

PROPOSED

RESOLUTION NO. 2021-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE OFFICE OF FILM AND TO FILM, TELEVISION, AND MEDIA INCENTIVE PROGRAMS; AMENDING SECTION 13.41 OF THE BROWARD COUNTY ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE"); CREATING SECTIONS 13.42 THROUGH 13.45 OF THE ADMINISTRATIVE CODE; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Mayor Steve Geller)

WHEREAS, Florida had invested in the film and television industry for more than one hundred years, and the return on the investment has been overwhelmingly positive;

WHEREAS, notwithstanding the thousands of jobs and significant positive economic impact to the State of Florida from the film industry, in 2016 the State of Florida ended its film incentive program;

WHEREAS, according to Film Florida, the State of Florida has lost in excess of \$1.3 billion in tax revenues as a result of the end of the state film incentive program, and Florida is the only state in the Southeast and only one of 17 in the United States without a film incentive program;

WHEREAS, organizations such as Florida TaxWatch have stated that research shows that film incentive programs in Florida create jobs for Florida residents, promote tourism, add additional revenue into local businesses, and generate tax revenue;

WHEREAS, making Broward County an attractive location for film and television productions is expected to result in new, high-quality jobs and significant economic activity in the region;

1 WHEREAS, the Broward County Board of County Commissioners (the "Board")
2 desires to create an Office of Film to help develop and promote Broward County as a
3 world-class production hub for film, television, and entertainment productions; and

4 WHEREAS, to assist in the attraction of film, television, and entertainment
5 productions to Broward County, the Board desires to establish a film, television, and
6 entertainment production incentive program operated within the Office of Film, to provide
7 funding to film, television, and entertainment production companies that bring their
8 activities to Broward County and/or the South Florida region, NOW, THEREFORE,

9
10 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
11 BROWARD COUNTY, FLORIDA:

12
13 Section 1. Section 13.41 of the Broward County Administrative Code is hereby
14 amended to read as follows:

15 **13.41. Functions; Responsibilities.**

16 The Office of Economic and Small Business Development shall:

17 . . .

18 y. Oversee the Office of Film and the Film Commissioner.

1 Section 2. Sections 13.42 through 13.45 of the Broward County Administrative
2 Code are hereby created to read as follows:

3 [Underlining omitted]

4 **13.42. Film Commissioner as Head of Office of Film; Film Commissioner**
5 **Qualifications; Functions of Office of Film; Responsibilities.**

6 (a) The Film Commissioner shall be head of the Office of Film and shall report
7 to the Director of the Office of Economic and Small Business Development or designee.
8 The Film Commissioner shall have, at a minimum, the following qualifications: (i) a
9 bachelor's degree from an accredited college or university with major coursework in film,
10 marketing, business, public relations, public administration, or a closely related field; and
11 (ii) six (6) years of experience managing film, television, or media operations, or closely
12 related experience. Two (2) additional years of relevant experience above the minimum
13 specified in (ii) may be substituted for the each required year of education and the
14 bachelor's degree.

15 (b) The Office of Film shall:

16 (1) Be responsible for activities associated with enhancing Broward County's
17 status as a destination and location for film and television production,
18 facilitating Broward County's and participating municipalities' film permitting
19 processes, and administering a Broward County or regional film incentive
20 program.

21 (2) Assure that Broward County has ongoing cost-effective and efficient
22 services associated with promoting film, television, and entertainment
23 affairs within Broward County and South Florida.

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- 1 (3) Establish a program for not less than an annual review of all Broward
2 County film permit fees and assessments; assure maximum recovery of
3 actual costs of providing the services for which fees and assessments are
4 charged; and provide for establishment, subject to Board approval, of new
5 fees and assessment charges for appropriate services.
- 6 (4) Support and facilitate the preservation and growth of the film, television, and
7 entertainment industry in Broward County and South Florida.
- 8 (5) Encourage and facilitate greater and more efficient use of governmental and
9 private resources for the development and support of the film, television,
10 and entertainment industry within Broward County and South Florida.
- 11 (6) Serve as liaison between Broward County, other governmental agencies,
12 the private sector, and film, television, and entertainment groups.
- 13 (7) Administer a film incentive program and film permitting program.
- 14 (8) Advise and make recommendations to the Board on all matters pertaining
15 to film, television, and entertainment-related industries and support and
16 advance the interests and resources of the film, television, and
17 entertainment industry in Broward County for the purposes of economic and
18 professional development.
- 19 (9) Assist in promoting Broward County as a film, television, and entertainment
20 destination.

21 **13.43. General Information for Television, Film, and Entertainment Incentive**
22 **Program.**

23 (a) *Incentives Generally.* To incentivize television, film, and entertainment
24 production projects in Broward County ("County") and South Florida more generally and

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1 subject to the provisions of this section and other policies adopted by the County pursuant
2 hereto, the County authorizes the award of monetary incentives to fund eligible
3 Productions ("Incentives").

4 (b) *Maximum Incentive Amounts.* The aggregate maximum amount of
5 Incentives and the maximum individual amount for each Incentive that may be awarded
6 to a Production, as defined in this section, shall be established by the Board for each
7 fiscal year as part of the annual budget process.

