

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 4, 2012 Consent Regular
 Ordinance Public Hearing

Department: Department of Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve on preliminary reading and advertise for public hearing on December 18, 2012, at 9:30 a.m.: An Ordinance Of The Board Of County Commissioners Of Palm Beach County, Florida, Amending Chapter 17, Article VII Of The Palm Beach County Code (Ordinance No. 2005-004) Entitled "Economic Development Ad Valorem Tax Exemption Ordinance Of Palm Beach County"; Amending Intent And Declaration; Amending Definition Of Terms; Amending Economic Development Ad Valorem Tax Exemption Established; Deleting Application For Exemption; Providing For Approval Process; Amending Application Consideration; Amending Application Fee; Amending Applicability; Providing For Inclusion In The Code Of Laws And Ordinances; Providing For Severability; Providing For Repeal Of Laws In Conflict; And Providing For An Effective Date; and

B) conceptual approval of the Program Criteria.

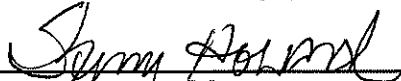
Summary: On February 15, 2005, the Board of County Commissioners (BCC) approved Ordinance 2005-004 establishing the County's Ad Valorem Tax Exemption Program which remains in effect until August 31, 2014. The Ordinance currently conflicts with Section 196.1995 due to changes in the Statute over the last seven (7) years. The proposed ordinance amendment streamlines the eligibility requirements to default to the State Statute, therefore eliminating any future conflicts should the Statute change. The Palm Beach County Property Appraiser concurs that the County's Ordinance should be modified to be consistent with the State Statutes. Staff is also recommending an increase in the application fees from \$1,000 to \$2,000 to help offset costs to review and process the applications. To date, 20 companies have been approved under the Program since its inception in 1994. Over \$2.3 Million in business property taxes have been forgiven to date. The Program Criteria is being revised to be consistent with the proposed Ordinance amendments. (Admin) Countywide (DW)

Background and Policy Issues: The exemption program that was approved by a referendum vote in September 1994 and implemented by the BCC through the adoption of Ordinance 94-21, as amended, expired in September 2004 due to having reached its 10th year limitation pursuant to Section 196.1995, Florida Statutes.

The exemption program that was approved by a referendum vote in August 2004 and implemented by the BCC through the adoption of Ordinance 2005-004, as amended, expires in August 2014 due to having reached its 10th year limitation pursuant to Section 196.1995, Florida Statutes.

Attachments:

- 1. Ordinance (underline/~~strikethrough~~)
- 2. Program Criteria (underline/~~strikethrough~~)

Recommended By:  Department Director 11-21-12 Date

Approved By:  Assistant County Administrator 11-30-12 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	* See below				

# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No _____

Budget Account No.:

Fund _____ Dept _____ Unit _____ Object _____ Program Code/Period _____

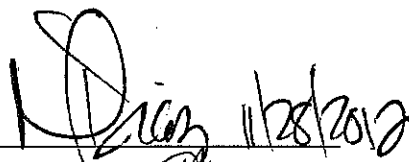
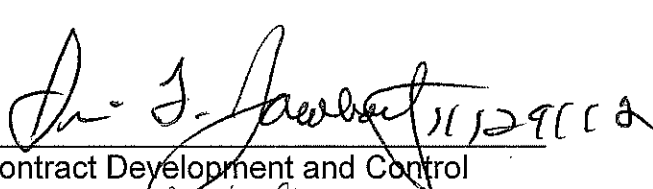
B. Recommended Sources of Funds/Summary of Fiscal Impact:

* The Fiscal impact is indeterminable at this time. The increase in application fees will depend on the number of applications received.

C. Departmental Fiscal Review: 
 Shairette Major, Fiscal Manager I

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 11/28/12
 OFMB  11/29/12
 Contract Development and Control
 11-29-12 B. O'Keefe

B. Legal Sufficiency:

 11/29/12
 Chief Assistant County Attorney

C. Other Department Review:

 Department Director

ORDINANCE NO. 2012 -

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 17, ARTICLE VII OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2005-004) ENTITLED "ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ORDINANCE OF PALM BEACH COUNTY"; AMENDING INTENT AND DECLARATION; AMENDING DEFINITION OF TERMS; AMENDING ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ESTABLISHED; DELETING APPLICATION FOR EXEMPTION; PROVIDING FOR APPROVAL PROCESS; AMENDING APPLICATION CONSIDERATION; AMENDING APPLICATION FEE; AMENDING APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners believes that local government should support economic growth by providing an incentive for employment opportunities that will lead to the improvement of the quality of life of the residents of Palm Beach County and the positive expansion of the economy; and

WHEREAS, the electors of Palm Beach County desired to authorize the offering of ad valorem tax exemptions as evidenced by the successful passage of a referendum held on this issue on August 31, 2004; and

WHEREAS, the goal of this ordinance amendment is to remedy conflicts with Florida Statutes Section 196.1995 due to changes in the statute; and

WHEREAS, this amendment streamlines the eligibility requirements to default to state statute which will eliminate future conflicts should the state statute be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Chapter 17, Article VII of the Palm Beach County Code is hereby amended as follows:

SECTION 1. Title

This Ordinance shall be known as the "Economic Development Ad Valorem Tax Exemption Ordinance of Palm Beach County, Florida."

