

PROPOSED

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY JOB GROWTH/ECONOMIC DEVELOPMENT INCENTIVES ACT; AMENDING SECTIONS 9½-50 THROUGH 9½-55 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, the State of Florida's Qualified Target Industry Tax Refund Program (the "QTI Program") was an economic development tool available to Florida communities to encourage the creation and retention of high-wage jobs in high value-added industries;

WHEREAS, the QTI Program was designed to encourage investment in Florida by offsetting taxes, fees, or other costs, and Broward County (the "County") utilized the QTI Program to incentivize targeted industry businesses to relocate to or expand within Broward County;

WHEREAS, the QTI Program sunsetted by statute on June 30, 2020; and

WHEREAS, the Board of County Commissioners of Broward County ("Board") desires to amend Sections 9½-50 through 9½-55 of the Broward County Code of Ordinances to create a Strategic Job Creation Incentive Program to encourage targeted industry businesses to relocate to or expand within Broward County,

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

Section 1. Section 9½-50 of the Broward County Code of Ordinances is hereby
amended to read as follows:

Sec. 9½-50. Title; Finding and Declaration; Purpose.

(a) This article may be cited as the "Broward County ~~Job Growth/Economic~~
~~Development~~ Incentives Act."

(b) It is hereby determined by the Board of County Commissioners of Broward
County, Florida ("Board"), that the provision of job growth/economic development
incentives pursuant to this article serves the public purpose of fostering economic growth
in Broward County, all to the benefit of the County's residents. The Board ~~of County~~
~~Commissioners~~ declares its intent to promote the economy of Broward County by
encouraging businesses to create, relocate, or to expand their operational facilities within
Broward County through the "Broward County ~~Job Growth/Economic Development~~
Incentives Act."

(c) The Board ~~of County Commissioners~~ created the "Broward County ~~Job~~
~~Growth/Economic Development~~ Incentives Act" ~~in order~~ to promote and enhance
economic growth within Broward County, and to provide a competitive advantage in the
attraction of new and expanded businesses to Broward County.

Section 2. Section 9½-51 of the Broward County Code of Ordinances is hereby
amended to read as follows:

Sec. 9½-51. Definitions.

As used in this article, unless the context otherwise requires:

45 (a) *Agency for Workforce Innovation* means the ~~State~~ of Florida's lead workforce
46 agency that ~~provides~~ directly administers the state's Labor Market Statistics information
47 ~~and directly administers workforce services~~ Center, unemployment compensation, and
48 various other programs.

49 (b) *Average annual wage* means the average of all wages and salaries in ~~Broward~~
50 ~~County or the state of Florida~~ a particular locality, as determined by the ~~Agency for~~
51 ~~Workforce Innovation~~ United States Bureau of Labor Statistics.

52 (c) *Board* means the Board of County Commissioners of Broward County, Florida.

53 (d) ~~The Greater Fort Lauderdale Alliance, or such other organization means the~~
54 ~~organization under contract with Broward County to assist with, and perform, the duties~~
55 ~~described in Section 9½-11, Broward County Code of Ordinances.~~

56 (e) *Business* means an employing unit, ~~which~~ that is registered with the Agency for
57 Workforce Innovation for unemployment compensation purposes; or a subcategory or
58 division of an employing unit ~~which~~ that is accepted by the United States Department of
59 Labor as a reporting unit.

60 (f) *Corporate headquarters business* means an international, national, or regional
61 headquarters office of a multinational or multistate business enterprise or national trade
62 association, whether separate from or connected with other facilities used by such
63 business.

64 County means Broward County, a political subdivision of the State of Florida.

65 Cumulative average annual salary means the average salary of the new jobs
66 created by the approved company, determined cumulatively over the time period(s)
67 specified in the incentive award. Cumulative average annual salary refers only to newly

created jobs at the project location defined in the incentive application and does not refer to preexisting jobs at the project location defined in the incentive application or jobs (either newly created or preexisting) at locations other than the project location.

~~(g) Direct cash, as distinguished from local match, means incentive dollars offered or paid by Broward County, municipalities, or other local agencies to attract business relocation or expansion.~~

~~(h)~~ Director means the Director of the Broward County Office of Economic and Small Business Development, or successor agency.

