

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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Meeting Date: **March 12, 2013**                       Consent                       Regular  
                                                                                                  Ordinance                       Public Hearing

Department:                      **Department of Economic Sustainability**

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**I. EXECUTIVE BRIEF**


**Motion and Title: Staff recommends motion to approve:** an Agreement with Pratt & Whitney, a division of United Technologies Corporation, for an Ad Valorem Tax Exemption not to exceed \$700,000 over a seven (7) year period and a Job Growth Incentive (JGI) Grant not to exceed \$300,000 over a four (4) year period.

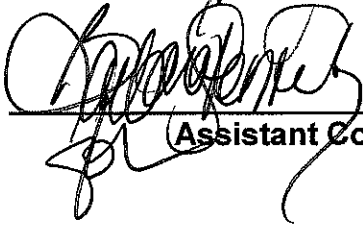
**Summary:** On October 16, 2012, the Board of County Commissioners conceptually approved (R2012-1590) an Ad Valorem Tax Exemption and the Job Growth Incentive totaling \$1 Million to Pratt & Whitney. The Agreement requires Pratt & Whitney to make a minimum \$63 Million capital investment, create 230 new jobs over a ten (10) year period at an average annual salary of \$81,110 and maintain the created jobs for five (5) years following the job creation period. Award of the Ad Valorem Tax Exemption is contingent upon the determination that the project meets the requirements under Florida Statute 196.012 for an Ad Valorem Tax Exemption. The Company has been offered \$3.4 Million in State funding. This funding is projected to have a five year economic impact of \$225 Million. The budget transfer and amendment were conceptually approved on July 24, 2012. Funding will come from General Fund Contingency Reserves. District 1 (DW)

**Background and Justification:** Pratt & Whitney plans to use the ad valorem tax incentive to offset significant capital costs required to modernize and equip the Palm Beach County facility compared to competitor sites outside of Florida.

**Attachments:**  
1. Agreement with Pratt & Whitney

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Recommended By:                       2/28/13  
                                                                                                 Department Director                      Date

Approved By:                       3/11/13  
                                                                                                 Assistant County Administrator                      Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	\$75,000	\$75,000	\$75,000	\$75,000	
Operating Costs					
External Revenues	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
Program Income					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	<b>\$175,000</b>	<b>\$175,000</b>	<b>\$175,000</b>	<b>\$175,000</b>	<b>\$100,000</b>

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No.:

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

The source of funds are in the form of an ad valorem tax exemption not to exceed \$700,000 over a seven (7) year period and general fund contingency reserves dollars for the Job Growth Incentive match in the amount of \$300,000 if so approved by the BCC. There is no direct fiscal impact to DES from granting a tax exemption for real property and tangible personal property improvements. The overall County impact is a reduction of collectable taxes. The estimated improvement costs attributed to the real property and tangible personal property total \$20,913,939. Based on the 2013 County Millage Rate (4.7815), it is estimated that approximately (\$100,000) in tax dollars will be exempted annually.

C. Departmental Fiscal Review: Shairette Major 3-28-13  
 Shairette Major, Fiscal Manager I  
 2/28/13

**III. REVIEW COMMENTS**

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

OFMB [Signature] 3/4/2013  
 Contract Development and Control [Signature] 3/11/13  
 3/4/13 DM 3-1-13

**B. Legal Sufficiency:**

[Signature] 3/11/13  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

## Economic Development Incentive Grant Agreement

THIS AGREEMENT, dated as of this 22<sup>nd</sup> day of February, 2013, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and **Pratt & Whitney, a division of United Technologies Corporation** whose Federal I.D. Number is 06-0570975 (hereinafter the "COMPANY").

### PART I RECITALS

**WHEREAS**, it is the policy of the COUNTY to encourage and stimulate economic growth in Palm Beach County by either attracting new businesses to Palm Beach County or by assisting local expanding businesses within Palm Beach County that would otherwise expand elsewhere; and

**WHEREAS**, the creation of new full time employment opportunities for residents of Palm Beach County and the tax revenues resulting from business relocation or expansion within Palm Beach County is beneficial to the local economy; and

**WHEREAS**, the State of Florida has determined that counties may expend funds to attract and retain business enterprises, and that the use of public funds toward the achievement of such economic development goals constitutes a public purpose; and

