

PROPOSED

RESOLUTION NO.

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

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

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

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

19.37.1. General Provisions and Application.

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

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

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

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

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

~~a. 1.~~ Administering the Economic Incentives Act and these ~~A~~administrative ~~P~~procedures;

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

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

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

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

19.37.2. Definitions.

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

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

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

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

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

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

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

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

19.38.1. Economic Incentive Programs and Inducements.

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

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

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

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

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

1. ~~*High-Impact Bonus.* Companies that meet the eligibility requirements for the QTI Refund Incentive Program and operate in certain high-impact industry sectors as determined by the State of Florida pursuant to Section 288.108, Florida Statutes, may be eligible for an additional refund of up to \$2,000 per new job created.~~
2. ~~*Brownfield Bonus.* Companies that meet eligibility requirements for the QTI Refund Incentive Program, and are located in County-designated Brownfield areas, may be eligible for an additional refund of up to \$2,500 per new job created.~~

b. *Strategic Job Creation Incentive Program.* The Strategic Job Creation Incentive Program is a County-paid incentive program that may include financial contribution from one (1) or more municipalities. Through this program, Broward County may provide financial incentives to companies, whether Targeted Industry Businesses or businesses that create manufacturing jobs, that are starting, relocating, or expanding within Broward County based upon the number of new jobs created and the average 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, Tthe 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 Sstate or Ffederal 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 Ttax Rrevenue/Ccost
126 Aanalysis of the requested inducements to determine the economic impact to the County.
127 The Director may request of from Tthe 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

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

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

19.38.2. Economic Incentive Programs Application Selection Criteria.

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

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

...

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

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

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

2. *Designated Special Projects.* Certain projects designated as "Special Projects" are not required to meet the Targeted Industry Business or an cumulative average annual ~~wage~~ salary requirement under the Direct Cash/Job Creation Incentive Program. Projects must meet ~~one (1) of the~~ following criteria specified in Section 9½-52(d)(1)b., Broward County Code of Ordinances, to be considered Special Projects:

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

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

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

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

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

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

. . .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Severability.

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

Section 7. Inclusion in the Broward County Administrative Code.

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

renumbered or relettered and the word "resolution" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary in order to accomplish such intention.

Section 8. Effective Date.

This Administrative Code Resolution is effective upon adoption.

ADOPTED this day of , 2023. **PROPOSED**

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

By: /s/ Sandy Steed 05/04/2023
Sandy Steed (date)
Assistant County Attorney

By: /s/ René D. Harrod 05/04/2023
René D. Harrod (date)
Chief Deputy County Attorney

SS/cv
Economic Incentives Act Administrative Code Reso
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.