~~(i)~~ Enterprise Florida, Inc., or Enterprise Florida means the public-private partnership serving as an organization devoted to statewide economic development to recruit and expand businesses.

~~(j) Enterprise Zone means an area designated as an enterprise zone pursuant to Section 290.0065, Florida Statutes, as amended.~~

~~(k)~~ Expansion of an existing business means the expansion of a business by or through additions to real and/or personal property on a site with a commercial or industrial operation owned by the same business, resulting in a net increase in employment the number of jobs at such business of not less than ten percent (10%) ~~at such business.~~

~~(l)~~ Financially responsible means the applicant has a reputation for integrity and reliability, and the capability in all respects to fully perform the contract requirements, to ~~assure~~ ensure good faith performance.

~~(m)~~ Fiscal year means the fiscal year of Broward County.

~~(n)~~ Florida Department of Economic Opportunity, ~~or successor agency,~~ means the sState of Florida's agency ~~which~~ that provides executive direction and staff support to

91 develop policies for economic diversification and improvement in Florida's business
92 climate, or any successor agency.

93 Greater Fort Lauderdale Alliance or Alliance means The Broward Alliance, Inc.,
94 which is under contract with Broward County to assist with and perform the duties
95 described in the Broward County Economic Incentives Act, or any successor agency.

96 ~~(o) High-impact project means a project that meets capital investment thresholds in~~
97 ~~Section 288.108, Florida Statutes, as amended.~~

98 ~~(p) High wage means a wage higher than the average for Broward County with the~~
99 ~~specific threshold determined by the particular incentive program.~~

100 ~~(q) Jobs means full-time equivalent positions, as such terms are consistent with terms~~
101 ~~used by the United States Department of Labor for purposes of unemployment~~
102 ~~compensation tax administration and employment estimation, resulting directly from a~~
103 ~~project in this state. This number shall not include temporary construction jobs involved~~
104 ~~with the construction of facilities for the project or any jobs which that have previously~~
105 ~~been included in any application for tax refunds incentives under this article or~~
106 ~~Section 288.106, Florida Statutes as amended the Broward County Economic Incentives~~
107 ~~Act or any state or federal economic development incentive program.~~

108 ~~(r) Local financial support or local match means funding from local sources, public or~~
109 ~~private, which is paid to the state of Florida Economic Development Trust Fund and which~~
110 ~~is equal to twenty percent (20%) of the annual tax refund for a qualified target industry~~
111 ~~business, or funding from local sources as may be required under state or federal~~
112 ~~programs qualified business or to an agency designated by the state or federal~~
113 ~~government pursuant to a state or federal economic incentive program. A qualified target~~

industry business may not provide, directly or indirectly, more than five percent (5%) of such funding in any fiscal year. Unless expressly permitted by law or policy, the sources of such funding may not include, directly or indirectly, state funds appropriated from the state of Florida General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments.

(s) *New business* means a business ~~which heretofore~~ that did not previously exist in Broward County, ~~which~~ is a legal entity separate from any other commercial or industrial operation ~~that,~~ and opens, or has opened, a facility at a fixed location within Broward County.

New job means a job as defined herein that also meets the following requirements:

(a) must be a job new to Broward County and must not be a job recruited or advertised in Broward County prior to the date of County's issuance of a provisional determination of eligibility for an economic development incentive to the company; (b) must not be a rehire of previously laid-off position(s); and (c) must be a full-time equivalent job.

(t) *Office* means the Broward County Office of Economic and Small Business Development, or successor agency.

(u) *Project* means the creation of a new business, or the relocation, or expansion of an existing business.

(v) ~~*Qualified target industry business* means a state identified target industry business or any business that is engaged in one (1) of the target industries identified pursuant to Section 288.106, Florida Statutes, as amended.~~

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

Remote worker means an employee who primarily works from a residential location instead of onsite at the business location of the employer company.

~~(w)~~ *Research and Development Facility* means a facility that conducts basic and applied research in science or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not mean market research, routine consumer product testing, sales research, research in the social sciences or psychology, ~~non-technological~~ nontechnological activities, or technical services.