**WHEREAS**, the COUNTY has determined that offering an Economic Incentive Grant encourages either existing businesses to remain and/or expand, or new businesses to establish a facility in Palm Beach County and thereby create employment opportunities for the residents of Palm Beach County; and

**WHEREAS**, the COMPANY is committing to establish a new business unit of the COMPANY'S aircraft engine manufacturing operations, Florida Engine Delivery Center, in Palm Beach County and renovate 90,000 sf of existing space, construct 80,000-100,000 sf of new space and purchase equipment representing \$63 Million in capital expenditures and create 230 new jobs over ten (10) years at an average annual salary of \$81,110; and

**WHEREAS**, the State of the Florida has approved \$3,391,000 in incentive funding for the COMPANY; and

**WHEREAS**, the Board of County Commissioners on October 16, 2012 conceptually approved an Ad valorem Tax Exemption to COMPANY in an amount not to exceed \$700,000 over a seven (7) year period and a Job Growth Incentive Grant in the amount of \$300,000 over a four (4) year period; and

**WHEREAS**, the COUNTY finds and declares that it is in the public interest to award an Economic Development Incentive Grant to the COMPANY pursuant to the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants hereinafter contained, the parties agree as follows:

### PART II DEFINITIONS

1. **Definitions:** The below terms as used in this Agreement shall mean:
  - A. **New Job:** Shall include an employee in a full time job working a minimum of 2,080 hours annually (inclusive of vacation, holidays, sick leave, and other paid activities), a Full Time Equivalent Job or a Relocated Employee. Employees hired on or after August 27, 2012 will be considered new jobs for the purposes of this Agreement. Each New Job shall also:

- (1) Add to Palm Beach County's total job base; and
- (2) Involve only an employee working on-site at the COMPANY'S Palm Beach County facility at the address shown in Exhibit "A" attached hereto and made a part hereof.

B. **Full Time Equivalent Job:** Shall mean any two or more part-time employees whose sum total work hours, inclusive of vacation and holidays, equals 2,080 hours annually. Notwithstanding the foregoing, the 2,080 hours annually shall be determined pursuant to the job requirement of the employee, and not the actual number of hours clocked at work, allowing for vacation, holiday and sick leave.

C. **Relocated Employee:** Shall mean either an employee in a full time job working a minimum of 2,080 hours annually (inclusive of vacation and holidays), or a Full Time Equivalent Job that is identified on the COMPANY'S payroll either who transferred to the COMPANY'S facility in Palm Beach County from a COMPANY facility in a location other than one located in a county adjacent to the borders of Palm Beach County.

### PART III WHOLLY OWNED SUBSIDIARIES

1. **Establishment of Wholly Owned Subsidiaries:** The COMPANY may create or purchase a wholly owned subsidiary in connection with activities undertaken by the COMPANY pursuant to this Agreement. All wholly owned subsidiaries, thus created or purchased, shall be under the full control of the COMPANY, and the COMPANY shall oblige all such wholly owned subsidiaries to comply with the requirements of this Agreement as provided for herein.
2. **Notification of Wholly Owned Subsidiaries:** The COMPANY shall, within thirty (30) days of its creation or purchase of a wholly owned subsidiary in connection with this Agreement, notify the COUNTY in writing of such wholly owned subsidiary by divulging to the COUNTY the name of such entity and the location of the entity's facilities, and the COMPANY shall provide the COUNTY, to the COUNTY'S satisfaction, documentation evidencing the COMPANY'S full control of such wholly owned subsidiary.
3. **Acceptance of Jobs Created by Subsidiary:** Notwithstanding that COUNTY is allowing COMPANY and the wholly owned subsidiary of COMPANY to create and maintain said jobs, COMPANY agrees that this Agreement is solely between COMPANY and COUNTY and COUNTY has the right, in its sole and absolute discretion to reject or accept any or all jobs created by COMPANY'S wholly owned subsidiary.

### PART IV COMPANY OBLIGATIONS

1. **Job Creation:** The COMPANY shall create 230 New Jobs within ten (10) years of the Effective Date.
2. **Job Maintenance:** The COMPANY shall maintain the required New Jobs for a period of five (5) years from the date each New Job was created.
3. **Salaries:** The COMPANY shall pay an average annual salary per annum equal to or greater than \$81,110 (excluding benefits) for all those Full Time Equivalent New Jobs created under this Agreement.
4. **Capital Investment:** The COMPANY shall make a minimum Capital Investment of \$63 Million at the address shown on Exhibit "A" attached hereto and made a part hereof.

