing Entities are important current and long-term objectives of the Taxing Entities. The granting of property tax exemptions and tax incentives is one of the tools available under Kansas law to help secure these public objectives. This Statement is intended to establish a uniform and standard procedure and policy to govern the fair, effective and judicious use of the power to grant such exemptions and tax incentives of the Taxing Entities.

SECTION 5. LEGAL AUTHORITY. The governing bodies of Kansas counties and cities may exempt certain property used for economic development purposes from taxes for a maximum of 10 years in accordance with the provisions of Section 13 of Article 11 of

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the Kansas Constitution, subject to such limitations or prohibitions as may be enacted by the legislature that are uniformly applicable to all cities and counties. This authority is discretionary with the Taxing Entities, and the Taxing Entities may provide for tax exemptions-incentives in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule powers, a member of the Taxing Entities, may (1) require the owners of any property for which an exemption is requested to provide certain information, (2) condition the granting of an exemption to an agreement providing for the payment of in lieu charges or taxes under the provisions of K.S.A. 12-147 and 12-148, and (3) require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

SECTION 6. GENERAL PROCEDURE. The following procedure shall govern the issuance of tax exemptions-incentives within the Taxing Entities: (a) The applicant business shall apply for a tax exemption-incentive by filing a written application as provided in Section 16 below; (b) The Member shall then determine whether the requested tax exemption-incentive (i) may be lawfully granted, and (ii) should be granted, with the amount thereof later determined; (c) If it is determined that tax exemption-incentive should be

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granted, a percentage exemption of that property of the business legally eligible for exemption shall be provided as set forth in Section 15 below, but subject to an agreement of the business to make in lieu tax payments as may be required by the Member; (d) The amount of the tax incentive, which will be an amount less than the taxes otherwise payable if the property were not exempt, will then be determined in accordance with this Statement; (e) the failure of the business to fully and timely pay the in lieu tax payments, as may be required as a condition of the granting of an exemption, or to provide reports or other information requested by the Member and reasonably necessary for the implementation of this policy, the Member may either deny, revoke, or not renew, the authorization of such an exemption. All requests for a tax exemption-incentive for economic development purposes within the Taxing Entities shall be considered and acted upon in accordance with this Statement.

SECTION 7. JURISDICTION. A Member shall grant tax exemptions-incentives only as to property located within the corporate limits of the Member. Jurisdiction of the Cities shall supersede that of the County.

SECTION 8. NOMINAL TAX DETERMINATION. All tangible property of a business receiving a tax exemption-incentive under

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this Statement shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount thereof shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the County Clerk and County Treasurer, in the same manner as if the property were not exempt, but such amount shall not be placed on the tax rolls. Separate assessment and tax calculations shall be made for the land, for the improvements thereon, and for any tangible personal property associated therewith, of the exempt business. The appropriate County officers are requested to provide the Member with this information as early as possible, but not later than November 15 of each year.

SECTION 9. MINIMUM PAYMENT IN LIEU OF TAXES. Any applicant receiving a tax exemption-incentive pursuant to this Statement shall be required to make a minimum payment in lieu of taxes which equals the amount of property tax which was paid or was payable for the most recent year on the appraised valuation of the real estate, including either buildings together with land or land only, prior to the construction of new buildings or added improvements to buildings on such property or prior to the acquisition of the property by the new business. The purpose of requiring this minimum in lieu tax payment is to insure that the

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Member, school district and any other taxing jurisdictions affected by the exemption will not receive less tax revenue from the exempted property than was received prior to the exemption. For extraordinary reasons, such as when vacant buildings are acquired for a new business, or when the market value of the property decreases, this requirement may be waived in part or in whole by the Member, as provided in Section 27 below.

SECTION 10. SPECIAL ASSESSMENTS. Any tax exemption granted for real property under this Statement shall not affect the liability of such property for any special assessments levied or to be levied against such property.

SECTION 11. PIRATING. It shall be the policy of the Taxing Entities to discourage applications for tax exemptions-incentives, or to grant such tax incentives, which deliberately encourage and cause the pirating of business from another Kansas community to the Taxing Entities, or from the Taxing Entities to another Kansas community. It is the intent of the Taxing Entities to avoid participation in "bidding wars" between counties, cities or areas competing for the location of new businesses or expansion or existing businesses, through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state's economy and the public interest.