8 (c) *Definitions.* As used herein, the following terms shall have the following
9 meanings:

10 *Board* means the Broward County Board of County Commissioners.

11 *Broward County Registered Business* means a business with a valid
12 business tax receipt issued by Broward County, with a physical address
13 within the geographic boundaries of Broward County that is leased or
14 owned by the respective business.

15 *Cast* means actors who appear in front of the camera or provide voices for
16 characters in the film. Background extras are not considered cast.

17 *Crew* means a group of people hired by a production company for the
18 purpose of producing a film, motion picture, television, video, or digital
19 media project. The crew includes "above-the-line" personnel such as
20 directors, screenwriters, and producers, and "below-the-line" individuals
21 involved with the production stage, such as production assistants, grips,
22 soundstage personnel, and camera operators.

23 *Film Commissioner* means the head of the Office of the Film for Broward
24 County.

1 *Incentive Guidelines* means, for each Incentive Program, the published
2 guidelines created by the Office, approved by the County Administrator,
3 which include the terms and conditions for that Incentive Program, the
4 specific approved uses for the applicable Incentives, and any application
5 deadline(s) for seeking each Incentive.

6 *Miami-Dade County Registered Business* means a business with a valid
7 business tax receipt issued by Miami-Dade County, with a physical address
8 within the geographic boundaries of Miami-Dade County that is leased or
9 owned by the respective business.

10 *Palm Beach County Registered Business* means a business with a valid
11 business tax receipt issued by Palm Beach County, with a physical address
12 within the geographic boundaries of Palm Beach County that is leased or
13 owned by the respective business.

14 *Producer* means the individual or company creating and producing the
15 Production.

16 *Production* means an Incentive-eligible: theatrical or direct-to-video motion
17 picture; a made-for-television motion picture; visual effects or digital
18 animation sequences produced in conjunction with a motion picture; a
19 commercial; an industrial or educational film; a documentary film; a
20 television pilot program; a presentation for a television pilot program; a
21 television series; or a digital media project by the entertainment industry.
22 This definition does not include any production that is deemed obscene
23 under Chapter 847, Florida Statutes.
24

1 *Qualified Broward County Residents* means individuals demonstrating
2 proof of residence in Broward County, as determined by the Film
3 Commissioner.

4 *Qualified Miami-Dade County Residents* means individuals demonstrating
5 proof of residence in Miami-Dade County, as determined by the Miami-
6 Dade County Mayor or his/her designee.

7 *Qualified Palm Beach County Residents* means individuals demonstrating
8 proof of residence in Palm Beach County, as determined by the Palm Beach
9 County Administrator or his/her designee.

10 *Vendors/Contractors* means incorporated businesses, limited liability
11 companies, partnerships, similar business organizations, and sole
12 proprietors hired by the Producer for the Production.

13 (d) *Eligibility Generally; Funding.*

14 (1) Applicants for an Incentive must satisfy all general eligibility requirements
15 noted in Section 13.43 below ("Eligibility Requirements"), as well as the
16 specific requirements stated in the Incentive Guidelines for the applicable
17 Incentive. Applications failing to satisfy both the Eligibility Requirements and
18 the requirements in the applicable Incentive Guidelines, including timely
19 submission of all required documentation, will be considered incomplete
20 and the applicant will be ineligible for consideration for the Incentive.

21 (2) Each Incentive is subject to the availability of funds from County, as
22 provided in Chapter 129, Florida Statutes, as amended.

23 (3) If an Incentive is funded in whole or in part with Tourist Development Tax
24 funds, in addition to all other eligibility requirements, the Production must

1 meet the eligibility requirements of, and the recipient must comply with,
2 Section 125.0104, Florida Statutes, and any applicable policies,
3 procedures, and guidelines imposed by the Office of Film.

4 (e) The Office of Film shall publish the Incentive Guidelines, approved by the
5 County Administrator, at least thirty (30) days prior to any applicable deadline to apply for
6 the Incentive. The Office of Film shall review all timely submitted applications to confirm
7 compliance with the applicable terms of the Incentive Guidelines and to ensure the
8 applicants have included all required documentation. All Incentives for which no
9 application deadline is established shall be considered and awarded on a rolling basis
10 throughout the County's fiscal year.

11 **13.44. General Eligibility Requirements.**

12 (a) At a minimum, all Productions must meet the following requirements:

- 13 (1) At least seventy percent (70%) of the entire Production is produced and/or
14 filmed in Broward County.
- 15 (2) At least seventy percent (70%) of the Cast and Crew hired for the
16 Production are Qualified Broward County Residents.
- 17 (3) At least seventy percent (70%) of hired Vendors/Contractors for the
18 Production are Broward County Registered Businesses.
- 19 (4) Qualified Broward County Residents are paid, at a minimum, the same rate
20 as provided in Section 26-102, Broward County Code of Ordinances, as
21 may be amended.
- 22 (5) The Producer must spend Five Hundred Thousand Dollars (\$500,000) or
23 more in Broward County on the Production.
- 24

