

**PROPOSED**

## RESOLUTION NO.

1  
2 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD  
3 COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY JOB  
4 GROWTH/ECONOMIC INCENTIVES ACT ADMINISTRATIVE PROCEDURES;  
5 AMENDING VARIOUS SECTIONS OF CHAPTER 19 OF THE BROWARD COUNTY  
6 ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE"); AND PROVIDING FOR  
7 SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE  
8 DATE.

9  
10 WHEREAS, the Board of County Commissioners desires to amend various  
11 sections of Chapter 19 of the Broward County Administrative Code to reflect changes to  
12 the Broward County Job Growth/Economic Incentives Act, NOW, THEREFORE,

13 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
14 BROWARD COUNTY, FLORIDA:

15 Section 1. Section 19.37.1 of the Broward County Administrative Code is  
16 hereby amended to read as follows:

17 **19.37.1. General Provisions and Application.**

18 ~~4. a.~~ There is hereby created the Broward County Job Growth/Economic  
19 Incentives Act Administrative Procedures for the purpose of providing ~~procedures~~  
20 guidelines for ~~consideration by Broward County of all~~ incentive applications and/or  
21 participation in any economic incentive programs offered to businesses pursuant to the

22 Broward County ~~Job Growth/Economic Development~~ Incentives Act (the "Economic  
23 Incentives Act").

24 ~~2. b.~~ Administration of the Economic Incentives Act. The Director of the Office of  
25 Economic and Small Business Development (the "Office") shall be responsible for  
26 administration of the Economic Incentives Act. Those responsibilities include making  
27 determinations of applicability and/or interpretation of the procedures governing the  
28 programs, as defined in the Economic Incentives Act.

29 ~~3. c.~~ Establishment of Written Procedures with County Administrator  
30 Concurrence. The Director of the Office will periodically evaluate existing procedures for  
31 consistency with the Act, and make recommendations for revisions to the County  
32 Administrator.

33 4. d. Responsibilities of the Director of the Office are as follows:

34 a. 1. Administering the Economic Incentives Act and these Administrative  
35 Procedures;

36 b. 2. Recommending to the County Administrator, and the Broward County  
37 Board of County Commissioners (the "Board") consideration of all incentive  
38 applications and/or participation in any economic incentive programs  
39 offered to businesses pursuant to the requirements of the Economic  
40 Incentives Act;

41 c. 3. Reviewing compliance by economic incentive recipient firms with the terms  
42 and conditions of the Economic Incentives Act, and economic incentive  
43 agreements provided by, or participated in, by Broward County pursuant to  
44 the Economic Incentives Act; and

45 ~~d. 4.~~ Recommending termination of economic incentive agreements due to  
46 ~~non-compliance~~ noncompliance by incentive recipient firms with the terms  
47 and conditions of the Economic Incentives Act and/or economic incentive  
48 agreements provided by, or participated in, by Broward County pursuant to  
49 the Economic Incentives Act.

50 Section 2. Section 19.37.2 of the Broward County Administrative Code is  
51 hereby amended to read as follows:

52 **19.37.2. Definitions.**

53 The definitions contained in the Economic Incentives Act shall apply to these  
54 administrative procedures unless otherwise specified herein.

55 ~~*Average Annual Wage.* in addition to the definition in the act, the following~~  
56 ~~guidance is applicable:~~

- 57 1. ~~Average annual wage refers only to newly created jobs at the project~~  
58 ~~location defined in the incentive application.~~
- 59 2. ~~Average annual wage does not refer to existing jobs at the project location~~  
60 ~~defined in the incentive application or jobs (either newly created or existing)~~  
61 ~~at locations other than the project location.~~

62 ~~*New Job.* In order to be considered a New Job, a job must meet the criteria of~~  
63 ~~"Jobs," as defined in the Act, and must also meet the following:~~

- 64 1. ~~Must be a job new to Broward County and must not be a job recruited or~~  
65 ~~advertised in Broward County prior to Board approval of the incentive~~  
66 ~~application.~~
- 67 2. ~~Must not be a re-hire of previously laid-off position(s).~~