**PART V**  
PERFORMANCE PERIOD

1. **Effective Date:** This Agreement is effective the 27<sup>th</sup> day of August, 2012.
2. **Termination Date:** This Agreement shall terminate sixty-six (66) months from the date the last New Job was created.

**PART VI**  
INCENTIVE AMOUNTS

1. **Job Growth Incentive Grant:** The COMPANY is eligible to receive from the COUNTY, in the form of a cash subsidy, an amount not to exceed \$300,000 paid over four (4) years.
2. **Job Growth Incentive Grant Distributions:** The COUNTY shall, upon receipt of a written request from the COMPANY disburse Grant funds in the amount of \$75,000 per county fiscal year as follows:

FY2013	FY2014	FY2015	FY2016
\$75,000	\$75,000	\$75,000	\$75,000

The COUNTY's fiscal year is October 1 - September 30. The Grant funds will be disbursed by the COUNTY within sixty (60) days of receipt of the written request from the COMPANY. The COMPANY agrees that it shall be limited to one (1) disbursement per calendar year.

As a prerequisite to making the initial disbursement of Grant funds, the COUNTY shall have received the Letter of Credit or Performance Bond required herein.

As a prerequisite to making all disbursements of Grant funds, the COUNTY shall have determined that the COMPANY is in compliance with the terms of this Agreement, including, but not limited to, the COMPANY'S submission of the Annual Job Creation and Maintenance Reports required herein.

3. **Conditions Prior to Distribution of Job Growth Incentive Grant Funds:** The COMPANY shall provide the COUNTY a clean, irrevocable Letter of Credit or Performance Bond in a form acceptable to the COUNTY in its sole discretion, acting reasonably, which Letter of Credit or Performance Bond shall be provided in accordance with the COUNTY'S PPM: CW-F-055. The Letter of Credit or Performance Bond, in the amount of the requested disbursement pursuant to this Part VI, 2, shall be provided to the COUNTY as a precondition to the COUNTY making any disbursements contemplated herein.

The Letter of Credit or Performance Bond shall remain in effect until the COUNTY has received the Audit and verified that the COMPANY has complied with the requirements outlined in this Agreement, or as indicated in Subpart 3 below.

Upon the COUNTY'S determination that the COMPANY has satisfactorily complied with the terms of this Agreement, the COUNTY shall notify the financial institution that issued the Letter of Credit or Performance Bond and the COMPANY that the Letter of Credit or Performance Bond is considered released.

In the event said New Jobs have been maintained for the five (5) years as required by Part IV, 2 of this Agreement, COMPANY will be permitted to decrease the amount of the Letter of Credit or Performance Bond hereunder by the per job award amount (\$1,304.35) provided that COMPANY first submits the required Job Creation and Maintenance Audit as it relates to those jobs maintained for the five (5) year period. Said Audit shall be satisfactory to the COUNTY in its sole discretion, action reasonably, verifying the COMPANY compliance with Part IV of this Agreement.

4. **Ad Valorem Tax Exemption:** The COMPANY has been conceptually approved to receive an Ad Valorem Tax Exemption not to exceed \$700,000 over a seven (7) year period in consideration of the capital investments, new jobs created and maintained and average annual salaries memorialized under this Agreement. This conceptual approval was contingent upon the determination that the project meets the requirements under Florida Statute 196.012 for an Ad Valorem Tax Exemption.

The COMPANY will be required to submit a Formal Application for Ad Valorem Tax Exemption on the application entitled "Economic Development Ad Valorem Property Tax Exemption, Chapter 196.1955, Florida Statutes Form 418" by March 1<sup>st</sup> in the year that the exemption is desired to take effect. This application will be reviewed by the Palm Beach County Property Appraiser for eligibility as outlined in the County's Ordinance No. 2012-042.

The COMPANY, if eligible, will be granted an Ad Valorem Tax Exemption for 100% of the assessed value of all qualifying tangible personal property acquired and added improvements to real property for an amount not to exceed \$700,000 over a ten (10) year period, excluding land 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.