~~(x)~~ *Special Project* means the creation of a new business, or the expansion, or relocation of an existing business, that has incentive analysis and ~~pay-outs~~ payouts extending beyond six (6) years up to twenty (20) years. Special Project companies do not need to meet the Targeted Industry Business criteria; however, they must meet one (1) of the criteria established pursuant to ~~Subsection~~ Section 9½-52(d)(1)~~db.~~, Broward County Code of Ordinances, as amended.

~~(y)~~ *Targeted Industry Business* means any business that is engaged in one (1) of the ~~Targeted industries~~ identified by the Office and approved by the Board.

Third-Party Administrator means a company contracted by the County to independently verify the progress and completion of incentive award requirements by incentive recipients.

Section 3. Section 9½-52 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 9½-52. Economic Incentive Programs and Inducements.

(a) ~~Broward~~ The County will provide or participate in economic incentive programs whereby new businesses are created in Broward County, or existing businesses consider relocation to or expansion within ~~the~~ Broward County. Approved companies may receive financial benefits directly related to job creation and positive economic impact on the community. ~~Broward~~ The County may provide an economic incentive directly to approved businesses or may provide local matching dollars as a portion of an ~~overall job creation~~ state or federal incentive offer. Companies eligible for an economic incentive or local financial support match from the County ~~participation~~ must meet the applicable criteria for the specified incentive program. County incentives ~~will~~ may be awarded to existing companies relocating from Miami-Dade or Palm Beach counties; only upon satisfactory demonstration to the Board ~~of County Commissioners~~ that such companies would otherwise exit the tri-county area. ~~Incentives will be determined based only upon the number of new jobs created and not the number of existing company employees.~~ The ~~Broward County Job Growth/Economic Development Incentives Program will be comprised of:~~ economic development incentives provided by the County include a Direct Cash/Job Creation Incentive Program; and a ~~Tax Refund Incentive Program for Qualified Target Industry Business (QTI), a High-Impact Sector Incentive Program, and/or any Alternative State or Federal Local Match~~ Strategic Job Creation Incentive Program. The ~~Broward County Job Growth/Economic Development Inducements are~~ County also provides economic inducements such as ~~P~~public ~~F~~facilities ~~improvements and P~~permitting ~~F~~facilitation ~~Inducements.~~ The County may provide local financial support to businesses that qualify for state or federal economic incentive programs.

(b) In determining whether to provide any economic development incentive described in Subsection (a), an analysis shall be conducted by the Office, or ~~The Greater Fort Lauderdale Alliance, or such other organization,~~ as to whether the tax revenue and other indirect economic benefits generated to ~~Broward~~ the County Government from the relocated, new, or expanded business will cover the amount of any actual incentive award granted to an applicant within a period not to exceed the term of the projected job creation and retention commitment. The categories or levels of indirect economic benefit will be considered by the Board prior to ~~consideration of such benefits~~ approval of an incentive award. Any tax revenue/economic impact incentive payment analysis conducted by the County shall consider sales, tax revenue, economic impact, intangibles, personal property taxes, and ad valorem real property taxes, as applicable, generated by the applicant, along with other direct and indirect economic benefits. The Board may authorize the consideration of other factors determined by an economist or consultant from time to time, prior to submission by applicants.

(c) Applicants seeking an economic development incentive award pursuant to ~~any program established by~~ this section must comply with the criteria established hereunder.

(d) Economic Development Incentive Programs:

(1) *Direct Cash/Job Creation Incentive Program.* This County incentive program provides a monetary award to new, relocating, or expanding Targeted Industry Businesses and businesses that meet the Special Project criteria, that provide the County with a positive return on investment based upon each company's projected capital investment and number of new jobs

205 created in Broward County. Any incentive awarded under this program will
206 be paid by the County and/or the municipality in which the company is
207 created, relocated, or expanded. The County and the applicable
208 municipality will negotiate the percentage each will contribute based upon
209 an analysis of projected tax revenue receipts over the incentive period. The
210 County may elect to award this incentive without municipal contribution, and
211 the County shall pay one hundred percent (100%) of incentive awards for
212 new jobs created within unincorporated areas of Broward County.