1 (b) It is the intention of the Board to enter into one or more interlocal
2 agreements with Miami-Dade County and Palm Beach County to create a combined
3 South Florida regional film, television, and entertainment incentive program. If,
4 subsequent to the adoption of the Administrative Code sections establishing the
5 Incentives, Broward County enters into such interlocal agreements with Miami Dade
6 County, Palm Beach County, or both, the provisions, percentages, and dollar amounts
7 referenced in Sections (a)(1)-(3) and (5) are automatically modified to apply, as applicable
8 based on the parties to the interlocal agreements, to Broward County, Miami-Dade
9 County, and Palm Beach County; Qualified Broward County Residents, Qualified Miami-
10 Dade County Residents, and Qualified Palm Beach County Residents; and Broward
11 County Registered Businesses, Miami-Dade County Registered Businesses, and Palm
12 Beach County Registered Businesses. In addition, the wage information in Section (a)(4)
13 shall automatically be modified to also require that any Qualified Miami-Dade County
14 Residents are paid, at a minimum, the same rate as provided in Section 2-8.9, Miami-
15 Dade County Code, as may be amended; and any Qualified Palm Beach County
16 Residents are paid, at a minimum, the same rate as provided in Section 2-148, Palm
17 Beach County Code, as may be amended.

18 **13.45. Agreements; Reports to the Board.**

19 (a) All Incentives must be documented in a written agreement executed by the
20 Producer and the County ("Incentive Agreement"). The form of the Incentive Agreement
21 must be approved as to legal sufficiency by the Office of the County Attorney.

22 (b) *Execution of Incentive Agreements.* The authority for execution of Incentive
23 Agreements is as follows: (i) the Film Commissioner may execute Incentive Agreements
24 up to Twenty-five Thousand Dollars (\$25,000); (ii) the County Administrator may execute

1 Incentive Agreements up to One Hundred Thousand Dollars (\$100,000); and (iii) all
2 Incentive Agreements over One Hundred Thousand Dollars (\$100,000) require Board
3 approval for execution.

4 (c) The timing and method of payment of the Incentive must be included in the
5 written Incentive Agreement, but, unless otherwise approved by the Board in advance,
6 Incentives may only be paid on a reimbursement basis.

7 (d) All Incentive Agreements must include a right of the County to audit the
8 Producer's operations regarding the Production to the extent reasonably required to
9 ensure all Eligibility Requirements and Incentive Guidelines are met.

10 (e) *Breach of County Agreements.* All Incentive Agreements shall provide that,
11 if the Producer is deemed by the Film Commissioner, the County Administrator, or the
12 Board to have breached the Incentive Agreement or any other agreement between the
13 Producer and County, the County Administrator has the authority to take any or all of the
14 following actions, after giving written notice to the Producer: (i) withhold any remaining
15 payment of the Incentive and set off such amount, in full or in part, to satisfy any financial
16 obligation owed to County by the Producer; (ii) terminate the Incentive Agreement with
17 the Producer and not pay any unpaid amounts; or (iii) prohibit the Producer from being
18 considered for future Incentives for a period of time, or until the Producer has satisfied all
19 obligations to County under the applicable agreement, as the County Administrator
20 deems appropriate. Any Producer that has been prohibited from being considered for
21 future Incentives pursuant to this section may request reinstatement, which may be
22 allowed by the County Administrator in his/her discretion. The remedies provided in this
23 section are in addition to any legal or other remedies that Broward County may pursue
24 against the Producer.

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1 (f) *Reports*. The Office of Film shall prepare and file semiannual reports to the
2 Board. Each semi-annual report shall include the following: the number of Incentives
3 approved during the reporting period and the approved amount for each Incentive
4 awarded; the execution date of each Incentive Agreement executed during the reporting
5 period; for each Incentive, the amount paid to date; and for the Office of Film, the total
6 amount paid during the reporting period.

7
8 Section 3. Severability.

9 If any portion of this Administrative Code Resolution is determined by any court to
10 be invalid, the invalid portion will be stricken, and such striking will not affect the validity
11 of the remainder of this Administrative Code Resolution. If any court determines that this
12 Administrative Code Resolution, in whole or in part, cannot be legally applied to any
13 individual, group, entity, property, or circumstance, such determination will not affect the
14 applicability of this Administrative Code Resolution to any other individual, group, entity,
15 property, or circumstance.

16
17 Section 4. Inclusion in the Broward County Administrative Code.

18 It is the intention of the Board of County Commissioners that the provisions of this
19 Administrative Code Resolution become part of the Broward County Administrative Code
20 as of the effective date. The sections of this Administrative Code Resolution may be
21 renumbered or relettered and the word "resolution" may be changed to "section," "article,"
22 or such other appropriate word or phrase to the extent necessary in order to accomplish
23 such intention.

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Section 5. Effective Date.

This Administrative Code Resolution is effective upon adoption.

ADOPTED this day of , 2021. **PROPOSED**

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Sara F. Cohen 10/07/2021
Sara F. Cohen (date)
Assistant County Attorney

By /s/ Nathaniel A. Klitsberg 10/07/2021
Nathaniel A. Klitsberg (date)
Senior Assistant County Attorney

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