68 3. ~~Must be a full-time equivalent job(s).~~

69 ~~Relocation. The relocation of a firm's operations to Broward County from outside~~  
70 ~~of the County.~~

71 Section 3. Section 19.38.1 of the Broward County Administrative Code is  
72 hereby amended to read as follows:

73 **19.38.1. Economic Incentive Programs and Inducements.**

74 a. ~~Direct Cash/Job Creation~~ Incentive Program. The Direct Cash/Job Creation  
75 ~~incentive Program~~ is a County-only paid incentive program ~~paid solely by Broward~~  
76 ~~County that may include financial contribution from one (1) or more municipalities.~~  
77 Through this program, Broward County may provide ~~direct cash~~ incentive payments of up  
78 to Two Thousand Dollars (\$2,000) per new ~~job~~ created to ~~companies~~ Targeted Industry  
79 Businesses, excluding Special Projects, starting, relocating, or expanding in Broward  
80 County, based upon the company's capital investment and number of new jobs created  
81 in Broward County. ~~The County may elect to award this incentive without municipal~~  
82 ~~contribution.~~ Incentives under this program shall be awarded in accordance with  
83 Section 9½-52(d)(1), Broward County Code of Ordinances.

84 ~~Qualified Target Industry (QTI) Tax Refund Incentive.~~ The QTI Refund Incentive  
85 Program is a tax refund program wherein eligible companies may receive refunds of taxes  
86 paid to the State of Florida on corporate income, sales, and insurance premiums, as well  
87 as certain other taxes paid to the State of Florida. The State of Florida provides eighty  
88 percent (80%) of the total incentive paid to the company. The remaining twenty percent  
89 (20%) must be matched locally. The twenty percent (20%) local match will comprise  
90 contribution from Broward County and the municipality within Broward County where the

91 project will be located. The incentive program payment amount per new job created is as  
92 follows by average annual wage.

- 93 1. ~~115% of the County's average annual wage -- \$3,000~~
- 94 2. ~~150% of the County's average annual wage -- \$4,000~~
- 95 3. ~~200% of the County's average annual wage -- \$5,000~~

96 ~~Additional bonus incentive amounts are available under the QTI Refund Incentive~~  
97 ~~Program as follows:~~

98 1. ~~*High-Impact Bonus.* Companies that meet the eligibility requirements for the~~  
99 ~~QTI Refund Incentive Program and operate in certain high-impact industry~~  
100 ~~sectors as determined by the State of Florida pursuant to Section 288.108,~~  
101 ~~Florida Statutes, may be eligible for an additional refund of up to \$2,000 per~~  
102 ~~new job created.~~

103 2. ~~*Brownfield Bonus.* Companies that meet eligibility requirements for the QTI~~  
104 ~~Refund Incentive Program, and are located in County-designated~~  
105 ~~Brownfield areas, may be eligible for an additional refund of up to \$2,500~~  
106 ~~per new job created.~~

107 b. *Strategic Job Creation Incentive Program.* The Strategic Job Creation  
108 Incentive Program is a County-paid incentive program that may include financial  
109 contribution from one (1) or more municipalities. Through this program, Broward County  
110 may provide financial incentives to companies, whether Targeted Industry Businesses or  
111 businesses that create manufacturing jobs, that are starting, relocating, or expanding  
112 within Broward County based upon the number of new jobs created and the average  
113 salary of those new jobs, of up to Two Thousand Dollars (\$2,000) per new job created.

114 Targeted Industry Businesses may qualify for incentives of various values depending on  
115 the cumulative average annual salary of the new jobs. Incentives under this program shall  
116 be awarded in accordance with Section 9½-52(d)(2), Broward County Code of  
117 Ordinances.

118 c. *Alternative State or Federal Local Match Program.* In addition to any other  
119 program under the Economic Incentives Act, the County may elect to provide local  
120 matching dollars as part of an overall job creation incentive to companies starting,  
121 relocating, or expanding in Broward County. The company would be required to meet all  
122 criteria set forth in any new the applicable State or Federal incentive program.