5. **Revocation of Ad Valorem Tax Exemption:** Should the COMPANY fail to file the annual report with the Board on or before March 1<sup>st</sup> of each year the exemption has been granted as required by the Ad Valorem Tax Exemption Ordinance, or fail to continue to meet the definition of a new business or an expansion of an existing business, and/or fail to fulfill any other representation made to the Board during the application process, including the creation and maintenance of the total number of new jobs identified by the COMPANY in the application (Exhibit "A"), the Board may adopt an ordinance revoking the Ad Valorem Tax Exemption.

The revocation of the Ad Valorem Tax Exemption may occur if the COMPANY fails to fulfill its obligations as provided for under the ordinance granting the COMPANY an exemption after the expiration of this Ordinance on August 31, 2014. The effective date for revocation of the exemption will be identified in the ordinance.

Upon revocation, the Board shall immediately notify the Property Appraiser.

For any year that taxes may have been exempted and the Board finds that the COMPANY was not entitled to the exemption, such taxes may be recovered and the Property Appraiser will assist the Board to recover any taxes exempted. The Board may recover taxes exempted throughout the term of the Agreement.

Should the COMPANY fail to file the annual exemption renewal application with the Property Appraiser on or before March 1<sup>st</sup> of each year the exemption has been granted as required in the Ad Valorem Tax Exemption Ordinance and in accordance with Chapter 196.011(1)(a), Florida Statutes, or fail to continue to meet the definition of a new business or an expansion of an existing business, the Property Appraiser may deny the exemption in accordance with Chapter 196.193(5), Florida Statutes.

Nothing herein shall prohibit the COMPANY from reapplying for an ad valorem tax exemption pursuant to State law.

**PART VII  
ADVERTISING, RECRUITING AND JOB INFORMATION**

1. **Job Advertising:** In addition to the COMPANY'S normal advertisement of job positions, COMPANY shall undertake advertising of the job openings in Palm Beach County to provide sufficient notice to Palm Beach County's residents concerning the availability of COMPANY'S new positions. The advertising regarding the new jobs at COMPANY'S facility in Palm Beach County must be countywide, include Hispanic and Minority news venues, and not limited to a single advertisement. The COMPANY shall provide the COUNTY proof of all advertisements made in accord with this Subpart within thirty (30) days of the date of advertising.
2. **Job Availability:** The COMPANY shall mail the job description for each New Job it recruits to the following:
  - A. Workforce Alliance, Inc.  
1951 N. Military Trail, Suite D  
West Palm Beach, FL 33409-4794  
Attention: Executive Director
  - B. The Glades Workforce Development Center  
557 SW 16 Street  
Belle Glade, FL 33430  
Attention: Chairperson
3. **Low-income Residents:** The COMPANY shall, to the greatest extent feasible, provide low-income residents opportunities for training and employment at the COMPANY.
4. **Resident Preference:** The COMPANY shall, to the greatest extent feasible, without risk of violating any laws, develop and implement hiring policies that provide Palm Beach County residents preference in the hiring process.
5. **Local Businesses:** The COMPANY shall to the extent feasible award contracts in connection with this Agreement to eligible business concerns located in or owned in substantial part by persons residing in Palm Beach County.
6. **Transportation To and From Job Location:** The COMPANY shall provide the following information to employees it hires by posting such information on its web site or by providing in written form:
  - A. The bus stop location closest to COMPANY'S office;
  - B. The name and location of Tri-Rail train station closest to COMPANY'S office;
  - C. Information about COMPANY'S car pool program (if one exists); and
  - D. Directions to COMPANY'S office from Interstate 95.

**PART VIII  
AUDITS AND REPORTS**

1. **Annual Job Creation and Maintenance Reports:** The COMPANY shall provide the COUNTY'S Department of Economic Sustainability with an Annual Job Creation and Maintenance Report, satisfactory to the COUNTY in its sole discretion, acting reasonably, verifying the COMPANY'S compliance with the requirements of PART IV of this Agreement. Such Annual Job Creation and Maintenance Report shall comply with the following:
  - A. Identify each job created and the date it was created.

- B. Identify each job created and the duration of its maintenance period to date.
- C. Report on the average annual salary for New Jobs that were created and maintained.
- D. Report on the number of Palm Beach County residents hired to date.
- E. Include copies of all job advertisements published in accord with the requirements of Part VI of this Agreement since the submission of the last Job Creation and Maintenance Report.
- F. The Annual Job Creation and Maintenance Report shall be submitted to the COUNTY'S Department of Economic Sustainability in conjunction with each annual disbursement of Grant funds and the receipt of said Annual Job Creation and Maintenance Report by the COUNTY shall be a prerequisite to the COUNTY making any disbursements hereunder.