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SECTION 12. APPLICATION OF "BUT-FOR" PRINCIPLE. Any tax exemption-incentive granted by a Member shall be subject to the "but-for" principle, i.e, the tax incentive must make such a difference in determining the establishment or expansion of the business that the business would not otherwise be established or expanded in the Member <u>but for</u> the availability of the tax incentive.

SECTION 13. STANDARDS FOR DETERMINING BENEFITS. The Member will consider granting tax exemptions-incentives only upon a clear and factual showing of direct economic benefit to the Member through advancement of its economic development goals, including the creation of additional jobs and the stimulation of additional private investment. The Member may grant a tax exemption-incentive to the applicant pursuant to the Schedule set forth in Section 15 below after consideration of various factors including, but not limited to, the following:

- (a) The appraised valuation of the property in relation to the economic benefit to the Member of increased employment.
- (b) The gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption.
- (c) The contribution that the new or expanded business will make towards increased employment and earnings within the community.

- (d) The number of new jobs created directly by the business in relation to the amount of tax incentives granted.
- (e) The kinds of jobs created in relation to the type of skills available from the local labor market.
- (f) The utilization by the business of labor skills and abilities of unemployed persons in the community.
- (g) The degree to which the business improves the diversification of the economy of the Member and its environs.
- (h) The degree to which the ultimate market for the manufactured products is outside the community, recognizing that outside markets bring in "new money" to the local economy.
- (i) The degree to which the business might be in direct competition with local firms.
- (j) The potential of the business for future expansion and additional job creation.
- (k) The beneficial impacts the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing.
- (1) The beneficial economic impact the business will have on a particular area of the Member, including designated enterprise zones and areas of needed revitalization or redevelopment.
- (m) The compatibility of the location of the business with land use and development plans of the Member and the availability of existing infrastructure facilities and essential public services.
- (n) The extent to which additional direct or indirect public costs to the Member and to other local units would be necessary, such as the cost of the extension of public facilities.

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(o) The extent to which the economic and employment benefits of the tax incentive accrue to the residents and taxpayers of those taxing subdivisions which indirectly "subsidize" the business as a result of the forgone tax revenue.

SECTION 14. NO EXEMPTIONS. No tax exemption shall be granted to any business which commenced operations prior to August 5, 1986, nor for the expansion of a business unless such expansion created new employment.

SECTION 15. AMOUNT OF TAX INCENTIVES. The two primary objectives of the Taxing Entities in granting tax exemption-incentives for economic development are to (1) create jobs, and (2) attract capital investment which will expand the economic and tax base of the Taxing Entities. Following a consideration of the factors set forth in Section 14 above and any others deemed relevant, the Member shall determine whether to grant a tax exemption-incentive. If it is determined by the Member to grant a tax exemption-incentive, the amount and term thereof shall be determined pursuant to the following Schedule.

SCHEDULE OF TAX EXEMPTION/TAX EXEMPTION INCENTIVE PERCENTAGE OF TAXABLE TANGIBLE REAL PROPERTY SUBJECT TO EXEMPTION

First year - 100 percent
Second year - 100 percent
Third year - 100 percent
Fourth year - 100 percent
Fifth year - 100 percent
Sixth year - 100 percent

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Seventh year - 100 percent Eighth year - 100 percent Ninth year - 100 percent Tenth year - 100 percent

PERCENTAGE OF TAXABLE TANGIBLE PERSONAL PROPERTY SUBJECT TO EXEMPTION

First year - 100 percent
Second year - 80 percent
Third year - 60 percent
Fourth year - 40 percent
Fifth year - 20 percent

- (a) The tax exemption/incentive cannot begin until the calendar year in which a new business commences its operation or the calendar year in which the expansion of an existing business is completed.
- (b) Both a new business and the expansion of an existing business will have a maximum of 24 months following the start of construction to apply for an initial tax exemption/incentive.
- (c) No business shall be eligible for a tax exemption/incentive unless, in addition to compliance with other sections of this Statement, it expends a minimum capital investment of \$100,000 AND also creates at least 5 new or additional full-time jobs.
- (d) A full-time job is defined as a position which has been filled for at least ten consecutive months for 160 hours per month during the business taxable year. Additional jobs are those that exceed the base number of jobs of the business, which base is computed by dividing by three (3) the sum of the number of full-time jobs of the business, as above defined, during the three taxable years immediately preceding the filing of the application.