213 a. ~~Broward County may award cash incentives to new, relocating, or~~
214 ~~expanding companies based upon the number of new jobs created~~
215 ~~in Broward County. Such cash incentives~~ under this program may
216 be granted to qualified companies that pay at least
217 one hundred fifteen percent (115%) of the average annual wage in
218 Broward County and create a minimum of ten (10) new jobs, with the
219 exception of Special Projects. ~~Cash incentives~~ under this program
220 shall not exceed ~~more than \$Two Thousand Dollars (\$2,000.00)~~ for
221 each full-time, permanent new job created.

222 b. ~~Direct cash incentives authorized under this subsection may be~~
223 ~~combined with state and local match incentive programs.~~

224 c. ~~Broward County may pay one hundred percent (100%) of cash~~
225 ~~incentives for new jobs created in unincorporated areas of Broward~~
226 ~~County. Broward County may negotiate, with local municipalities, a~~
227 ~~share of any local participation for new jobs created within a~~

municipality. The County's share, if any, shall be negotiated with the municipality after an analysis of tax revenue receipts projected over the incentive period.

d. Special Project Category. Special projects do not need to meet the Targeted Industry Business criteria; however, they must meet at least one (1) of the following criteria:

1. The Creation of at least one (1) new job and a projected minimum cumulative capital investment for special projects is of \$Twenty-five mMillion dDollars (\$25,000,000.00) cumulative capital investment for up to within twenty (20) years. Research and development facilities must make or a \$Ten mMillion dDollar (\$10,000,000.00) or more projected cumulative capital investment for the construction or development of Research and Development Facilities; or

2. The eCreation of at least fifty (50) new, full-time jobs, or twenty-five (25) new jobs for new or existing Research and dDevelopment fFacilities must create at least twenty-five (25) new, full-time jobs.

(2) ~~*Tax Refund Program for Qualified Target Industry Business (QTI).*~~ This state incentive program is used to attract Qualified Target Industry Business (QTI) to Florida for high quality, high wage employment opportunities and is available for companies creating a minimum requisite number of new jobs and meeting the criteria set forth in Section 288.106, Florida Statutes, as

251 ~~amended. Broward County may award cash incentives for new companies~~
252 ~~or to companies relocating or expanding their existing businesses based~~
253 ~~upon the number of new jobs created in the County. Companies eligible for~~
254 ~~County participation must meet the criteria pursuant to Section 288.106,~~
255 ~~Florida Statutes, as amended, which criteria include:~~

256 a. ~~*Future growth:* Industry forecasts should indicate strong expectation~~
257 ~~for future growth in both employment and output, according to the~~
258 ~~most recent available data. Special consideration should be given to~~
259 ~~businesses that export goods to, or provide services in, international~~
260 ~~markets and businesses that replace domestic and international~~
261 ~~imports of goods or services.~~

262 b. ~~*Stability:* The industry should not be subject to periodic layoffs,~~
263 ~~whether due to seasonality or sensitivity to volatile economic~~
264 ~~variables such as weather. The industry should also be relatively~~
265 ~~resistant to recession, so that the demand for products of this~~
266 ~~industry is not typically subject to decline during an economic~~
267 ~~downturn.~~

268 c. ~~*High wage:* The industry should pay relatively high wages compared~~
269 ~~to statewide or area averages.~~

270 d. ~~*Market and resource independent:* The location of industry business~~
271 ~~should not be dependent on Florida markets or resources as~~
272 ~~indicated by industry analysis, except for businesses in the~~
273 ~~renewable energy industry.~~

e. ~~*Industrial base diversification and strengthening:*~~ The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by an analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the development of strong industrial clusters that include defense and homeland security businesses.

f. ~~*Economic benefits:*~~ The industry should have strong positive impacts on, or benefits to, the county, state, or regional economies.