2. **Final Job Creation and Maintenance Performance Audit:** The COMPANY shall provide the COUNTY'S Department of Economic Sustainability a written Final Job Creation and Maintenance Performance Audit (hereinafter "Audit") satisfactory to the COUNTY in its sole discretion, acting reasonably, verifying the COMPANY'S compliance with the requirements of PART IV of this Agreement. Such Audit, which shall be prepared at the COMPANY'S sole cost and expense, shall comply with the following:

- A. The Audit shall be conducted and prepared by a Certified Public Accountant (CPA) according to standards established by the American Institute of Certified Public Accountants
- B. The CPA shall "examine" the COMPANY'S records, statements, and schedules and those of all wholly owned subsidiaries created or purchased by the COMPANY in connection with this Agreement, to verify the accuracy of the number of New Jobs created and maintained as required in Part IV of this Agreement, and to verify the average annual salary for these New Jobs. The CPA shall express a written "opinion" in the Audit regarding the number of New Jobs created in compliance with this Agreement and the average annualized salary for these New Jobs.
- C. The CPA's report shall include examining evidence supporting the COMPANY'S schedules of New Jobs and the average annualized salary of the New Jobs and those of the wholly owned subsidiaries stated immediately above.
- D. The CPA's report must provide the average annual salary for the below categories:
  - (1) All New Jobs: Identify the average annual salary of all New Jobs including all exempt and non-exempt employees and all officers and senior corporate executives that are included in the number of New Jobs to be created as required by this Agreement.
  - (2) Low and Mid Echelon New Jobs Only: Identify the average annual salary of all New Jobs as stated above, excluding from these calculations the average annual salary of all officers and senior corporate executives.
- E. The accuracy of the number, hire dates and average annual salaries of all New Jobs as represented by the COMPANY shall be verified in the Audit by the CPA to the COUNTY'S satisfaction.
- F. The Audit may be performed in conjunction with other auditing services.



- G. A report by a CPA that is a "review or agreed-upon procedures report" on the COMPANY'S representations shall not be deemed to meet the Audit requirements of this Agreement.
- H. The Audit shall be submitted to the COUNTY'S Department of Economic Sustainability within sixty-three (63) months from the date the last New Job was created.

**PART IX  
GENERAL CONDITIONS**

1. **Obligation and Annual Appropriation:** The COUNTY'S obligation to pay under this Agreement is contingent upon annual appropriation for its purpose by the COUNTY. To the extent the annual appropriation amount is reduced, the corresponding obligation of the COMPANY shall be similarly and proportionately reduced.
2. **Employee Bona Fide:** The COMPANY warrants that neither it, nor any of its wholly owned subsidiaries, have employed or retained any company or person, other than a bona fide employee working solely for the COMPANY, or its wholly owned subsidiaries, to solicit or secure this Grant and that neither have paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the COMPANY, or its wholly owned subsidiaries, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of the Grant or the making of this Agreement.
3. **Non-Discrimination:** The COMPANY warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression. Upon receipt of evidence of such discrimination, the COUNTY shall have the right to terminate this Agreement.
4. **Workers' Compensation and Employer's Liability:** The COMPANY shall maintain Workers' Compensation Insurance & Employers Liability in accord with Florida Statutes Chapter 440 for all jobs set forth in this Agreement. Coverage shall be provided on a primary basis.
5. **Convicted Vendor List:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the COMPANY certifies that it, and its affiliates who will perform hereunder, have not been placed on the Convicted Vendor List maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date of execution of this Agreement by the COUNTY. This notice is required by F.S. 287.133(3) (a).
6. **Successors and Assigns:** The COUNTY and the COMPANY each binds itself and its partners, wholly owned subsidiaries, successors, executors, administrators and assigns to the other party and to the partners, wholly owned subsidiaries, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the COMPANY shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the COMPANY. In the event that the COUNTY determines that the COMPANY is in violation of this paragraph, the COUNTY shall have the right to terminate this Agreement and to seek restitution of the funds paid by the COUNTY to the COMPANY.

