Agenda Item #: 5C-2

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: April 16, 2019 [ ] Consent

[X] Regular

[ ] Public Hearing

[ ] Ordinance [ ]
Submitted By: Department of Housing and Economic Sustainability

Submitted For: Administration

### I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for a public hearing on May 7, 2019 at 9:30 a.m.: an ordinance of the Board of County Commissioners of Palm Beach County, Florida, establishing an exemption from certain ad valorem taxation to encourage economic development in the County for Carrier Corporation; providing for a finding that requirements have been met; providing for the amount of revenue available from ad valorem tax sources for the current fiscal year; providing for the amount of revenue lost by virtue of the economic development ad valorem tax exemptions currently in effect; providing for the estimated revenue lost attributable to the exemption granted to Carrier Corporation; providing for the period of time for which the exemption will remain in effect and the expiration date of the exemption; providing for annual reporting requirement; providing for 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.

Summary: This item seeks Board of County Commissioners (BCC) approval of an ad valorem tax exemption ordinance on preliminary reading and permission to advertise for a public hearing on May 7, 2019. On October 20, 2015, the Board of County Commissioners (BCC) approved an Economic Development Incentive Agreement (R2015-1521) with Carrier Corporation and Otis Elevators Company for Project Diamond providing an Ad Valorem Tax Exemption in an amount not to exceed \$3M over a ten (10) year period. Carrier Corporation (Company) which is owned by United Technologies Corporation, serves customers in the commercial aerospace, defense, and building industries. The State of Florida approved a Qualified Target Industry (QTI) tax refund for the Company in the amount of \$2.66 Million of this amount, \$2,128,000 is from the State of Florida and \$532,000 is a required local match from Palm Beach County. The City of Palm Beach Gardens approved a cash incentive totaling \$630,000 and a 100% Ad Valorem Tax Exemption for up to five (5) years and a 50% exemption for year six (6) through ten (10). The BCC approved an additional incentive in the form of an Ad Valorem Tax Exemption in an amount not to exceed \$3 Million based on the high average and median wages of the jobs to be created as well as the significant economic impact of this project and the Company's key role in the County's economic success and competitiveness. The Agreement requires the Company to make a minimum \$115 Million capital investment, create 380 new jobs over a six (6) year period at an annualized average wage of \$85,000 excluding benefits and retain these jobs for a period of five (5) years. Additionally, 70 existing full-time jobs are required to be retained for a period of five (5) years. The Company is required to maintain the new jobs for five (5) years from the date the Agreement becomes effective. This project is estimated to have a \$662 Million economic impact over a five (5) year period. As required under Palm Beach County's Economic Development Ad Valorem Tax Exemption Program implemented by the BCC through adoption of Ordinance 2013-022, the Company has filed an application with the Property Appraiser's (PA) office, and the PA has issued a determination that the project meets the requirements under Florida Statute 196.012 for an Ad Valorem Tax Exemption (attached as Exhibit B to the proposed Ordinance). This Ordinance is being presented to the BCC as required by State statute. The Ad Valorem Tax Exemption is for real property and tangible personal property improvements undertaken as the company renovates and equips an existing facility in Palm Beach Gardens. District 1 (JB)

**Background and Policy Issues:** The County's Economic Development Ad Valorem Tax Exemption Program may be used as local participation for the State QTI program and is designed to motivate businesses by providing funding assistance to either relocate to or establish a facility in Palm Beach County, or to help an existing local business with an expansion project which creates full time jobs, increases the County's tax base, and strengthens and diversifies the local economy.

### Attachment(s):

- 1. Proposed Ordinance for Economic Development Ad Valorem Tax Exemption for Carrier Corporation
- 2. Economic Development Incentive Grant Agreement with Carrier Corporation (R2015-1521)

Recommended By:	Snother Brown	9/2/19	
	Department Director	Date	
Approved By:	soure Juhas	4/12/19	
	Assistant County Administrator	Date	