SECTION 2. Enactment Authority

Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, empowers the County to grant economic development ad valorem tax exemptions after the electors of the County, voting on the question in a referendum, authorize such exemptions. In a referendum held on August 31, 2004, the voters of Palm Beach County authorized the Board of County Commissioners to grant economic development ad valorem tax exemptions.

SECTION 3. Intent and Declaration

It is the intent of the Board of County Commissioners of Palm Beach County (hereinafter the "Board") in enacting this Ordinance to provide an incentive to those new or expanded businesses which make a positive contribution to the economy of Palm Beach County in terms of new jobs and

1 improvements to real and personal property.

2 The intent of the Board is to promote the economy by creating jobs in Palm Beach County in such
3 a way so as not to disadvantage existing businesses while recognizing that productive competition assists
4 in economic growth.

5 The Board desires to provide incentives to businesses of diverse industries, with the exception of
6 retail operations Retail Operations, having a positive impact on the economy of Palm Beach County. The
7 Board declares that the provision of ad valorem tax exemptions pursuant to this Ordinance serves the
8 public purpose of fostering economic growth in Palm Beach County, all to the benefit of Palm Beach
9 County's residents and business owners.

10 ~~The granting of, or the denial of exemptions will be conducted on a rational, nonarbitrary,~~
11 ~~nondiscriminatory basis by the Board, in furtherance of the economic development goals of Palm Beach~~
12 ~~County. Any and all exemptions granted must result in an economic benefit to the County. To this end,~~
13 ~~prior to any grant of an exemption, the Board will take into full consideration the factors set forth in~~
14 ~~Section 6.B. of this Ordinance. Since the intent of the Board is to promote economic growth through~~
15 ~~attracting businesses and encouraging expansions that support Palm Beach County and its existing~~
16 ~~businesses, these factors will be considered on a case-by-case basis to determine that the economic~~
17 ~~benefit test is met. In addition to these factors, the Board is interested in the purchasing power created~~
18 ~~by the new business as it desires to prompt other sales in the County resulting in an increase in income,~~
19 ~~all to the benefit of the public of Palm Beach County.~~

20 ~~Based on Section 196.1995, Florida Statutes, this Ordinance shall expire ten (10) years after the~~
21 ~~date such authority to grant exemptions was approved by the electors of the County voting on the~~
22 ~~question in a referendum. The referendum was held on August 31, 2004. This Ordinance shall expire on~~
23 ~~August 31, 2014.~~

24 **SECTION 4. Definition of Terms**

25 For the purpose of this Ordinance, Terms are defined in accordance with 196.012, Florida
26 Statutes unless defined below. Where a conflict exists between the Ordinance and the Statute, the
27 Statute shall prevail.

28 ~~The following words, phrases, and terms shall have the same meanings attributed to them in~~
29 ~~current Florida Statutes and the Florida Administrative Code, except where the context clearly indicates~~
30 ~~otherwise:~~

- 31 A. Applicant - Any person, firm, partnership, or corporation who files an application with the Board
32 seeking an economic development ad valorem tax exemption.
- 33 B. Board - The Board of County Commissioners of Palm Beach County.
- 34 C. Business - Any activity engaged in by any person, firm, partnership, corporation, or other
35 business organization or entity, with the object of private or public gain, benefit, or advantage,
36 either direct or indirect.
- 37 D. Department - The Florida Department of Revenue.

- 1 E. Enterprise Zone ~~An area designated as an enterprise zone pursuant to Section 290.0065, Florida~~
2 ~~Statutes As defined in 196.012, Florida Statutes.~~
- 3 F. Expansion of an Existing Business ~~- As defined in 196.012, Florida Statutes. -As primarily~~
4 ~~defined in Section 196.012(16), Florida Statutes, an expansion of an existing business means:~~
- 5 1. ~~(a) A business establishing ten (10) or more jobs to employ ten (10) or more full-time~~
6 ~~employees in this County, which manufactures, processes, compounds,~~
7 ~~fabricates, or produces for sale items of tangible personal property at a fixed~~
8 ~~location and which comprises an industrial or manufacturing plant; or~~
- 9 ~~(b) A business establishing twenty-five (25) or more jobs to employ twenty-five (25)~~
10 ~~or more full-time employees in this County, the sales factor of which, as~~
11 ~~defined by Section 220.15(5), Florida Statutes, for the facility with respect to~~
12 ~~which it requests an economic development ad-valorem tax exemption is less~~
13 ~~than fifty (50%) percent inside this County for each year the exemption is~~
14 ~~claimed; or~~
- 15 ~~(c) A business occupying office space in this County and establishing fifty (50) or~~
16 ~~more jobs to employ fifty (50) or more full-time employees; or~~
- 17 ~~(d) Any business located in an enterprise zone (pursuant to Section 290.0065,~~
18 ~~Florida Statutes) and creating new full-time jobs in accordance with the business~~
19 ~~disciplines identified above.~~
- 20 2. ~~Any expansion of an existing business, including a business located in an enterprise~~
21 ~~zone, must increase operations on a site collocated with a commercial or industrial~~
22 ~~operation owned by the same business, resulting in a net increase in employment of not~~
23 ~~less than ten (10%) percent or an increase in productive output of not less than ten (10%)~~
24 ~~percent.~~
- 25 G. Goods ~~- All personalty when purchased primarily for personal, family, or household use, but not~~
26 ~~including personalty sold for commercial or industrial use.~~
- 27 H. Improvements ~~Physical changes made to raw land, and structures placed on or under the land~~
28 ~~surface.~~
- 29 G. New Business ~~As defined in Section 196.012, Florida Statutes.~~
- 30 I.H. New Business ~~- As primarily defined in Section 196.012(15), Florida Statutes, a new business~~
31 ~~means:~~
- 32 1. ~~(a) A business establishing ten (10) or more jobs to employ ten (10) or more full-time~~
33 ~~employees in this County which manufactures, processes, compounds,~~
34 ~~fabricates, or produces for sale items of tangible personal property at a fixed~~
35 ~~location and which comprises an industrial or manufacturing plant; or~~
- 36 ~~(b) A business establishing twenty-five (25) or more jobs to employ twenty-five (25)~~
37 ~~or more full-time employees in this County, the sales factor of which, as~~