(2) *Strategic Job Creation Incentive Program.* This County incentive program provides a monetary award to new, relocating, or expanding Targeted Industry Businesses, and businesses that create manufacturing jobs, that provide the County a positive return on investment based upon the number of new jobs created in Broward County and their corresponding cumulative average annual salaries. The County may negotiate with the local municipality to pay a share of any incentive award for new jobs created within the municipality based upon an analysis of projected tax revenue receipts over the incentive period. The amount of the award may be divided between the County and the municipality, with up to thirty percent (30%) of the award paid by the municipality. The County may elect to award this

incentive without municipal contribution, and the County shall pay one hundred percent (100%) of incentive awards for new jobs created within unincorporated areas of Broward County.

a. Incentives under this program may be granted to qualified companies that create new jobs with salaries that exceed the average annual wage in Broward County. The amount of any incentive award under this program will vary according to the salary of the jobs created and retained but shall not exceed Two Thousand Dollars (\$2,000) per new job.

b. The award for each new job created and retained under this program shall be as follows:

1. Manufacturing jobs with a cumulative average annual salary that exceeds the average annual wage in Broward County will be eligible for up to Seven Hundred Fifty Dollars (\$750) per new job.

2. New jobs in any of the targeted industries with a cumulative average annual salary that is more than one hundred fifteen percent (115%) and not more than one hundred fifty percent (150%) of the average annual wage in Broward County will be eligible for up to One Thousand Dollars (\$1,000) per new job.

3. New jobs in any of the targeted industries with a cumulative average annual salary that is more than one hundred fifty percent (150%) and not more than two hundred percent

(200%) of the average annual wage in Broward County will be eligible for up to One Thousand Five Hundred Dollars (\$1,500) per new job.

4. New jobs in any of the targeted industries with a cumulative average annual salary that is more than two hundred percent (200%) of the average annual wage in Broward County will be eligible for up to Two Thousand Dollars (\$2,000) per new job.

c. The Strategic Job Creation Incentive Program shall automatically expire upon the reinstatement of the State of Florida Qualified Target Industry (QTI) Tax Refund Program, previously codified in Section 288.106, Florida Statutes, which sunsetted on June 30, 2020. If the QTI Tax Refund Program is reinstated, any preexisting agreements and incentive awards approved by the Board under the Strategic Job Creation Incentive Program shall not be impacted by such reinstatement.

~~(3) *High-Impact Performance Sector Incentive Program.* This state incentive program is negotiated between the state of Florida, Broward County, and the proposed municipality to attract and grow high-impact facilities and is available for companies creating a minimum requisite number of new jobs and meeting the criteria set forth in Section 288.108, Florida Statutes, as amended. Companies eligible for County participation must meet the criteria pursuant to Section 288.108, Florida Statutes, as amended.~~

(4) *Alternative state or federal ~~local~~ match or incentive ~~program~~.* Broward
The County may provide local ~~matching dollars~~ financial support as a
portion of an overall job creation incentive offer to companies considering
the creation of a new business in, or relocating to, or expanding within,
Broward County. Companies eligible for County participation must meet the
applicable state or federal agency criteria associated with any ~~new~~ program
incentives introduced by the issuing state or federal agency. Board approval
is required prior to the award of any local financial support by the County.

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Section 4. Section 9½-53 of the Broward County Code of Ordinances is hereby
amended to read as follows:

**Sec. 9½-53. Economic Incentive Application Selection Criteria; Economic
Incentive Payments.**

(a) The following factors will be considered in reviewing applications for state
or federal economic incentive programs ~~established~~ pursuant to Section 9½-52(d)(3),
~~Broward County Code of Ordinances, as amended:~~

(1) The company must be financially responsible and (prior to approval of
incentives) must comply with the County requirements to produce
appropriate financial statements (financial statements of the company for
the three (3) most recent years or, if less than three (3) years are available,
audited or nonaudited financial statements of the principal(s) of the
company for the balance of the three (3) year period,~~by non-audited~~
~~personal financial statements of the principal(s) of the company, in a form~~

365 ~~reasonably acceptable to the County. If the company is new, the County~~
366 ~~requires non-audited personal financial statements of the principal(s) of the~~
367 ~~company for the most recent three (3) years, in a form reasonably~~
368 ~~acceptable to the County).~~ The County, through the Office, shall conduct a
369 review of the company's ~~or~~ and the principals' financial statements prior to
370 approval of any incentives. The County Administrator or Director may
371 assign the review of the company's financial statements to ~~the Greater~~
372 ~~Fort Lauderdale Alliance, or such other organization.~~

373 . . .