# II. FISCAL IMPACT ANALYSIS

#### A. Five Year Summary of Fiscal Impact

	cal Years		2019	2020	2021	2022	2023
Gra	nt Expenditures						
Оре	erating Costs						
Exte	ernal Revenues		\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
Pro	gram Income						
	(ind Match (Coun						
NET	FISCAL IMPAC	T	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
	DDITIONAL FTE SITIONS (Cumul						
	em Included In C s this Item inclu			Yes Yes	No	X	
3udg	get Account No.:						
Fund	I Dept	Unit	Object	Program Co	de/Period		
3.			of Funds/Sumr	_			
	ten (10) year \$61,866,443. \ for 2019 is es (Exhibit B).	When the cu	urrent millage rabe \$295,814, if	te is applied, t	he PBC tax re	venue which	would be lo
<b>.</b>	\$61,866,443. If or 2019 is es (Exhibit B).	When the custimated to lead to lead impact in allocations	irrent millage rather \$295,814, if some state of the second above, FY 2024	te is applied, t so approved \$3,000,000 c	he PBC tax reby the Board ever a ten (10) \$1,500,000.	evenue which of County Co	would be lo ommissione
C.	\$61,866,443. If or 2019 is es (Exhibit B).  The annual fis addition to the   Departmental	When the custimated to lescal impact in allocations  Fiscal Rev	irent millage rate \$295,814, if some second above, FY 2024 iew:	te is applied, to so approved  \$3,000,000 column  FY 2028 = \$2  rly Reid, Division	he PBC tax reby the Board over a ten (10) \$1,500,000.	evenue which of County Co	would be lo
C.	\$61,866,443. If or 2019 is es (Exhibit B).  The annual fis addition to the   Departmental  OFMB Fiscal	When the custimated to lescal impact in allocations  Fiscal Rev	iew: Beve	te is applied, to so approved  \$3,000,000 column  FY 2028 = \$2  rly Reid, Division	he PBC tax reby the Board over a ten (10) \$1,500,000.  In Manager  TS  Trol Comment	evenue which of County Co	would be lo ommissione
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	\$61,866,443. If or 2019 is es (Exhibit B).  The annual fis addition to the Departmental OFMB Fiscal OFMB	When the custimated to I scal impact is allocations  Fiscal Rev  and/or Con  and/or Con  and/or Con	iew: Beve	\$3,000,000 c - FY 2028 = S  rly Reid, Division  EW COMMENT	he PBC tax reby the Board over a ten (10) \$1,500,000.  In Manager  TS  Trol Comment	evenue which of County Co	would be lo ommissione

Department Director

1	ORDINANCE NO. 2019
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3	AN ORDINANCE OF THE BOARD OF COUNTY
4	COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
5	ESTABLISHING AN EXEMPTION FROM CERTAIN AD
6	VALOREM TAXATION TO ENCOURAGE ECONOMIC
7	DEVELOPMENT IN THE COUNTY FOR CARRIER
8	CORPORATION, AN EXISTING BUSINESS; PROVIDING FOR
9	A FINDING THAT REQUIREMENTS HAVE BEEN MET;
10	PROVIDING FOR THE AMOUNT OF REVENUE AVAILABLE
11	FROM AD VALOREM TAX SOURCES FOR THE CURRENT
12	FISCAL YEAR; PROVIDING FOR THE AMOUNT OF REVENUE
13	LOST BY VIRTUE OF THE ECONOMIC DEVELOPMENT AD
14	VALOREM TAX EXEMPTIONS CURRENTLY IN EFFECT;
15	PROVIDING FOR THE ESTIMATED REVENUE LOST
16	ATTRIBUTABLE TO THE EXEMPTION GRANTED TO

CARRIER CORPORATION; PROVIDING FOR THE PERIOD OF TIME FOR WHICH THE EXEMPTION WILL REMAIN IN EFFECT AND THE EXPIRATION DATE OF THE EXEMPTION: PROVIDING FOR ANNUAL REPORTING REQUIREMENT; FOR APPLICABILITY; PROVIDING

PROVIDING INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL

OF LAWS IN CONFLICT; AND PROVIDING FOR AN

EFFECTIVE DATE.

27 WHEREAS, Article VII, Section 3, of the Constitution of the State of Florida, and Section 196.1995, Florida Statutes, authorizes the granting of economic development ad valorem tax 28 exemptions to new businesses and expansions of existing businesses upon the successful 29 passage of a referendum; and 30