7. **Name Change:** Prior to the COMPANY changing the name of the COMPANY, the COMPANY shall immediately provide the COUNTY written notice regarding this change to COMPANY's name.
8. **Material Change of Circumstances:** The COMPANY shall immediately notify the COUNTY of any material change of circumstances for the COMPANY'S business operations in Palm Beach County. For the purposes hereof, material change of circumstance shall include, but not be limited to, the failure of the COMPANY to diligently and actively pursue fulfillment of the terms hereof, the sale or transfer of COMPANY'S assets for the benefit of creditors, COMPANY'S relocation outside of Palm Beach County, the suspension, closing or cessation of operation of the COMPANY, voluntary or involuntary bankruptcy or an assignment for the benefit of the COMPANY'S creditors. In the event of a material change of circumstances, the COUNTY shall have the right to terminate this Agreement, whereupon the COUNTY shall have no further obligation to the COMPANY under this Agreement.
9. **Entire Agreement Between Parties:** The COUNTY and the COMPANY agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. No provision of this Agreement is intended to, or shall be construed to create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or COMPANY.
10. **Waiver:** If the COUNTY shall waive any provisions of the Agreement, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such; and the COUNTY shall thereafter have the right to insist upon the enforcement of such conditions or provisions.
11. **Invalid or Unenforceable Terms:** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
12. **Performance Time and Liability:** The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.
13. **Defaults:** The occurrence of any one or more of the following events shall constitute a Default hereunder:
  - A. Vacating, abandoning, or closing the COMPANY'S business.
  - B. Relocating the COMPANY'S existing business in Palm Beach County outside Palm Beach County.
  - C. Failure of the COMPANY to submit an acceptable Letter of Credit or Performance Bond to the COUNTY and to maintain the Letter of Credit or Performance Bond in effect for the period set forth in this Agreement.
  - D. Failure of the COMPANY to create the number of New Jobs as required in this Agreement.

- E. Failure of the COMPANY to maintain the required number of New Jobs for the entire Maintenance Period.
  - F. Failure of the COMPANY to make the capital investments required.
  - G. Failure of the COMPANY to submit to the COUNTY the Annual Job Creation and Maintenance Report and/or the Audit as required in this Agreement.
  - H. Failure of the COMPANY to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the COMPANY where such failure continues for a period of thirty (30) days after written notice thereof from the COUNTY to the COMPANY; provided, however, that if the nature of COMPANY'S default is such that more than thirty (30) days are reasonably required for its cure, then COMPANY shall not be deemed to be in default if the COMPANY commenced such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion.
  - I. The making by the COMPANY of any general assignment, or general arrangement for the benefit of creditors.
  - J. The filing by or against COMPANY of a petition to have the COMPANY adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against COMPANY), the same is dismissed within sixty (60) days.
  - K. The appointment of a trustee or receiver to take possession of substantially all of COMPANY'S assets where possession is not restored to COMPANY within thirty (30) days.
  - L. The attachment, execution or other judicial seizure of substantially all of COMPANY'S assets located within Palm Beach County where such seizure is not discharged within thirty (30) days.
  - M. The discovery by the COUNTY that any financial statement relating to this Agreement given to the COUNTY was materially false.
14. **Remedies:** In the event of a Default by the COMPANY, the COUNTY may at any time thereafter, terminate this Agreement. In such event, the COUNTY shall be entitled to recover immediately upon demand from the COMPANY or any party joining in or consenting to this Agreement, all sums paid by the COUNTY to the COMPANY, or to the State of Florida, as applicable, pursuant to this Agreement. Any required repayment is due to the COUNTY within sixty (60) days of receipt of written notice from the COUNTY.
15. **Law and Remedy:** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
16. **Regulations:** The COMPANY shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include conflict of interest and collusion. The COMPANY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may affect the services offered.