1 defined by Section 220.15(5), Florida Statutes, for the facility with respect to
2 which it requests an economic development ad valorem tax exemption is less
3 than fifty (50%) percent inside this County for each year the exemption is
4 claimed; or

5 ~~(c) An office space in this County leased or owned and used by a corporation
6 newly domiciled in this County; provided such office space houses fifty (50)
7 or more full-time employees of such corporation; or~~

8 ~~(d) Any business located in an enterprise zone (pursuant to Section 290.0065,
9 Florida Statutes) and creating new full-time jobs in accordance with the business
10 disciplines identified above.~~

11 ~~2. Any new business, including a business located in an enterprise zone, must first begin
12 operation on a site clearly separate from any other commercial or industrial operation
13 owned by the same business.~~

14 H.J. Retail Operation - A business regularly engaged in, and whose business consists to a substantial
15 extent of, selling goods to a buyer, not principally for the purpose of resale.

16 K. Sales Factor - As primarily defined in Section 220.15(5), Florida Statutes. ~~the sales factor is a~~
17 ~~fraction the numerator of which is the total sales of the taxpayer in this County during the taxable~~
18 ~~year or period and the denominator of which is the total sales of the taxpayer everywhere during~~
19 ~~the taxable year or period.~~

20 **SECTION 5. Economic Development Ad Valorem Tax Exemption Established**

21 A. Establishment Incentive - There is herein established an Economic Development Ad Valorem Tax
22 Exemption (hereinafter the "exemption"). The exemption is a local option tax incentive for new or
23 expanding businesses which may be granted or refused at the sole discretion of the Board.

24 ~~B. Ineligible Improvements - The exemptions shall not accrue to improvements to real property~~
25 ~~made by or for the use of new or expanding businesses when such improvements have been~~
26 ~~included on the tax rolls prior to the effective date of the ordinance specifically granting a~~
27 ~~business an exemption as provided in Section 7.G. herein.~~

28 B. Taxes Applicable - The exemption applies only to taxes levied by Palm Beach County. The
29 exemption does not apply to taxes levied by a municipality, school district, or water management
30 district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors
31 pursuant to Section 9 and Section 12, Article VII of the State Constitution.

32 ~~C. Eligible Improvements - Any exemption granted may apply up to one hundred (100%) percent of~~
33 ~~the assessed value of all improvements to real property made by or for the use of a new business~~
34 ~~and of all tangible personal property of such new business, or up to one hundred (100%) percent~~
35 ~~of the assessed value of all added improvements to real property made to facilitate the expansion~~
36 ~~of an existing business and of the net increase in all tangible personal property acquired to~~
37 ~~facilitate such expansion of an existing business, provided that the improvements to real property~~

1 are made or the tangible personal property is added or increased under either of the following
2 two conditions: (1) by **January 1st** of the year in which the application will be filed as provided in
3 Sections 5.F.1. and 7.G herein; or (2) after the effective date of the ordinance specifically granting
4 a business an exemption as provided in Sections 5.F.2 and 7.G. herein. Property acquired to
5 replace existing property shall not be considered to facilitate a business expansion.

6 CD. Exemption Period - The exemption may be for a period up to ten (10) years from the date the
7 Board adopts the ordinance granting the exemption.

8 D. Eligibility - The ability for an applicant to be eligible for an exemption under this Program is
9 defined in Title XIV – Taxation and Finance, Chapter 196 – Exemption, Florida Statutes and
10 applies to new businesses locating in Palm Beach County and to expansions of existing
11 businesses presently located in Palm Beach County.

12 E. Land - No exemption shall be granted for the land upon which new or expanded businesses are
13 to be located.

14 ~~F. Completed or Planned Improvements - A business may file an exemption under either of the~~
15 following two conditions:

16 ~~1. Completed Improvements - No exemption shall be granted to any existing building or an~~
17 addition to an existing building unless such building or addition was completed within the
18 12-month period (**January 1st to December 31st**) preceding the date of application.

19 ~~2. Planned Improvements - The only exception to Section 5.F.1. above is when a business~~
20 submits an application and the building or addition was not completed within the 12-
21 month period preceding the date of the application and/or all tangible personal property
22 improvements are not in the building or addition at the time of the filing of the application,
23 but the application identifies all planned improvements, including the total estimated
24 amount of such improvements, none of which can be changed or increased following the
25 adoption of the ordinance granting the exemption.

26 ~~G. Retail - No exemption shall be granted to any retail operation.~~

27 ~~H. Taxes Applicable - The exemption applies only to taxes levied by Palm Beach County. The~~
28 exemption does not apply to taxes levied by a municipality, school district, or water management
29 district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors
30 pursuant to Section 9 and Section 12, Article VII of the State Constitution.