- 31 WHEREAS, a successful referendum was held on November 6, 2012, resulting in the
- 32 enactment of Ordinance No. 2013-022, known as the "Economic Development Ad Valorem
- 33 Tax Exemption Ordinance of Palm Beach County, Florida"; and
- 34 WHEREAS, such Ordinance establishes the requirements for exemption consideration,
- 35 including the submission of an application; and
- 36 WHEREAS, Carrier Corporation has submitted an application for an exemption; and
- 37 WHEREAS, all affected and interested agencies representative of the business and general
- 38 community have reviewed said application, and provided comments on the granting of same;
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- 40 WHEREAS, all statutory and Ordinance requirements have been satisfied.
- NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS 41
- 42 OF PALM BEACH COUNTY, FLORIDA, that:
- 43 **SECTION 1. Title**
- 44 This Ordinance shall be known as the "Economic Development Ad Valorem Tax Exemption
- 45 Ordinance - Carrier Corporation."
- SECTION 2. Finding That Requirements Have Been Met 46
- 47 The Board of County Commissioners of Palm Beach County, Florida, based on the application
- submitted by Carrier Corporation, and the report of the Property Appraiser, finds that Carrier 48
- 49 Corporation has met all the requirements of Ordinance No. 2013-022, and meets the
- 50 requirements of Section 196.012(15), Florida Statutes and that granting the exemption will
- 51 result in an economic benefit to Palm Beach County.
- **SECTION 3.** Ad Valorem Tax Revenues 52
- 53 The revenues available to Palm Beach County for the current fiscal year from ad valorem tax
- 54 sources are \$897,324,824 (operating). The revenues lost to Palm Beach County for the

- 1 current fiscal year by virtue of the ad valorem tax exemptions currently in effect are \$256,124.
- 2 The estimated revenues to be lost for the current year by granting this exemption are
- 3 **\$295,814.**

#### 4 **SECTION 4.** Term of Exemption; Expiration Date

5 The Economic Development Ad Valorem Tax Exemption granted to Carrier Corporation for 6 an existing business expansion shall be for a period of ten (10) tax years commencing on 7 January 1, 2019 and expiring on December 31, 2028. The ability to receive an exemption for 8 the period granted is conditioned upon Carrier Corporation's ability to maintain the expanded 9 existing business as defined in Ordinance No. 2013-022, throughout the ten (10) year 10 exemption period and in accordance with the terms of the Economic Development Incentive 11 Agreement entered with Palm Beach County. Carrier Corporation shall submit an annual 12 report to the Board of County Commissioners evidencing satisfaction of this condition along 13 with a completed Annual Exemption Renewal Application (DR-418) in such forms as are 14 attached hereto and made a part hereof as Exhibit "A." Carrier Corporation shall furnish any 15 and all information as the Board of County Commissioners or its designee deems necessary 16 for the purpose of determining continued performance of the imposed conditions. Should 17 Carrier Corporation fail to satisfy the conditions set forth herein, the Board of County 18 Commissioners may revoke the exemption and recover any taxes waived pursuant to Section 19 9 of Ordinance No. 2013-022.

### 20 **SECTION 5. Grant of Exemption**

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After consideration of the application submitted by Carrier Corporation, a copy of which is attached hereto and made a part hereof as Exhibit "B" which includes the report of the Property Appraiser, in accordance with the procedure set forth in Ordinance No. 2013-022, the Board of County Commissioners hereby grants and establishes an exemption from ad valorem taxation of one hundred percent (100%) of the assessed value of the net increase in qualifying tangible personal property acquired and added improvements to real property by Carrier Corporation, provided such net increase in qualifying tangible personal property and real property improvements facilitate Carrier Corporation's expansion of its existing business located at 13995 Pasteur Boulevard, Palm Beach Gardens, FL 33418. Carrier Corporation agrees to abide by the terms and conditions set forth in Ordinance No. 2013-022, and any and all amendments thereto, as well as any policies and procedures related to the Economic Development Ad Valorem Tax Exemption Program as may be adopted from time to time, and, in accordance with the terms of the Economic Development Incentive Agreement between Palm Beach County and Carrier Corporation. Failure to abide by same may result in a revocation of the exemption and the recovery of any taxes waived pursuant to Section 9 of Ordinance No. 2013-022, and pursuant to the terms and conditions of the Economic Development Incentive Agreement between Palm Beach County and Carrier Corporation. No exemption shall be granted on the land on which improvements for the expansion of the existing business are made by Carrier Corporation.

#### 40 **SECTON 6. Applicability**

- The exemption applies only to taxes levied by Palm Beach County. The exemption does not
- 42 apply to taxes levied by a municipality, school district, or special taxing district, or to taxes
- 43 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.

### 45 <u>SECTION 7. Inclusion in the Code of Laws and Ordinances</u>

The provisions of this Ordinance shall become and be made a part of the Code of Laws and

- 1 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
- 2 renumbered or relettered to accomplish such, and the word "Ordinance" may be changed to
- 3 "section", "article", or any other appropriate word.