123 d. *Economic Inducements.* Requests for economic inducements such as  
124 public facilities improvements and permitting facilitation shall be outlined in writing and  
125 submitted to the Office for consideration. The Office may conduct a tax Revenue/Cost  
126 Analysis of the requested inducements to determine the economic impact to the County.  
127 The Director may request of from the Greater Fort Lauderdale Alliance (the "Alliance" or  
128 such other designated organization), additional information for inclusion in the analysis.

129 e. *Confidentiality of Business Information.* A business may submit a written  
130 request to County or the Alliance, pursuant to Section 288.075, Florida Statutes, that  
131 certain business information be kept confidential and exempt from production under  
132 Section 119.07(1), Florida Statutes, and Article 1, Section 24(a), Florida Constitution. If  
133 such a request is made, the County will maintain the information as confidential in the  
134 manner and for the timeframe specified under Section 288.075, Florida Statutes. The  
135 County Administrator is authorized to execute any resulting nondisclosure agreements

136 pursuant to this section, subject to review for legal sufficiency by the Office of the County  
137 Attorney.

138 Section 4. Section 19.38.2 of the Broward County Administrative Code is  
139 hereby amended to read as follows:

140 **19.38.2. Economic Incentive Programs Application Selection Criteria.**

141 a. *State and Federal Program Application Criteria.* The County may consider  
142 investing in eligible projects, upon submittal of an application by a qualified business  
143 pursuant to the Economic Incentives Act, based upon the following eligibility requirements  
144 ~~which that~~ apply to all incentive applications under ~~S~~state of Florida and/or ~~F~~federal  
145 programs:

146 1. *State and Federal Program Requirements.* The applicant must meet the  
147 criteria set forth in ~~Section 288.106, Florida Statutes~~ the applicable state or  
148 federal incentive program.

149 . . .

150 b. *Broward County Program Eligibility.* The following factors will be considered  
151 in reviewing applications for economic incentive programs exclusive to ~~the County~~  
152 pursuant to the Economic Incentives Act, ~~based upon following eligibility requirements~~  
153 ~~which apply to all incentive applicants to the County's incentive programs:~~

154 1. *Targeted Industry Business.* The Applicant must be a Targeted Industry  
155 Business, unless the project qualifies as a Special Project or includes  
156 manufacturing jobs pursuant to the Strategic Job Creation Incentive  
157 Program, as determined by the 2010 Broward County Targeted Industry  
158 List. The Office, jointly with the Alliance ~~(or such other designated~~

159 organization), will review the list annually. The Director of the Office will be  
160 responsible for recommendations to the Board of County Commissioners  
161 for changes to the list.

162 2. *Designated Special Projects.* Certain projects designated as "Special  
163 Projects" are not required to meet the Targeted Industry Business or an  
164 cumulative average annual wage salary requirement under the Direct  
165 Cash/Job Creation Incentive Program. Projects must meet ~~one (1)~~ of the  
166 following criteria specified in Section 9 $\frac{1}{2}$ -52(d)(1)b., Broward County Code  
167 of Ordinances, to be considered Special Projects:

168 a. ~~Projects with a minimum cumulative capital investment of \$25 million~~  
169 ~~over a maximum of twenty (20) years, unless the project is a research~~  
170 ~~and development facility in which case the cumulative capital~~  
171 ~~investment over 20 years must be \$10 million over 20 years.~~

172 b. ~~Project must create a minimum of fifty (50) new full time jobs, unless~~  
173 ~~the facility is a research and development facility in which case the~~  
174 ~~creation of twenty-five (25) new full time jobs must be created.~~

175 3. *Job Retention.* The Applicant must retain all the applicable new jobs for a  
176 minimum of one (1) year before filing a claim for an incentive payment.

177 4. *Annual Cumulative Average Wage Annual Salary.* The cumulative  
178 Average annual wage salary of new jobs created must be equal to or  
179 exceed one hundred fifteen percent (115%) of the County's average annual  
180 wage in Broward County with the exception of Special Projects under the  
181 Direct Cash/Job Creation Incentive Program and manufacturing jobs under

182 the Strategic Job Creation Incentive Program. Average annual wage data  
183 for Broward County can be found on the Office's website. Remote workers  
184 must reside in Broward County to be counted towards the new job creation  
185 total for purposes of calculating the value of incentives.