31 ~~I. Business Maintenance, Annual Report & Annual Exemption Renewal Application - The ability to~~
32 receive an exemption for the period granted is conditioned upon:

33 ~~1. Business Maintenance - The applicant's ability to maintain the new business or the~~
34 expansion of an existing business as defined in Section 4 of this Ordinance throughout
35 the entire period; and

36 ~~2. Annual Report - The Applicant shall be required to submit a report on an annual basis to~~
37 the Board evidencing satisfaction of this condition. The report shall be submitted to the

1 Board on or before **March 1st** for each year the exemption is in effect. The report shall
2 be made in such form as attached hereto and made a part hereof as Exhibit "B". The
3 Board or its designee shall provide the applicant with a blank copy of the annual report no
4 later than **December 1st**, which will be ninety (90) days prior to the **March 1st** filing
5 deadline; and

6 ~~3. Annual Renewal Exemption Application - The applicant shall be required to submit an~~
7 ~~annual exemption renewal application and employee roster to the Property Appraiser on~~
8 ~~or before **March 1st** of each year for which the exemption was granted evidencing~~
9 ~~satisfaction of this condition. The renewal application shall be made in such form as~~
10 ~~attached hereto and made a part hereof as Exhibit "C".~~

11 ~~4. Continued Performance - Any business granted an exemption shall furnish to the Board~~
12 ~~or its designee, such information/report as the Board or its designee may reasonably~~
13 ~~deem necessary for the purpose of determining continued performance by the business~~
14 ~~of the conditions stated in this Ordinance and the representations made in the application~~
15 ~~process.~~

16 **SECTION 6. Approval Process Application for Exemption**

17 A. Conceptual Application - A Conceptual Application may be applied for through the Palm Beach
18 County Department of Economic Sustainability prior to commencement of improvements, but is
19 not required. A review of the application will be conducted to determine conceptual compliance
20 with s.196.1995 Economic Development Ad Valorem Tax Exemption, Florida Statutes. Any
21 projects to be recommended for conceptual approval shall be placed on the Board's agenda to
22 establish conceptual support for the application and the maximum exemption amounts only. Any
23 eligible person, firm, partnership or corporation which desires an exemption shall file with the
24 Board a written application prescribed by the Department (DR-418), a copy of which is attached
25 hereto and incorporated herein as Exhibit "A".

26 B. Formal Application Required Information - A Formal Application for Ad Valorem Tax Exemption
27 must be applied for through the Palm Beach County Department of Economic Sustainability, by
28 March 1st in the year that the exemption is desired to take effect and shall file an annual report
29 every year thereafter for the duration of the exemption on the application entitled "Economic
30 Development Ad Valorem Property Tax Exemption, Chapter 196.1995, Florida Statutes Form
31 418". This application will be reviewed by the Palm Beach County Property Appraiser prior to
32 consideration by the Board. The application shall request that the Board adopt an ordinance
33 granting the applicant the exemption and shall include, at a minimum, the following: the
34 information required by Florida Statute Section 196.1995.

- 35 1. The name and location of the new business or the expansion of an existing business;
- 36 2. The name of the owner(s) of the new business or the expansion of an existing business;
- 37 3. A description of the improvements to the real property for which an exemption is

- 1 requested and the date of commencement of construction of such improvement;
- 2 4. ~~A description of the tangible personal property for which an exemption is requested and~~
- 3 ~~the dates when such property was or is to be purchased;~~
- 4 5. ~~Proof, to the satisfaction of the Board, that the applicant meets the criteria for a new~~
- 5 ~~business or for an expansion of an existing business as defined in Section 4 hereof;~~
- 6 6. ~~The following information:~~
 - 7 (a) ~~the current number of full-time/equivalent (FTE) and seasonal employees of the~~
 - 8 ~~expanding business; the total number of FTE and seasonal jobs to be created~~
 - 9 ~~and maintained by the new or expanding business, and the period (total number~~
 - 10 ~~of years) needed to fill all of the new jobs;~~
 - 11 (b) ~~the expected number of employees who will reside in Palm Beach County;~~
 - 12 (c) ~~the average annual wage of the new jobs, identifying the average annual salary~~
 - 13 ~~with executives salaries included and with executives salaries excluded;~~
 - 14 (d) ~~the type of industry or business;~~
 - 15 (e) ~~the environmental impact of the business;~~
 - 16 (f) ~~the current and anticipated volume (in dollars) of business or production, and the~~
 - 17 ~~percentage of total product sales outside Palm Beach County;~~
 - 18 (g) ~~whether relocation or expansion would occur without the exemption;~~
 - 19 (h) ~~the cost and demand for services;~~
 - 20 (i) ~~the source of supplies (local or otherwise);~~
 - 21 (j) ~~whether the business will be/is located in a community redevelopment area~~
 - 22 ~~and/or enterprise zone; and~~
 - 23 (k) ~~the total length (number of years) of the exemption period being requested.~~
- 24 7. ~~Other information deemed necessary by the Board.~~