374 (b) The following requirements and factors will be considered in reviewing
375 applications for economic incentive programs exclusive to the County established
376 pursuant to Section 9½-52(d), ~~Broward County Code of Ordinances:~~

377 (1) The company must be a Targeted Industry Business, unless it meets the
378 Special Project criteria under the Direct Cash/Job Creation Incentive
379 Program or creates manufacturing jobs under the Strategic Job Creation
380 Incentive Program. The Office, in consultation with ~~the Greater Fort~~
381 ~~Lauderdale Alliance, or such other organization,~~ shall develop a list of such
382 targeted industries and review the list annually. ~~The Targeted Industry list~~
383 ~~shall be approved by the Board.~~

384 (2) The company must create a minimum of ten (10) new full-time, equivalent
385 jobs, unless the company meets the Special Project criteria under the Direct
386 Cash/Job Creation Incentive Program.

- (3) New jobs must be ~~created within a twelve (12) month period and~~ retained for a minimum of twelve (12) months.
- (4) Wages for new jobs must be at least one hundred fifteen percent (115%) of the 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. Under the Strategic Job Creation Incentive Program, manufacturing jobs must exceed the average annual wage in Broward County.
- (5) The company's ~~share~~ must derive a minimum of fifty percent (50%) of its gross revenues from products or services ~~derived from~~ provided to customers outside of Broward County ~~should not exceed fifty percent (50%).~~
- (6) The company must be financially responsible and (prior to approval of incentives) must comply with County requirements to produce appropriate financial statements (financial statements of the company for the three (3) most recent years or, if less than three (3) years are available, audited or nonaudited financial statements of the principal(s) of the company for the balance of the three (3) year period, ~~by non-audited personal financial statements of the principal(s) of the company, in a form reasonably acceptable to the County. If the company is new, the County requires non-audited personal financial statements of the principal(s) of the company for the most recent three (3) years, in a form reasonably acceptable to the~~ County). The County, through the Office, shall conduct a review of the

company's financial statements prior to approval of any incentives. The County Administrator or Director may assign the review of the company's financial statements to ~~the Greater Fort Lauderdale Alliance, or such other~~ organization.

(7) The County's tax revenue/incentive payout analysis must show projected revenue receipts in excess of projected incentive payments over the specified period of the award, and a net positive return on investment to the County over the same period.

(8) The company seeking an economic incentive award must also demonstrate that its business activity will have a significant contribution to the area's economy and the economic growth of ~~the~~ Broward County, including the indirect new jobs created as spinoffs from the company's investments and new jobs, and that the business activity will produce a higher standard of living for the residents of Broward County.

(9) The company must agree in its application to the inclusion of sanctions for failure to meet performance conditions, including any clawback provisions.

(10) To apply for an economic incentive under the programs established pursuant to Section 9½-52(d), ~~Broward County Code of Ordinances, as amended~~, if the company is new or relocating to ~~the~~ Broward County, the company must file its application prior to the company making a final decision on the location of its facility. A binding lease commitment or executed property purchase agreement will be construed as a decision to locate a facility.

(11) County economic incentives may be awarded in addition to state and federal local financial support. Companies may be awarded an incentive under the Direct Cash/Job Creation Incentive Program or the Strategic Job Creation Incentive Program, or both.

(c) Payment of economic incentive claims for State of Florida or federal incentive programs.

(1) Under state incentive programs, incentive payments are made by the State of Florida through state agencies, such as Enterprise Florida. Any local financial support that is approved by the Board will be paid into the State of Florida's Economic Development Trust Fund, or such other fund identified by the state. Accordingly, the State of Florida will serve as the appropriate contact for the processing of payments pursuant to a state incentive program. For federal incentive programs, incentive payments will be made in accordance with the federal program guidelines. The company must submit a claim each year with the appropriate documentation to the applicable state or federal agency. The County will not pay any approved local financial support for a state or federal incentive directly to a company, unless required under the state or federal incentive program. Municipalities participating in any local match must separately pay their portion of the local match to the applicable federal or state agency. The County shall not be responsible for payment of a municipality's share of any local match required under a state or federal incentive program.