186 5. *Gross Sales.* Applicants for all incentives must derive a minimum of  
187 fifty percent (50%) of total gross sales from customers outside of Broward  
188 County, or demonstrate a plan to grow sales outside of the Broward County  
189 to exceed fifty percent (50%) of total gross sales during the project period.

190 . . .

191 Section 5. Section 19.39.1 of the Broward County Administrative Code is  
192 hereby amended to read as follows:

193 **19.39.1. Eligible Uses of Economic Incentive Funds; Economic Incentive Payments.**

194 ~~4. a.~~ *County Portion of Incentive Payments.*

195 *State and Federal Incentive Programs.* The County ~~shall~~ may pay a maximum of  
196 one-half (1/2) of the local match required for ~~S~~state and ~~F~~federal incentives programs for  
197 projects located in municipalities in Broward County, and one hundred percent (100%) of  
198 the local match required for projects located in unincorporated Broward County provided  
199 the company continues to meet all requirements of the applicable incentive program.

200 ~~*Direct Cash/Job Creation Incentive Program.* The County shall pay 100%~~  
201 ~~of Incentives approved by the Board.~~

202 ~~2. b.~~ *Incentive Claims Approval and Payment Process.*

203 1. *State and Federal Incentive Programs.* ~~Consistent with Sections 288.106~~  
204 ~~and 288.108, Florida Statutes, the County shall pay the match for approved~~

205 ~~State incentives to the Florida Economic Development Trust Fund. Upon~~  
206 ~~application approval, the Florida Department of Economic Opportunity will~~  
207 ~~advise the Office on the amount and timing of the required local match~~  
208 ~~payment. The State is responsible for processing and payout of state~~  
209 ~~incentive claims. Applicants failing to meet the goals established in the State~~  
210 ~~incentive award will not receive the payout and the local match will be~~  
211 ~~returned to the County by the State. The County shall pay the local match~~  
212 ~~for approved state or federal incentives in accordance with the applicable~~  
213 ~~state or federal program requirements.~~

214 2. ~~Direct Cash/Job Creation County Incentive Programs.~~ The claims payment  
215 process includes the following:

216 1. (a) Upon approval by the Board, the Director of the Office, in concert  
217 with the County Attorney's Office, shall negotiate an incentive  
218 agreement with the applicant. The agreement shall establish job  
219 creation goals and scheduling for the project period.

220 2. (b) ~~The Applicant~~ must submit a request for payment ~~(invoice exhibit)~~  
221 annually, consistent with procedures established by the terms of the  
222 agreement.

223 3. (c) Upon receipt of the request for payment, the County will engage a  
224 company to audit the applicant's records to determine achievement  
225 of the goals of the incentives agreement. The audit shall  
226 encompass, but will not be limited to:

227 a. (1) Review of the applicant's hiring and payroll records (State of  
228 Florida UCT-6 form); and

229 b. (2) Review of the applicant's County ad valorem and personal  
230 property tax returns filed with the Broward County Revenue  
231 Department Records, Taxes and Treasury Division.

232 Once the Office has received confirmation of the applicant's  
233 achievement of the goals of the agreement, the Director of the Office  
234 will approve ~~submission of~~ the applicant's ~~claim~~ request for payment  
235 ~~to the County Accounting Division.~~

236 ~~{3.}~~ c. *Incentive Claim Denial.* The Director of the Office may deny payment for  
237 claims if the applicant fails to meet ~~all~~ any of the provisions of the incentives agreement.

238 Section 6. Severability.

239 If any portion of this Administrative Code Resolution is determined by any court to  
240 be invalid, the invalid portion will be stricken, and such striking will not affect the validity  
241 of the remainder of this Administrative Code Resolution. If any court determines that this  
242 Administrative Code Resolution, in whole or in part, cannot be legally applied to any  
243 individual, group, entity, property, or circumstance, such determination will not affect the  
244 applicability of this Administrative Code Resolution to any other individual, group, entity,  
245 property, or circumstance.

246 Section 7. Inclusion in the Broward County Administrative Code.

247 It is the intention of the Board of County Commissioners that the provisions of this  
248 Administrative Code Resolution become part of the Broward County Administrative Code  
249 as of the effective date. The sections of this Administrative Code Resolution may be