## 4 **SECTION 8. Severability**

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

# 8 SECTION 9. Repeal of Laws in Conflict

- 9 All local ordinances in conflict with any provision of this Ordinance are hereby repealed to the
- 10 extent of such conflict.

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## 11 SECTION 10. Effective Date

- 12 The provisions of this Ordinance shall become effective upon filing with the Secretary of State.
- 13 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County,

	,		,
14	Florida on the	_day of _	, 2019.
15 16 17 18 19	ATTEST: CLERK & COMPTROLLER SHARON R. BOCK		PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS
20 21 22	By: Deputy Clerk		By: Mack Bernard, Mayor
23 24 25 26 27	APPROVED AS TO TERMS AND CONDITIONS:		APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
28 29 30 31 32	By: Sherry Howard, Deputy Direct Department of Housing & Economic Sustainability	tor	By: James Brako Assistant County Attorney

**EFFECTIVE DATE:** Filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 2019.

# EXHIBIT "B"

# **ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION**

Chapter 196.1995, Florida Statutes

Busin	Business Name: Carrier Corporation (Project Diamond)				
PCN	52-42-41-26-03-002-0000		Tangible Account No.	N/A	
	Property Appr	aiser's	s Use Only		
l.	Total revenue available to the county or municipality \$897,324,824 \$187,665,967,52		current fiscal year from ad va 0.0047815 (2018 millage)	alorem sources:	
11.	Revenue lost to the county or municipality for the cu granted under this section: \$256,124 \$53,565,51		cal year by virtue of exemption 0.0047815 (2018 millage)	ons previously	
III.	Estimate of the revenue which would be lost to the organist the exemption applied for were granted and the would otherwise have been subject to taxation:  \$295,814 \$61,866,44	he prope			
IV.	Estimate of the taxable value lost to the county or m granted:  Improvements to Real Property Personal Property:  TOTAL	-	\$61,866,44 \$61,866,44	3	
V.	I have determined that the property listed above me (15) or (16), Florida Statutes, as a  X New Business Expansion of an Existing Business		definition, as defined by Sect	ion 196.012	
VI.	Last year for which exemption may be applied:		2028	_	
DATE	Mar 27 2019 SIGNATURE	Dorothy	y Jacks CFA, AAS, Palm Beach Co	ounty Property Appraiser	

APPLICATION TO BE FILED NOT LATER THAN MARCH 1st

# EXHIBIT A

# ECONOMIC DEVELOPMENT AD VALOREM PROPERTY TAX EXEMPTION Chapter 196.1995, Florida Statutes

DR-418 R. 12/99

To be filed with the Board of County Commissioners, the governing boards of the municipality, or both, no later than March 1 of the year the exemption is desired to take effect.

