

Sponsors:	Commissioner Powell
	Commissioner Bennett
Second Reading:	September 28, 2020
Publication Date:	October 1, 2020

ORDINANCE NO. 2020-013

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 VIRTUS PRECISION TUBE, LLC THAT WOULD OTHERWISE BE DUE WITH RESPECT TO PROJECT EMPLOYEES, WHICH AMOUNTS SHALL BE COLLECTED AND REMITTED TO THE CITY TO BE REFUNDED UPON EMPLOYER'S REQUEST 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, Virtus Precision Tube, LLC, a Delaware limited liability company (the "Company"), 4720 Bowling Green Road, Franklin, Kentucky 42134, has proposed to acquire and install within the City a project consisting of equipment, the addition of 6,600 square feet, and new employment as 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 Board of City Commissioners 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 Board of City Commissioners 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 CITY 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 remit to the City and report such withheld amounts on the forms and reconciliations required by KRS 67.783(4) and (5) and Chapter 114 of the City Code of Ordinances. The Company shall file, not less than quarterly in accordance with the City of Franklin’s Code of Ordinances, with the City of Franklin, the City of Franklin Employers Quarterly Return provided by the City, specifically addressing the issues related to the KBI Program. In addition, the company shall file a quarterly reconciliation of the City of Franklin’s Occupational License Fees in a format as required by the City. If the company fails to comply with the provisions of this Section, the company (or its representatives as the case may be) shall be subject to the penalty provisions set forth in Chapter 114 of the City’s occupational licensing and gross receipts ordinance(s), as amended from time to time, or forfeiture of future participation in this program.

Section 4. Company Entitled to Reimbursement for Withheld and Remitted Amounts. The Company shall remit said withheld amounts to the City pursuant to Section 3 of this Ordinance. The Company shall receive reimbursement from the City, once per annum, after making the request, in writing, on the forms provided by the City, with said reimbursement being due and payable not later than sixty (60) days after the Company files the written request for reimbursement. Provided, however, that said reimbursement request shall not be filed later than two (2) years from the date that the Company’s annual license fee returns are initially due, without regard to any extensions received or allowed.

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 Chapter 114 of the City of Franklin Code of Ordinances 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.

September 14, 2020 - FIRST READING

September 28, 2020 - SECOND READING

At a meeting of the Board of City Commissioners of the City of Franklin, Kentucky, held on September 28, 2020, and on motion made by Commissioner Bennett and seconded by Commissioner Williams, the foregoing ordinance was adopted, after full discussion, by the following vote:

Yes BROWNIE BENNETT
Yes JAMIE POWELL
Yes HERBERT WILLIAMS
Yes WENDELL STEWART
Yes LARRY DIXON, MAYOR

APPROVED BY:

Larry Dixon Mayor
LARRY DIXON, MAYOR

ATTEST

Cathy Dillard
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 September 28, 2020, 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 28th day of September, 2020.

(SEAL)

Cathy Dillard
Cathy Dillard, City Clerk

Exhibit A

Project Description for Virtus Precision Tube, LLC

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

KENTUCKY ECONOMIC DEVELOPMENT FINANCE AUTHORITY
KBI REPORT - PRELIMINARY APPROVAL

Base - 77

Date: April 25, 2019
Approved Company: Virtus Precision Tube, LLC
City: Franklin
Activity: Manufacturing
Bus. Dev. Contact: C. Peek
County: Simpson
Prelim Resolution #: KBI-I-19-22534
DFS Staff: M. Elder

Project Description: Virtus Precision Tube, LLC has been producing internally enhanced copper tubes since 1969 in its Franklin facility. The high value added copper tubing is used in heat exchangers which are assembled into both residential and commercial air conditioners. Over the last several years the company has seen potential growth opportunities in the markets and is considering expanding its current manufacturing operations to meet the demands of its customers.

Facility Details: Expanding existing operations

Anticipated Project Investment - Owned

Land
 Building/Improvements
 Equipment
 Other Start-up Costs
TOTAL

Eligible Costs	Total Investment
\$0	\$0
\$600,000	\$600,000
\$500,000	\$9,211,000
\$0	\$0
\$1,100,000	\$9,811,000

NEGOTIATED TARGETS AND INCENTIVE AMOUNTS:

Year	Job Target	Average Hourly Wage Target (Including Employee Benefits)	Annual Approved Cost Limitation
As of Activation Date	25	\$36.00	
1	25	\$36.00	\$50,000
2	25	\$36.00	\$110,000
3	25	\$36.00	\$105,000
4	25	\$36.00	\$105,000
5	25	\$36.00	\$105,000
6	25	\$36.00	\$105,000
7	25	\$36.00	\$105,000
8	25	\$36.00	\$105,000
9	25	\$36.00	\$105,000
10	25	\$36.00	\$105,000

TOTAL NEGOTIATED TAX INCENTIVE AMOUNT:

\$1,000,000

County Type:
Other

Statutory Minimum Wage Requirements:
Base hourly wage: \$10.88
Total hourly compensation: \$12.51

Ownership (20% or more):
Waybill USA, Inc. Franklin, KY

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: 4.3%
Kentucky: 4.3%

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 81 full-time, Kentucky resident employees as of the application date.

77 per base
listings
supplied.
ME



April 10, 2019

Secretary Terry Gill
Kentucky Economic Development Cabinet
300 West Broadway
Frankfort, KY 40601

Dear Secretary Gill:

As Mayor of the City of Franklin, it is my pleasure to write this letter to you giving my support to the application being submitted for the Kentucky Business Incentives program by Virtus Precision Tube. Although Virtus is relatively new to Franklin, it has purchased a manufacturing facility that has been in our community for over fifty years. The new expansion will create 25 new jobs for Franklin and some 6,600 square feet will be added to the building. Virtus is one of the top paying manufacturing companies in Franklin and the 25 additional new jobs being brought to the facility will really help our local economy.

The City of Franklin will provide its one percent occupational tax to the state's KBI incentive program for this expansion. We are very much in support of his excellent project.

Sincerely,

Larry Dixon
Larry Dixon, Mayor