25 ~~C. Job Creation & Maintenance - A business will be required to commence the creation of full-time~~
 26 ~~jobs within the period of the exemption and to maintain any newly filled jobs for its facility in Palm~~
 27 ~~Beach County at minimum through to the expiration of the exemption granted by the Board. If a~~
 28 ~~business requires additional time beyond the date of the expiration of the exemption to satisfy all~~
 29 ~~new job creation, maintenance and salary commitments identified in the application, it will be~~
 30 ~~necessary for the business and the County to enter into a separate agreement which will obligate~~
 31 ~~the business to comply fully with those commitments.~~

32 ~~C. Property Appraiser Review - Before the Board takes action on a Formal Application, the Board~~
 33 ~~shall deliver a copy of same to the Property Appraiser for review.~~

34 ~~D. Community Redevelopment Agency - If a new business is locating to, or an expansion of an~~
 35 ~~existing business is occurring in, a community redevelopment area, the community~~
 36 ~~redevelopment agency overseeing such area shall be provided a copy of the application for~~
 37 ~~review and comment. Input from the community redevelopment agency will be considered in~~

1 deciding whether an application is to be granted. Should a community redevelopment agency
2 object to the grant of an exemption, the agency may submit said objection in the form of a duly
3 adopted resolution to the Board for its consideration.

4 E. Property Appraiser Report - The Property Appraiser's report shall include the following:

- 5 1. The total revenue available to the County for the current fiscal year from ad valorem tax
6 sources, or an estimate of such revenue if the actual total available revenue cannot be
7 determined;
- 8 2. The amount of revenue lost to the County for the current fiscal year by virtue of
9 exemptions previously granted, or an estimate of such revenue if the actual revenue lost
10 cannot be determined;
- 11 3. An estimate of the amount of revenue which would be lost to the County for the current
12 fiscal year if the exemption applied for was granted had the property for which the
13 exemption is requested otherwise been subject to taxation; and
- 14 4. A determination as to whether the property for which an exemption is requested is to be
15 incorporated into a new business or the expansion of an existing business, or into
16 neither, which determination the Property Appraiser shall also affix to the face of the
17 application. Upon request, the Department will provide the Property Appraiser such
18 information as it may have available to assist in making this determination.

19 F. Ordinance –

- 20 1. After consideration of the Formal Application and the report of the Property Appraiser on
21 the application, the Board shall adopt an ordinance granting the exemption to a new or expanding
22 business.
- 23 2. Upon approval of a Formal Application for a tax exemption under this section, the Board
24 shall enter into a written tax exemption agreement, which shall include performance criteria
25 consistent with the Formal Application and state law, including a provision regarding the authority
26 to revoke, in whole or in part, the exemption if the applicant fails to meet expectations and
27 representation and such other provisions as deemed necessary by the Board.

28 ~~E. Filing Deadline – The application shall be filed on or before **March 1st** of the year in which an~~
29 ~~exemption is requested.~~

30 ~~F. Review – Upon submittal of the application, the County Administrator or his designee shall review~~
31 ~~same and, within ten (10) days of submission, notify the applicant of any facial deficiencies.~~

32 ~~G. Agreement – A business will be required to enter into an agreement with the Board to ensure that~~
33 ~~the business will satisfy its job creation and maintenance obligations.~~

34 **SECTION 7. Board of County Commissioners Consideration of Application**

35 ~~A. Action Within 90-Day Period – The Board shall take action on the application, including the~~
36 ~~enactment of the required ordinance should the Board decide to grant the application, within~~
37 ~~ninety (90) days of **March 1st**. During this~~

1 90-day period, interested agencies and parties shall have an opportunity to review and comment
2 on the application. Time is of the essence in consideration of the application.

3 A. The granting of, or the denial of exemptions will be conducted on a rational, nonarbitrary,
4 nondiscriminatory basis by the Board, in furtherance of the economic development goals of Palm
5 Beach County. Any and all exemptions granted must result in an economic benefit to the County.

6 ~~B. Eligibility Threshold—The threshold for eligibility is whether the business meets the definition of a~~
7 ~~new business or of an expansion of an existing business as provided in Section 4 of this~~
8 ~~Ordinance, and one which is not an ineligible business or industry as defined in Paragraph D. of~~
9 ~~this Section and Section 5.G. of this Ordinance.~~

10 B. The granting of an exemption is contingent upon a finding that the business meets the criteria in
11 196.1995, Florida Statutes.

12 ~~C. Economic Benefit—The next level to determine eligibility is the Board's consideration of the~~
13 ~~information in the application to determine whether the economic benefit test is met.~~

14 ~~D. Environmental—Any existing business in violation of any federal, state, or local law or regulation~~
15 ~~governing environmental matters is not eligible for an exemption.~~

16 ~~E. Property Appraiser Review—Before the Board takes action on an application, the Board shall~~
17 ~~deliver a copy of same to the Property Appraiser for review. After careful consideration, the~~
18 ~~Property Appraiser shall report to the Board the fiscal impact of granting the exemption.~~

19 ~~F. Property Appraiser Report—The Property Appraiser's report shall include the following:~~

20 1. ~~The total revenue available to the County for the current fiscal year from ad valorem tax~~
21 ~~sources, or an estimate of such revenue if the actual total available revenue cannot be~~
22 ~~determined;~~

23 2. ~~The amount of revenue lost to the County for the current fiscal year by virtue of~~
24 ~~exemptions previously granted, or an estimate of such revenue if the actual revenue lost~~
25 ~~cannot be determined;~~

26 3. ~~An estimate of the amount of revenue which would be lost to the County for the current~~
27 ~~fiscal year if the exemption applied for was granted had the property for which the~~
28 ~~exemption is requested otherwise been subject to taxation; and~~