1	Business name Carrier Corporation (Project	t Diam	ond)	Mailing address C	/o Tax De∣	pt 8FS2					
2	Please give name and telephone number of owner or person in charge of this business.  8 Farm Springs Road, Farmington, CT 06032										
'				Telephone number 860-728-6431							
3	Exact Location (Legal Description and Street Address Pasteur Plat 1 TR B-1, 13995 Pasteur Blvd, Palm Be	dens, Florid	la 33418	ed		4 Date you begin, bus	began, c siness at	r will this fa	cility 3/	13/15	
5	Description of the improvements to real property for which this exemption is requested  UTC Center for Intelligent Buildings  Date of commencement of construction of improvements  3/13/15										
6	Description of the tangible personal property for which thi	s exemp	otion is reque	ested and date when	property wa	as, or is to be	e purchased	API	PRAI	SER'S (	JSE ONLY
			Date of			ayer's Estir					
6	Class or Item	Age	Purchase	Original Cost	Cond*		ket Rent	Conc			
0	ee Attached			ф С		\$ \$			\$ \$		
H				φ \$		\$			\$		
-	P=-0			\$		\$ \$			\$		
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Г				\$		\$			\$		
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A	verage value of inventory on hand:				*Condition	n: good, a	avg (avera	ge), o	r poc	r	
	Any additional personal proper DR-405 (Tangible			or which an exemp				n form			
7	Do you desire exemption as a 🔽 new business or	Пех	pansion of	an existing busine	ss	9 Trade le	evels (ched	ck⋅as ı	many	as ap	ply)
_	Describe type or nature of your business	<u></u>			Reta		-		-		Professional
s	ales & Services of HVAC Systems & Parts				✓ Servi	ice Offic	ce 🗍	Other,	speci	ify:	
10	Number of full-time employees to be employee	d in Flo	rida								
	If an expansion of an existing business: Net inc	rease oyment			% Incr	ease in pro	ductive outp	put ion			%
1	1 Sales factor for the facility requesting exemption:										
	Total sales in Florida from this facility-one (1) location only			al sales everywhere lity-one (1) location					=		%
12	2 For office space owned and used by a Date corporation newly domiciled in Florida in Florida		rporation		I	Number of	f full-time s at this loc	ation			
	nereby request the adoption of an ordinance granting a										
	atutes. I agree to furnish such other reasonable inforn roperty Appraiser may request in regard to the exempt										
	operty Appraiser may request in regard to the exempt prect, and complete to the best of my knowledge and										
	hich he has any knowledge.)	`	• •	-							
Di	ate 2/28/15h			Signature, pre	parer						
Si	Preparer's address										
Ti	tle Associate Director, Tax			Preparer's tele	phone nun	nber					
Г		Pr	operty Ap	praiser's Use C	nly						
_	I Total revenue available to the county or municipal			<del></del>		sources		- 1	\$		
	II Revenue lost to the county or municipality for the c	urrent fis	scal year by	virtue of exemption	s previous!	y granted u	nder this sec	ction	\$		
1	Estimate of the revenue which would be lost to the for were granted and the property for which the ex							plied	\$		
ī	V Estimate of the taxable value lost to the county or			exemption applied f	or was grar			L	·····		
Ι-,	Improvements to real property \$	noots #5	o dofinition	Personal prop	<del>-</del>	2/45) /40	S) Elosido O	totute-			
	V I have determined that the property listed above no linew business expansion of				190,011	∠(15) <b>or</b> (16	oj, riorida S	autes	, as a	1	
,	/I Last year for which exemption may be applied	TT	П	111111111111111111111111111111111111111	***************************************		*****				
_	,										

Application to be filed not later than March 1

Date

Signature, Property Appraiser

#### **General Information**

Ad Valorem property tax exemptions can be granted to new and expanding businesses only after the voters of a city and/or county vote in a referendum to allow that city or county to grant exemptions . Section 196.1995, Florida Statutes, requires that a referendum be held if: (1) The Board of County Commissioners or governing authority of a municipality (city or county commission) votes to hold such a referendum, or (2) if the county or city commission receives a petition signed by ten percent of the registered voters of the county or city. This referendum question can then be placed before the voters of a city or county at any regular election or special election called for voting on the tax incentive referendum or for any other purpose.

If the voters authorize exemptions, a company must first meet the definitions of a new or expanding business as stated in s. 196.012 (15) and (16), F.S.

The expansion must be on the same or a colocated site of the business current operations.

If a business meets one of the above definitions as a new or expanding business, it must then file this application with the county or city commission or both.

After the city or county commission receives this application, it must submit the application to the county property appraiser for review. After the property appraiser makes the report as to the fiscal impact of granting the exemption, the county or city commission shall then adopt an ordinance in the usual mannergranting the exemption, if it chooses to do so.

A business cannot receive exemption from school taxes or water management district taxes. Also a business must pay taxes that were voted by the voters of a city or county to pay for bond issues and other special tax levies authorized by the voters of a city or county.

The exemption can only be for the improvements to the real property and for tangible personal property. The land on which the new or expanding business is to be located will still be taxed and taxes must be paid on it.

The action taken by a city or county commission can only exempt the taxes paid to that governmental body. A city can only exempt its taxes; a county can only exempt its taxes. All other taxes must be paid.

#### Statutory Definitions

#### Section 196,011 Annual application required for exemption .

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

# Section 196.012(15) and (16), Florida Statutes

(15) "New business" means:

- (a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of to personal property at a fixed location and which comprises an industrial or manufacturing plant;
- 2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s.220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or
- 3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.
- (b) Any business located in an enterprise zone that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business
- (c) A new business that is situated on property annexed into a municipality and that, at the time of annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.
  - (16) "Expansion of an existing business" means:
- (a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, 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

- 2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operation on a site colocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.
- (b) Any business located in an enterprise zone that increases operations on a site colocated with a commercial or industrial operation owned by the same business.

# ction 196.1995 Economic development ad

valorem tax exemption.(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

#### Section 220,15(5), Florida Statutes,

- (5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state 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.
- (a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:
- 1. Rental income is included in the term if a significant portion of the taxpayer's business consists of sing or renting real or tangible personal property; and
- 2. Royalty income is included in the term if a significant portion of the taxpaver's business consists of dealing in or with the production, exploration, or development of minerals.
- (b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier.