If the business is a new enterprise or has not been in operation for the full three (3) year period, then the base shall be an annualized employment figure to be determined by the following method of computation:

Divide the sum of the total number of jobs which have been filled for 160 hours on the last day of

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each calendar month of operation by the number of full calendar months the business has been in operation immediately preceding the filing of the application.

- (e) Assuming the business is eligible for a tax exemption/incentive, and continues to comply with this schedule and other sections of this Statement, the term of the tax exemption/incentive will be for the number of years provided by either the capital investment or the jobs created column, WHICHEVER IS HIGHER.
- (f) The term of the tax exemption/incentive for taxable tangible personal property of a business will be 6 years, no matter what the amount of capital invested or jobs created within such 5 year term.
- (g) The term of the tax exemption/incentive for taxable tangible real property of a business will be 10 years, no matter what the amount of capital invested or jobs created within such 10 year term.
- (h) Tax exemption/incentive will be granted for the number of years set forth at paragraphs (f) and (g) above with payments in lieu of taxes for those years.

SECTION 16. APPLICATION REQUIRED. The Member will not consider the granting of any tax exemption-incentive unless the business submits a full and complete application, and provides such additional information as may be requested by the Member. Attached hereto marked "Attachment 1" is a specimen application form which, upon completion, will provide the Member with adequate and sufficient information to determine whether a tax incentive should be granted and the amount thereof. The accuracy of the information provided in the application shall be verified by the applicant. Any misstatement of or error in fact may render the application

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null and void and may be cause for the repeal of any resolution or ordinance adopted in reliance on said information.

SECTION 17. APPLICATION AND RENEWAL FEES. Any business requesting a tax exemption pursuant to this Statement shall pay to the Member an application fee of \$250.00, which shall be submitted at the same time the application form required by Section 16 immediately above is submitted. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee in the amount of \$100.00. Such application and/or renewal fee may be waived at the sole discretion of the Member.

SECTION 18. REVIEW PROCEDURES. On receipt of the completed application form and the required fee, the Member shall determine (a) whether the application is complete and sufficient for review, and (b) whether the applicant business is eligible for an exemption under the Kansas Constitution, this Statement and any other applicable laws. If the application is incomplete, the Member shall forthwith notify the applicant, noting the need for such changes or additions as deemed necessary. If the application is found complete, and is for a purpose which appears to be authorized by law, the Member shall proceed with formal action upon the application. In addition there shall be prepared an analysis of the costs and benefits of each exemption, including the effect of the exemption on state revenues, prior to public hearing

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provided at Section 20 below and prior to the granting of any exemption. Application records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. Supp. 45-21, but shall be available for public inspection when otherwise required by law.

ANALYSIS. (a) After initial review the Member shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the Member shall either (1) issue a letter of intent as provided by Section 20, or (2) schedule a public hearing thereon as provided by Section 21 below.

(b) Prior to the granting of a tax exemption-incentive under this Statement, the Member shall require the applicant business, or its agent, to prepare and submit to the Member an analysis of the costs and benefits of such tax exemption-incentive applied for, including the effect of such tax exemption-incentive on state revenues.

SECTION 20. LETTERS OF INTENT. A Member may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption-incentive and any conditions thereto.

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Such letters of intent shall be issued only as an expression of good faith intent, but shall not in any way bind the Member to the granting of an exemption-incentive. Such letters of intent shall expire six (6) months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the Member, and no chamber, board, development council or other public or private body or individual, shall be authorized to speak for and commit the Member to the granting of a tax exemption-incentive.