29 4. ~~A determination as to whether the property for which an exemption is requested is to be~~
30 ~~incorporated into a new business or the expansion of an existing business, or into~~
31 ~~neither, which determination the Property Appraiser shall also affix to the face of the~~
32 ~~application. Upon request, the Department will provide the Property Appraiser such~~
33 ~~information as it may have available to assist in making this determination.~~

34 ~~G. Ordinance—After consideration of the application and the report of the Property Appraiser on the~~
35 ~~application, the Board may choose to adopt an ordinance granting the exemption to a new or~~
36 ~~expanding business. If a community redevelopment agency submits a resolution objecting to the~~
37 ~~granting of an application, adoption of an ordinance granting an exemption in the objecting~~

1 community redevelopment area shall require an extraordinary vote of the Board. If granted, the
2 ordinance shall include the following information:

- 3 1. The name and address of the new business or the expansion of an existing business;
- 4 2. The name of the owner(s) of the new business or the expansion of an existing business;
- 5 3. The total amount of revenue available to the County from ad valorem tax sources for the
6 current fiscal year, the total amount of the revenue lost to the County for the current fiscal
7 year by virtue of exemptions currently in effect, and the estimated amount of revenue
8 attributable to the exemption granted to the new or expanding business;
- 9 4. The expiration date of the exemption, which is (10) ten years or less (depending upon the
10 duration of the exemption granted) from the date the Board enacts the ordinance granting
11 the exemption; and
- 12 5. A finding that the business meets the definition of a new business or an expansion of an
13 existing business as set forth in Section 4 herein.

14 H. Ownership - The business granted an exemption shall be required to inform the Board in writing
15 within ten (10) days as to any changes in ownership of the business granted an exemption.
16 Failure of the business granted an exemption to notify the Board in writing of any such changes in
17 ownership is cause for revocation of the ordinance granting the exemption.

18 I. Precedent - No precedent shall be implied or inferred by the granting of an exemption to a new or
19 expanding business. Applications for exemptions shall be considered by the Board on a case-by-
20 case basis for each application, after consideration of the application and the Property
21 Appraiser's report on the application.

22 **SECTION 8. Application Fees**

23 A non-refundable fee in the amount of ~~\$2,000.00~~ \$1,000.00 shall be charged for processing of the
24 conceptual application of an the Economic Development Ad Valorem Tax Exemption Application and a
25 \$2,000.00 fee shall be charged for the processing of the formal application of an Economic Development
26 Ad Valorem Tax Exemption Application. ~~preparing, implementing, and monitoring any Exemption~~
27 ~~Ordinance adopted by the Board.~~

28 **SECTION 9. Revocation of Exemption/Recovery of Funds**

29 A. Board - Should any new business or expansion of an existing business fail to file the annual
30 report with the Board on or before **March 1st** of each year the exemption has been granted as
31 required in Sections 5.1.1. and 5.1.2., or fail to continue to meet the definition of a new business
32 or an expansion of an existing business, and/or fail to fulfill any other representation made to the
33 Board during the application process, including the creation and maintenance of the total number
34 of new jobs identified by a business in the application (Exhibit "A"), the Board may adopt an
35 ordinance revoking the ad valorem tax exemption.

36 B. Revocation - The revocation of an ordinance may occur for a business that fails to fulfill its
37 obligations as provided for under the ordinance granting the business an exemption after the

1 expiration of this Ordinance on August 31, 2014. The effective date for revocation of the
2 exemption will be identified in the ordinance.

3 C. Notification - Upon revocation, the Board shall immediately notify the Property Appraiser.

4 D. Recover Taxes - For any year that taxes may have been exempted and the Board finds that the
5 business was not entitled to the exemption, such taxes may be recovered and the Property
6 Appraiser will assist the Board to recover any taxes exempted.

7 E. Property Appraiser - Should any new business or expansion of an existing business fail to file the
8 annual exemption renewal application with the Property Appraiser on or before **March 1st** of
9 each year the exemption has been granted as required in Sections 5. I.3. and in accordance with
10 Chapter 196.011(1)(a), Florida Statutes, or fail to continue to meet the definition of a new
11 business or an expansion of an existing business, the Property Appraiser may deny the
12 exemption in accordance with Chapter 196.193(5), Florida Statutes.

13 F. Reapply - Nothing herein shall prohibit a business from reapplying for an ad valorem tax
14 exemption pursuant to State law.

15 **SECTION 10. Appeals**

16 The decision of the Board not to grant an exemption to a particular business is subject only to
17 judicial review.

18 **SECTION 11. Applicability**

19 This Ordinance shall be applicable in all areas of Palm Beach County where Palm Beach County
20 is the taxing authority. For purposes of enforcement and revocation, this Ordinance shall survive the
21 expiration date of August 31, 2014.

22 **SECTION 12. Inclusion in the Code of Laws and Ordinances**

23 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
24 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or
25 relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any
26 other appropriate word.

27 **SECTION 13. Severability**

28 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
29 held by a Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of
30 this Ordinance.

31 **SECTION 14. Repeal of Laws in Conflict**

32 All local ordinances in conflict with any provision of this Ordinance are hereby repealed to the
33 extent of such conflict.

34 **SECTION 15. Effective Date**

35 The provisions of this Ordinance shall become effective upon filing with the Secretary of State.

36 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm Beach County, on
37 the _____ day of _____, 2012.