- 2. When citrus fruit is delivered by a cooperative for a grower-member, by a growermember to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.
- 3. Reimbursement of expenses under an agency contract between a cooperative, a growermember of a cooperative, or a grower and a processor is not a sale within this state.
- (c) Sales of a financial organization, including, but not limited to, banking and savings institutions, investment companies, real estate investment trust, and brokerage companies, occur in this state if derived from:
- 1. Fees, commissions, or other compensation for financial services rendered within this state;
- 2. Gross profits from trading in stocks, bonds, or other securities managed within this state;
- 3. Interest received within this state, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located in this state, and dividends received within this state;
- 4. Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts;
- 5. Interest, fees, commissions, or other charges or gains from loans secured by mortgages, deeds of trust or other liens upon real or tangible personal property located in this state or from installment sale agreements originally executed by a taxpayer or the taxpayer's agent to sell real or tangible personal property located in this state;
  6. Rents from real or tangible personal
- property located in this state; or
- 7. Any other gross income, including other interest, resulting from the operation as a financial organization within this state.
- In computing the amounts under this paragraph, any amount received by a member of an affiliated group (determined under s. 1504(a) of the Internal Revenue code, but without reference to whether any such corporation is an "includable corporation" under s. 1504(b) of the Internal Revenue code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

# Carrier Corporation - Project Diamond Economic Development Ad Valorem Property Tax Exemption DR-418 Support: Description of assets

Asset			Cost/Acquisition	
Number	Cap. Date	Asset Description	<u>Value</u>	Classification
		REAL ESTATE:		
100018259	9/30/2016	PALM BEACH GARDEN, FL	17,348,481	Real
100018856	3/27/2018	CIB - LANDSCAPING - LAND IMPROVEMENTS	4,048,579	Real
100018848	3/31/2018	CENTER FOR INTELLIGENT BUILDING	57,486,737	Real
100018849	3/31/2018	CENTER FOR INTELLIGENT BUILDING - GARAGE	12,400,000	Real
100018844	3/31/2018	CIB - ELEVATOR SYSTEMS	2,234,068	Real
100018858	3/29/2018	CIB - FIRE PROTECTION SYSTEM	1,394,242	Real
100018859	3/29/2018	CIB - PLUMBING	2,905,070	Real
100018860	3/29/2018	CIB - MECHANICAL SYSTEMS	7,166,388	Real
100018861	3/29/2018	CIB - ELECTRICAL	7,976,947	Real
10C-1	12/17/2018	CENTER FOR INTELLIGENT BUILDING (Grant)	2,500,000	Real
		TOTAL REAL ESTATE	\$ 115,460,512	<del></del>



P.B.C. Exemption Application No.				
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# Project Diamond

# **EXHIBIT "A" APPLICATION**

#### **ECONOMIC DEVELOPMENT AD VALOREM PROPERTY TAX EXEMPTION** Chapter 196.1995, Florida Statutes

**NOTICE**Application is to be filed with the Board of County Commissioners no later than March 1 of the year the exemption is desired to take effect.

An applicant applying for an exemption on Tangible Personal Property must fill out and submit the Florida Department of Revenue form DR-405 (Tangible Personal Property Tax Return). Refer to <a href="Leem 12">Leem 12</a> below.

lf in	sufficient space is provided for a response, attachments may be en	closed.
1.	BUSINESS NAME AND MAILING ADDRESS Business applicant legal name:	
	Carrier Corporation	
	Business street address in Palm Beach County:	
	13995 Pasteur Boulevard, Palm Beach Gardens, FL 33418	
	Business mailing address:	
	c/o Tax Dept 8FS2, 8 Farm Springs Road, Farmington, CT	06032
	Telephone: 860-728-6431	Fax: 860-998-3548
2	PROPERTY OWNER Full legal name of owner of this business:	Title:
	Carrier Corporation	Associate Director, Tax
	Telephone: 860-728-6431	Fax: 860-998-3548
	E-mail address; jason.williams@utc.com	
2	PERSON IN CHARGE OF THIS BUSINESS / CONTACT Name of employee to contact regarding this application:	Title:
u,	Jason A. Williams	Associate Director, Tax
	Telephone:	Fax: 860-998-3548
	860-728-6431 E-mail address:	000-228-33-40
	jason.williams@utc.com	
4.	<b>EXACT LOCATION</b> Legal description of property for which this application is filed:	
	PASTEUR PLAT 1 TR B-1	
	Property control numbers:	
	52-42-41-26-03-002-0000 (Real Estate)	
	Street address of this property:	
	13995 Pasteur Boulevard, Palm Beach Gardens, FL 33418	
5.	COMMENCE OPERATIONS  Date you began, or will begin, business activities at this facility:  N	March 13, 2015
6.	NEW OR EXPANSION BUSINESS Do you desire exemption as:	REAL AND/OR TANGIBLE PERSONAL PROPERTY 7. Do you desire exemption for:
	☑ New Business ☐ Expansion of an Existing Business	☑Real Property ☐Tangible Personal Property
8.	TYPE OF BUSINESS Describe the type or nature of your business:	
	Sales & Services of HVAC Systems & Parts	
9.	TRADE LEVEL Check as many as apply below. Identify industry cluster (if applica	ble):
	☐ Wholesale ☐ Manufacturing ☐ Professional ☒ Service	☐ Office ☐ Other