SECTION 21. NOTICE AND HEARING. No tax exemption shall be granted by the Member prior to a public hearing thereon held in accordance with K.S.A. 79-251, as amended. Notice of the public hearing shall be published at least seven (7) days prior to the hearing in the official Member newspaper, and shall indicate the purpose, time and place thereof, and the hearing may be held at a regular or special meeting of the Member. In addition to such publication notice, the Member shall thereupon notify in writing the Board of the County, if applicable, and unified school district, and the clerk of any other taxing jurisdiction, excluding the state, within which the property proposed for exemption is located, advising them of the scheduled public hearing and inviting

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their review and comment. Upon request, the Member shall provide any such public agency with a copy of the application. The applicant business shall be invited, but not required, to attend the public hearing.

SECTION 22. MONITORING COMPLIANCE/ANNUAL RENEWAL. The extent and term of any tax exemption-incentive granted shall be subject to annual review and determination by the Member to insure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption-incentive continue to exist. The review shall be completed by not later than February 1 of each year. The Member may require an annual renewal application to be filed or other information necessary to assure the continued qualification of the exempt business. The business shall, upon request, furnish to the Member, or its designated representatives, evidence to the Member's satisfaction to verify employment levels and/or capital investment.

SECTION 23. TRANSFER OF OWNERSHIP OR USE. No exemption or tax incentives granted by the Member shall be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption-incentive. Further, the Member shall be notified by the business of any substantive change in the use of a tax exempt property (see Section 26).

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SECTION 24. DISTRIBUTION OF REVENUE. The granting of tax exemptions-incentives by the Member is hereby declared to be a contract under the provisions of K.S.A. 12-147, as amended. The in lieu of taxes payment which may be required of a business granted a tax exemption under this Statement shall be paid to the County Treasurer, with notice of the amount and date paid provided to the Member. The County Treasurer is directed to apportion the payment, under the provisions of K.S.A. 12-148(1).

SECTION 25. EXEMPTION RESOLUTION/ORDINANCE. The Member shall provide a copy of the resolution or ordinance, as the case may be, as published in the official Member newspaper, granting an exemption from taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213, and by K.S.A. 70-210 for subsequent years.

SECTION 26. EXEMPTIONS FORMS. A copy of the exemption applications required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the Member Clerk by the property owner.

SECTION 27. WAIVER OF STATEMENT REQUIREMENTS. The Member reserves the right to grant or not to grant a tax exemption-incentive under circumstances beyond the scope of this Statement,

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or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Member that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest.

CONFIDENTIAL INFORMATION

APPLICATION FOR (INITIAL) (INCREASED TERM)

Tax Exemption/Tax Exemption Incentive

				(Member				
December 3			ber 31	<u>cannot</u> be changed between September 1 a 1 because the County's Valuation Level has be to the State by the County Appraiser.				and been
Appli	icant'	s Nam	ıe:					
Addre	ess:					<u></u>		
Date	:			Month		Day	Year	
1.			amoun e for	ts of proper:	ty taxes	which a	re currently	y due
		a.	Land			\$		
		b.	Tangi	ble Personal	Property	\$		
		c.	Impro	vements		\$		
		d.	Speci	al Assessmen	ts	\$		
2.	Are a	any of	thes	e taxes deli	nquent? _			
3.	Do you presently have a T.E./T.E.I. for this property?							
4.	capit	ribe t tal in /T.E.]	vestm	pes of impro ent for each	ovements a which you	and stat believe	e the amour will qualif	nt of y for
		a.	Land (Atta	ch additiona	l sheet,	\$ if neces	sary)	

b.	Tangible Personal Property \$(Attach additional sheet, if necessary)
c.	Improvements \$(Attach additional sheet, if necessary)
Donipha	the amount of property taxes, as certified by a County Appraiser, which will have or will become able as a result of these improvements.
a.	Land \$
b.	Tangible Personal Property \$
c.	Improvements \$
result	ne number of full-time jobs which will be created of these improvements (refer to Policy Section ph (d), for definition).
If the firms:	applicant will be in direct competition with
Name th	e firms:
Describ	e nature of the competition:
In ord	er to facilitate the timely processing of tion, please attach as a part of the proposal

a.

Applicant's most recent annual or quarterly financial reports.

	b.	Interim fiscal		statements,	to	date,	for	the	current
9.		Applicant should be aware that additional financial data shall be required if requested by the(Member name)							
				APPLICANT	's s	SIGNATU	IRE		
				Company					
				BY:					