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ATTEST:
CLERK & COMPTROLLER
SHARON R. BOCK

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: _____
Senior Assistant County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of _____,
2012.

PROGRAM CRITERIA *

ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PROGRAM

Palm Beach County, Florida

- ~~1. New or Expansion — Ad valorem tax exemptions apply to new businesses relocating to Palm Beach County and to expansions of businesses presently located in this County.~~
- ~~1. Eligibility — The ability for an applicant to be eligible for an exemption under this Program is defined in Title XIV – Taxation and Finance, Chapter 196 – Exemption, Florida Statutes and applies to new business relocating to Palm Beach County and to expansions of existing businesses presently located in Palm Beach County.~~
- ~~2. Jobs & Improvements - New or expanded businesses must make a positive contribution to the economy of Palm Beach County in terms of new jobs and improvements to real and/or personal property. The minimum job requirements for a business to be eligible to apply for an exemption are provided under the definitions of an expansion of an existing business and a new business (refer to #7 and #8 below). The creation of new jobs, particularly the **number, type and average annual salary** of the new jobs, and the commitment by a business to maintain those jobs for the required period of time, will be major factors in the Board of County Commissioners' determination on whether to:
 - ~~(1) support or not support granting an exemption; and~~
 - ~~(2) if supported, the number of years to grant the exemption.~~~~
- ~~3. Physical Changes — Improvements are physical changes made to raw land, and structures placed on or under the land surface.~~
- ~~34. Type of Business - It is within the sole discretion of the Board of County Commissioners to grant an exemption to those businesses that qualify under 196.012, Florida Statutes, businesses of diverse industries, including but not limited to:
 - ~~(1) aerospace / engineering~~
 - ~~(2) agribusiness~~
 - ~~(3) business / financial services~~
 - ~~(4) communications / information technology~~
 - ~~(5) medical / pharmaceutical / healthcare~~
 - ~~(6) tourism / recreation / entertainment~~

Retail operations are **ineligible** for ad valorem tax exemptions, including a retail business presently in or locating to an enterprise zone.~~
- ~~4. Consideration – The Board of County Commissioners has complete discretion on whether to support or not to support granting an exemption. The Board of County Commissioners must take into account, as defined in 196.012 Florida Statutes, the following with respect to granting the exemption:~~
 - ~~(A) The total number of net new jobs to be created by the applicant;~~
 - ~~(B) The average wage of the new job;~~
 - ~~(C) The capital investment to be made by the applicant;~~
 - ~~(D) The type of business or operation and whether it qualifies as a Target Industry as defined by the Board of County Commissioners;~~
 - ~~(E) The environmental impact of the proposed business or operation;~~
 - ~~(F) The extent to which the applicant intends to source its supplies and materials within Palm Beach County;~~
 - ~~(G) Any other economic related characteristics or criteria deemed necessary by the Board of County Commissioners.~~
- ~~5. Economic Impact & Sales — Any and all exemptions granted must result in a positive economic impact on Palm Beach County and its existing businesses. A business with product sales **must have in excess of 50% of its product sales outside Palm Beach County**, which will increase but not necessarily guarantee the prospects for the granting of an exemption.~~
- ~~6. Objective — The applicant must be a person, firm, partnership, or corporation, or other business organization or entity, with the object of private or public gain, benefit, or advantage, either direct or indirect.~~
- ~~57. Expansion of an Existing Business - As primarily defined in Section 196.012(16), Florida Statutes,:~~
 - ~~(1a) A business establishing ten (10) or more jobs to employ ten (10) or more full-time~~

employees in this County, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

~~(1b) A business establishing twenty five (25) or more jobs to employ twenty five (25) or more full-time employees in this County, whose sales factor of which, as defined by Section 220.15(5), Florida Statutes, for the facility with respect to which it requests an economic development ad valorem tax exemption is less than fifty (50%) percent inside this County for each year the exemption is claimed; or~~

~~(1c) A business occupying office space in this County and establishing fifty (50) or more jobs to employ fifty (50) or more full-time employees; or~~

~~(1d) Any business located in an enterprise zone (pursuant to Section 290.0065, Florida Statutes) and creating new full-time jobs in accordance with the business disciplines identified above. To determine whether a business is located in an enterprise zone, contact the appropriate municipality.~~

~~(2) Any expansion of an existing business must increase operations on a site collocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than ten (10%) percent or an increase in productive output of not less than ten (10%) percent.~~

68. New Business - As primarily defined in Section 196.012(15), Florida Statutes, a new business means:;

~~(1a) A business establishing ten (10) or more jobs to employ ten (10) or more full-time employees in this County, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or~~

~~(1b) A business establishing twenty five (25) or more jobs to employ twenty five (25) or more full-time employees in this County, the sales factor of which, as defined by Section 220.15(5), Florida Statutes, for the facility with respect to which it requests an economic development ad valorem tax exemption is less than fifty (50%) percent inside this County for each year the exemption is claimed; or~~

~~(1c) An office space in this County leased or owned and used by a corporation newly domiciled in this County; provided such office space houses fifty (50) or more full-time employees of such corporation; or~~

~~(1d) Any business locating to an enterprise zone (pursuant to Section 290.0065, Florida Statutes) and creating new full-time jobs in accordance with the business disciplines identified above. To determine whether a business is located in an enterprise zone, contact the appropriate municipality.~~