(2) The company must agree to submit to an audit of the company's hiring records, and any other records the County, state, or federal agency may determine necessary to verify the company's adherence to the incentive requirements.

(d) Payment of economic incentive claims for County incentive programs.

(1) The County shall enter into an agreement ("Incentive Agreement") with companies that are awarded County incentives ("Incentive Awardees"). Incentive Awardees must submit claims for payment to the County for performance completed during each year by March 1 of the following year, and must submit claims for payment in the form and manner prescribed in the Incentive Agreement. Payment of any incentive claim will only be made after the Office, or the Third-Party Administrator, conducts a comprehensive performance audit confirming that the terms of the Incentive Agreement were satisfied.

(2) The payment schedule will be delineated in the Incentive Agreement and will be based on the number of new jobs the Incentive Awardee committed to create, multiplied by the per job incentive value, and then divided into installments over a number of years. The Incentive Awardee will only be paid for the new jobs that it created and retained that meet all applicable conditions and requirements.

(3) Incentive Awardees must agree to submit to audits of hiring records and other records determined by the County to be necessary to verify each Incentive Awardee's compliance with the applicable incentive program and

the associated Incentive Agreement. The County may utilize a Third-Party Administrator to review payment claims and other documentation from the Incentive Awardee to confirm that the terms of the applicable incentive program and the associated Incentive Agreement are satisfied.

(e) An Incentive Awardee may request one (1) one-year extension of an annual job creation requirement by submitting a written request to the Office at least ninety (90) days before the end of the applicable annual period. The County Administrator is authorized to approve such extension request. Any additional extension request shall be subject to Board approval.

(1) After receipt of a company's first extension request, the Office will notify the Incentive Awardee within sixty (60) days stating whether its extension request has been granted or denied. In determining whether an extension should be granted, the County Administrator may consider the extent to which negative economic conditions or other unforeseeable events have occurred and the impact on the Incentive Awardee's ability to comply with the terms and conditions of the Incentive Agreement. The County Administrator may also consider current employment statistics for Broward County by industry, including whether the Incentive Awardee's industry had substantial job loss during the prior year.

(2) If the Incentive Awardee was previously granted an extension request, the Office shall present a recommendation to the Board to approve or deny additional extension requests along with a summary of the reasoning provided in the extension request. The Incentive Agreement shall be

501 amended to reflect extensions granted under this section and include a
502 revised payment schedule, if applicable.

503 (f) The County may elect to terminate an Incentive Agreement for cause if an
504 Incentive Awardee fails to create the committed number of new jobs or fails to pay the
505 committed cumulative average annual salary for new jobs during any annual period of the
506 Incentive Agreement. Alternatively, the Incentive Awardee may be granted a prorated
507 payment for the applicable annual period, reduced by five percent (5%), if all other
508 applicable requirements have been satisfied and the Incentive Awardee proves to the
509 satisfaction of the Office that:

510 (1) The Incentive Awardee has created at least eighty percent (80%) of its
511 projected new jobs for the applicable annual period; and

512 (2) The cumulative average annual salary paid for new jobs created during the
513 applicable annual period by the Incentive Awardee is at least
514 ninety percent (90%) of the average annual wage specified in the Incentive
515 Agreement, but in no case less than one hundred percent (100%) of the
516 average annual wage in Broward County for the year in which the Board
517 approved the incentive award.

518 If a prorated refund is allowed under the applicable Incentive Agreement, the
519 Incentive Agreement shall specify the formula for calculating such prorated refund.

520 Section 5. Section 9½-54 of the Broward County Code of Ordinances is hereby
521 amended to read as follows:

522 **Sec. 9½-54. Eligible Uses of Economic Incentive Funds; ~~Economic Incentive~~**
523 **Payments.**

...