H:\Tax Exemption\- 2004 New Applic Packet\TAX\_Application\_DR-418\_merged\_applic\_012005.doc

10.	LENGTH OF EXEMPTION  Total number of years that applicant requests exemption: 10 Year Ad Valorem Exemption (length of exemption approved is at sole discretion of County Commission and commences on effective date of ordinance granting exemption)
11	REAL PROPERTY  Description of improvements to real property for which exemption is requested:
	UTC Center for Intelligent Buildings
	Date of commencement of construction of improvements: March 13, 2015
12	TANGIBLE PERSONAL PROPERTY  Provide a description of tangible personal property for which exemption is requested and date when property was, or is to be,
12.	purchased on the enclosed table <u>DR-418 "Tangible Personal Property"</u> . See Attached
	Any additional personal property not listed on the table DR- 418 *Tangible Personal Property" for which an exemption is claimed must be provided on form <u>DR-405 *Tangible Personal Property Tax Return</u> ".
12	INVENTORY Average value of inventory on hand: \$ N/A
10,	
14.	NEW JOBS  The applicant must enclose current payroll roster as of January 1st of the year the exemption is being sought.  Provide hire dates and job titles; omit employee names and social security numbers of employees.
	Current Jobs - new business. Total number of full-lime jobs as of January 1st: [ 495 ] ◆
	Current Jobs - expansion of an existing business. Total number of full-time jobs for four most recent years:
	Year
	New Jobs - new or expanding business. Total Jobs - new or expanding business.
	Total number of jobs to be created and to be maintained:  [ 72 ] CURRENT JOBS ◆
	[ 423 ] Full-time [ 423 ] NEW JOBS ◆◆ [ ] Equivalent (2,080 hours) [ 495 ] TOTAL PAYROLL
	Seasonal
	[ 423 ] TOTAL NEW JOBS ♦♦
	Job Creation Timeframe - Completion date by when all new full-time jobs will be filled: March 13, 2021 (6 years)
	Reside - Estimated percentage of total employees who will reside in Palm Beach County: 34.9 %
	SALARY
15.	The average annual wage of employees at facility in Palm Beach County:  [ \$ 238,189 ] current full-time employees
	[\$ 135,723 ] new full-time jobs [\$ ] new equivalent jobs (2,080 hours)
	[ \$ ] new seasonal jobs
	CURRENT SALES
16.	Current sales factor for the facility requesting exemption:  N/A  Total sales inside Palm Beach County [\$ ] ( %)
	Total sales outside Palm Beach County [ \$ ] (%)
	To what extent are these same or similar products and/or services currently being produced or provided by other businesses in Palm Beach County:
	PROJECTED SALES For an expanding business: Estimated percentage increase in productive output resulting from this expansion: %
	If there are any plans for new products and/or services involving the facility in Palm Beach County, provide a description:
	·
	OFFICE SPACE AND INCORPORATION IN FLORIDA
17.	For office or facility space in Palm Beach County owned or leased and used by a corporation newly domiciled in Florida, the date of incorporation in Florida:
	14/17

DR-418 (Palm Beach County form, R. 12/0
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P.B.C. Exemption Application No.\_\_\_\_\_