~~(2) Any new business must first begin operation on a site clearly separate from any other commercial or industrial operation owned by the same business.~~

~~9. Sales Factor - As primarily defined in Section 220.15(5), Florida Statutes, the sales factor is a fraction the numerator of which is the total sales of the taxpayer in this County during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.~~

~~710. Tax Roll - The exemptions shall not accrue to improvements to real property made by or for the use of new or expanding businesses when such improvements have been included on the tax rolls prior to the effective date of the ordinance specifically granting a business an exemption.~~

~~814. Assessed Value - Any exemption granted may apply up to one hundred (100%) percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to one hundred (100%) percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the effective date of the ordinance specifically granting a business an exemption.~~

~~12. Replacement - Property acquired to replace existing property shall not be considered to facilitate a business expansion.~~

~~913. Land - No exemption shall be granted for the land upon which new or expanded businesses are to be located.~~

~~14. Timing of Improvements - No exemption shall be granted to any existing building or an addition to an existing building:~~

~~(1) - Unless such building or addition was **completed or substantially completed** (refer to #19 below) within the 12-month period preceding the date of application.~~

~~(2) - The exception is when a business submits an application to be processed; however, the building or addition was not completed within the 12-month period preceding the date of application but the application identifies **all planned improvements, including the total estimated amount of such improvements, neither of which can be increased** following the adoption of an exemption ordinance. The actual exempted taxes in any one year will depend on the actual improvements that have occurred and for which appropriate verifiable documentation has been provided to Palm Beach County.~~

~~15. Timing of Application & Other Incentive Assistance - A business which is considering requesting that Palm Beach County provide it with an ad valorem tax exemption and other program assistance must make those intentions known in writing at the **outset of discussions** with Palm Beach County and/or the Business Development Board of Palm Beach County, Inc. (on behalf of Palm Beach County). The economic development programs of the County are designed to be **utilized as an incentive** to encourage and support business expansion/relocation projects, particularly if more than one tax and/or grant application may be submitted by a business. The Board of County Commissioners has sole discretion on whether it will grant a business this or any other economic development program incentive. Any business considering applying for more than one incentive must make those intentions known simultaneously and provide an estimate of the total amount of the improvements. It will require a **super majority vote** by the Board to grant a business an ad valorem tax exemption when one or more incentives have been granted or are presently being considered by the Board for that business.~~

1046. Palm Beach County Taxes - The exemption applies only to taxes levied by Palm Beach County, where Palm Beach County is the taxing authority. The exemption does not apply to taxes levied by a municipality, school district, or water management district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Section 9 and Section 12, Article VII of the State Constitution.

~~17. Maintain Business - The ability to receive an exemption for the period granted is conditioned upon the applicant's ability to maintain the new business or the expansion of an existing business throughout the entire period.~~

~~18. Environmental Matters - Any existing business in violation of any federal, state, or local law or regulation governing environmental matters is not eligible for an exemption.~~

1149. Substantially Completed - The Property Appraiser **does not use** the Certificate of Occupancy (CO) date in deciding whether a new building, expansions or renovations are assessed for any given year. The Property Appraiser goes by whether it is "substantially completed," which is defined as: Improvements to real property shall be substantially completed when the improvement or some self-sufficient unit within it can be used for the purpose for which it was constructed.

1220. Glades Area - The Special consideration shall be given to new business/expansion of existing business in the Glades Area. This area is geographically defined as the Urban Service Area as delineated in the Palm Beach County Comprehensive Plan is the northwestern portion of Palm Beach County and includes the communities of Belle Glade, South Bay and Pahokee. This area is the focus of economic development initiatives and thus a business locating to or expanding in the Glades Area will increase but not necessarily guarantee the prospects for the granting of an exemption.

1324. Formal Application Submittal - The formal exemption application, including the application fee, must be fully filled out, signed and submitted to the Palm Beach County Department of Economic Sustainability Economic Development Office on or before March 1 of the year the exemption is desired. the March 1st deadline. The submitted application must include the Exemption Application Form PB-418, the Application Addendum, the State of Florida Tangible Personal Property Tax Return Form DR-405, and other supplemental information required for the application; e.g., a map identifying the location of the property. During the application review process, in the event that the applicant is requested by County staff to clarify and to provide additional data, the applicant will be required to provide such clarification and/or additional information in a timely manner.

NOTICE: The exemption program packet that includes an application can be obtained from:

PALM BEACH COUNTY ECONOMIC DEVELOPMENT OFFICE
301 N. Olive Avenue, 10th Floor, West Palm Beach, FL 33401
P.O. Box 1989, West Palm Beach, FL 33402-1989

~~(561) 355-3624 Fax (561) 355-6017~~

~~www.pbcgov.com/pubinfo~~

~~PALM BEACH COUNTY DEPARTMENT OF ECONOMIC SUSTAINABILITY~~

~~100 Australian Avenue, Suite 500, West Palm Beach, FL 33406~~

~~(561) 233-3600 Fax: (561) 233-3651~~

~~www.pbcgov.com/~~

~~BUSINESS DEVELOPMENT BOARD OF PALM BEACH COUNTY, INC.~~

~~310 Evernia Street, West Palm Beach, FL 33401~~

~~(561) 835-1008 Fax (561) 835-1160~~

~~www.bdb.org~~

* Program Criteria was approved by Board of County Commissioners on June 22, 2004, and Amended on December 18, 2012.