17. **Headings:** The headings of the sections, paragraphs, divisions, subdivisions, part and subparts of this Agreement are for the convenience of reference only, and shall not limit or otherwise affect any of the terms hereof.
18. **Number and Gender:** Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the others and shall apply jointly and severally.
19. **Access To Records:** Upon ten (10) business days notice and at any time during normal business hours and as often as the COUNTY deems necessary, there shall be made available by the COMPANY to the COUNTY for examination, all its records with respect to all matters covered by this Agreement. The COUNTY reserves the right to require copies of such records and/or to conduct an inspection of the COMPANY'S records regarding performance measures with respect to matters covered by this Agreement at any time for any period covered by this Agreement.
20. **Office of the Inspector General:** Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the COMPANY, and its wholly owned subsidiaries, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.
21. **Indemnification and Hold Harmless:** The COMPANY agrees to protect, defend, reimburse, indemnify and hold the COUNTY, its agents, its employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees, and causes of action of every kind and character against and from the COUNTY which arise out of this Agreement, provided however that the COMPANY shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the COUNTY. The COMPANY recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the COUNTY in support of this clause in accordance with the laws of the State of Florida. This Paragraph shall survive the termination of the Agreement.
22. **Notices:** All notices from the COMPANY to the COUNTY and the COUNTY to COMPANY required or permitted by any provision of this Agreement shall be in writing and sent by registered or certified mail and addressed as follows:

TO COUNTY: Board of County Commissioners  
c/o Palm Beach County Attorney's Office  
301 N. Olive Avenue, Suite 601  
West Palm Beach, FL 33401  
Attn: Dawn Wynn, Assistant County Attorney

With a copy to: Department of Economic Sustainability  
100 Australian Avenue, 5<sup>th</sup> Floor  
West Palm Beach, FL 33406  
Attn: Betsy Barr, Director, Contract Development &  
Quality Control

TO COMPANY: Pratt and Whitney, a division of United Technologies Corporation  
400 Main Street, M/S 101-24  
East Hartford, CT 06108  
Attn: Stephen C. Boyd, Controller, Florida Engine Delivery Center

Such addresses may be changed by written notice to the other party.

23. **Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or COMPANY.
24. **Counterparts:** This Agreement, consisting of thirteen (13) enumerated pages which include the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

**PART X  
REQUIREMENTS APPLICABLE TO WHOLLY OWNED SUBSIDIARIES**

In addition to instances where the requirements of this Agreement are expressly set forth to be applicable to wholly owned subsidiaries of the COMPANY, the requirements of the below listed Parts and Subparts shall also apply to all such wholly owned subsidiaries:

- A. PART IV: Subparts 1, 2 and 3.
- B. PART VI: Subparts 1, 2, 3, 4, 5 and 6.
- C. PART IX: Subparts 3, 4, 5, 7, 8, 16, 19 and 21.

The remainder of this page was intentionally left blank.

IN WITNESS WHEREOF, the COMPANY and the COUNTY have caused this Agreement to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

Witnesses: PRATT & WHITNEY, a division of United Technologies Corporation

Name: Michael F. Savage By: David M. Brantner

Signature: [Signature] Name: DAVID M. BRANTNER

Name: Estelle C. Lamarne

Signature: Estelle C. Lamarne

STATE OF CONNECTICUT ) COUNTY OF HARTFORD ) ss EAST HARTFORD

The foregoing instrument was acknowledged before me this 22ND day of FEBRUARY, 2013, by DAVID M. BRANTNER, who is personally known to me, or who produced CT DRIVERS LICENSE as identification and



Signature: Donna M. Tully Notary Name: Donna M. Tully Notary Public - State of Connecticut

(COUNTY SEAL BELOW)

PALM BEACH COUNTY, FLORIDA, a Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

ATTEST: Sharon R. Bock, Clerk & Comptroller

By: Steven L. Abrams, Mayor

By: Deputy Clerk

Document No.:

Approved as to Form and Legal Sufficiency

Approved as to Terms and Conditions Department of Economic Sustainability

By: Dawn Wynn Assistant County Attorney

By: Sherry Howard, Deputy Director

**EXHIBIT "A"**

**JOB GROWTH INCENTIVE GRANT AGREEMENT  
BETWEEN PALM BEACH COUNTY AND  
Pratt & Whitney-Florida Engine Delivery Center**

**COMPANY IDENTIFICATION AND INFORMATION**

QACF application date:	May 21, 2012
Company Name:	Pratt & Whitney, a division of United Technologies Corporation
Existing Headquarters:	400 Main Street, M/S 101-24 East Hartford, CT 06108
Address of the company's facility in Palm Beach County:	17900 Bee Line Highway Jupiter, FL 33478
Products/services to be provided from the company's facility in Palm Beach County:	Aviation & Aerospace
Business Type:	Corporation
State of Florida Status:	Active
State of Florida Filing Date:	01/03/2012
Federal ID Number:	06-0570975