(g) ~~Local Match for State Tax Refund Program. A local match of up to twenty percent (20%) of the state tax refund provided under the Qualified Target Industry (QTI) Tax Refund Program, subject to the provisions in Section 288.106, Florida Statutes, as amended, and the procedures established pursuant to the Job Growth/Economic Development Incentives Act.~~

(1) ~~Payment of Economic Incentive Claims.~~

a. ~~Payment of incentives will be made after the company submits a claim each year for the scheduled amount according to the terms of the Job Growth Incentive Agreement. The agreement will specify payment allocations over a period not to exceed the term of the projected job creation and retention commitment. The annual allocations will be paid in equal annual installments unless otherwise negotiated.~~

b. ~~The company must agree to submit to an audit of hiring records, and other records determined by the County to be necessary, in carrying out the provisions herein.~~

c. ~~A company receiving an economic incentive award shall submit its requests for payments in the form and detail prescribed by the Office and approved by the Broward County Accounting Division.~~

d. ~~Payments under the state incentive programs are made by the state of Florida through agencies including Enterprise Florida. Any local match approved by the Board is paid into the state of Florida~~

~~Economic Development Trust Fund. Accordingly, the state will serve as the appropriate contact for the processing of payments pursuant to Sections 288.106 and 288.108, Florida Statutes, as amended. The company must submit a claim each year with the appropriate documentation to the Florida Department of Economic Opportunity as required by Sections 288.106 and 288.108, Florida Statutes, as amended. The County shall not pay any approved local match directly to the company. Municipalities participating in any local match must pay, separately, their portion of the local match into the state of Florida Economic Development Trust Fund. Broward County shall not be responsible for payment of a municipality's share of local match as required under any state or federal incentive program.~~

Section 6. Section 9½-55 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 9½-55. Economic Incentive Programs Application; Program Administration and Approval Process.

(a) The Office shall administer the ~~Job Growth/Economic Development Incentives Programs~~ established pursuant to this Broward County Economic Incentives Act. Applications ~~should~~ must be submitted to ~~the Greater Fort Lauderdale Alliance~~, or such other organization designated by the Office ~~to provide application assistance~~. The ~~Greater Fort Lauderdale Alliance~~, or such other designated organization, shall provide the applicant with the standard application form approved for use by the Office. An executive or designee on behalf of the Alliance, ~~After ensuring completeness of the~~

570 application, ~~The Greater Fort Lauderdale Alliance, or such other organization,~~ shall
571 forward the completed application to the Office for review and initial approval. If initial
572 approval is given, the Director may inform the Director of the Finance and Administrative
573 Services Department and the Director of the Office of Management and Budget of the
574 recommendation, and shall forward the application to the County Administrator with the
575 recommendation for final administrative approval. After approval by the County
576 Administrator, a resolution shall be placed on the Board's agenda seeking approval of the
577 company's application. Economic incentive awards shall not be made, absent approval
578 of the Board. If, however, the application has the initial approval of the Director and the
579 administrative approval of the County Administrator, but the Board is on summer or
580 year-end break, approval of an economic incentive award may be made by the County
581 Administrator with written notification to the Board upon its return.

582 (b) A municipality may request to participate in a County participation incentive
583 program, or request that the County participate in a municipal incentive program, through
584 the Office or through ~~the Greater Fort Lauderdale Alliance, or such other organization.~~
585 The terms of an economic incentive award shall be incorporated into an Incentive
586 aAgreement, prepared and approved as to legal sufficiency by the Office of the County
587 Attorney, and executed by the company and the County. Every Incentive aAgreement
588 shall contain the following statement: "This Agreement is not a general obligation of
589 Broward County. Payments of tax refunds/incentives are conditioned on and subject to
590 specific annual appropriations by the Board of moneys sufficient to pay the amounts
591 authorized under Broward County's ~~Job Growth/Economic Development~~ Incentives Act,
592 Sections 9½-50 through 9½-55, Broward County Code of Ordinances, as amended."

...

Section 7. Severability.

If any portion of this Ordinance 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 Ordinance. If any court determines that this Ordinance, 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 Ordinance to any other individual, group, entity, property, or circumstance.

Section 8. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary in order to accomplish such intention.

607 Section 9. Effective Date.

608 This Ordinance is effective as of the date provided by law.

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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 Ordinance
05/04/2023
#1030767

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.