	DONATE.
18.	INCENTIVE Relocation or expansion would occur without the exemption: Yes [ ] No [x]
19.	ENVIRONMENT  Environmental impact of new or expanding business project: identify the number and type of environmental permits required as a result of this project; e.g., air, soil and water pollution, water and sewer provision, dredge and fill, RCRA industrial wastewater treatment.  N/A
20.	IMPACT FEES  Total amount of impact fees for the new or expanding business project: \$ N/A (attach copies of impact fee schedule and payments)
21.	VIOLATIONS         Local expanding business is in violation of a federal, state, or local law or regulation governing environmental matters:         Yes [ ] No [x]         If answer is Yes, explain:
22.	COST AND DEMAND FOR SERVICES Identify sources of existing services and which existing services will need to be increased. Include costs for existing or increased services (provide attachments if necessary): N/A
23.	SOURCE OF SUPPLIES  Identify in specific terms the source, type and volume of supplies (provide attachments if necessary): N/A
24.	ENTERPRISE ZONE  Business is / will be located in an enterprise zone: Yes [ ] No [X ]  If yes, attach the following: (1) map identifying property inside zone; and  (2) written confirmation from municipality that business project site is inside zone.  Map is enclosed: Yes [ ] No [ ]
	Written confirmation is enclosed: Yes [ ] No [ ]  Enterprise Zone name is:
24.	COMMUNITY REDEVELOPMENT AGENCY  Business is / will be located in a CRA area: Yes [ ] No [x]  If yes, attach a map to confirm property is inside CRA area.
	Map is enclosed: Yes [ ] No [ ]
	CRA name is:

I hereby request the adoption of an ordinance granting an exemption from ad valorem taxation on the above property pursuant to Section 196.1995, Florida Statutes. I agree to furnish such other reasonable information as the Board of County Commissioners or the Property Appraiser may request in regard to the exemption requested herein. I hereby certify that the information and valuation stated above by me is true, correct and complete to the best of my knowledge and belief, including any attached statements, schedules, etc. (If prepared by someone other than the taxpayer, his declaration is based on all information of which he has any knowledge.)

TAXPAYER - Owner Name and Title	PREPARER / AUTHORIZED AGENT — Name and Address
Carrier Corporation / Associate Director, Tax	
	Telephone
	Fax
	E-mail
ŞÍGNÁŢŲŖE	SIGNATURE .
TYPE OR PRINT NAME	TYPE OR PRINT NAME
Jason A. Williams	
DATE 2 178119	DATE

P.E	3.C.	Exem	ption	Ap	plication	N	D
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### **EXHIBIT "A"**

### ECONOMIC DEVELOPMENT AD VALOREM PROPERTY TAX EXEMPTION Chapter 196. 1995, Florida Statutes

Busine	ess Name: Carrier Corporation
	PROPERTY APPRAISER'S USE ONLY
I.	Total revenue available to the county or municipality for the current fiscal year from ad valorem tax sources:  \$
II.	Revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section:  \$
III.	Estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise had been subject to taxation:  \$
IV.	Estimate of the taxable value lost to the county or municipality if the exemption applied for were granted:  Improvements to Real Property: \$  Personal Property: \$
V.	I have determined that the property listed above meets the definition, as defined by Section 196.012 (15) or (16), Florida Statutes, as a  New Business  Expansion of an Existing Business  Neither
VI. DATE	Last year for which exemption may be applied:  SIGNATURE (Property Appraiser)

APPLICATION TO BE FILED NOT LATER THAN MARCH 1st

P.B.C. Exemption Application No.	
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#### EXHIBIT "A"

#### **TANGIBLE PERSONAL PROPERTY**

# ECONOMIC DEVELOPMENT AD VALOREM PROPERTY TAX EXEMPTION CHAPTER 196.1995, FLORIDA STATUTES

6.a. Description of the tangible personal property for which this exemption is requested and date when property was, or is to be, purchased.

CLASS OR ITEM	AGE	DATE F PURCHASE	ORIGINAL COST	TAX EST	XPAYE TIMATE ONDITIO	R'S OF ON	TAXPAYER'S ESTIMATE OF FAIR MARKET VALUE	APPRAISER'S USE ONLY		
				G 0 0 D	A V G	POOR	MARKET VALUE	CONDITION		
Real Estate - See Attached			\$115,460,512							
							•			
		·								

#### **General Information**

Ad Valorem property tax exemptions can be granted to new and expanding businesses only after the voters of a city and/or county vote in a referendum to allow that city or county to grant exemptions. Section 196.1995, Florida Statutes, requires that a referendum be held if: (1) The Board of County Commissioners or governing authority of a municipality (city or county commission) votes to hold such a referendum, or (2) if the county or city commission receives a petition signed by ten percent of the registered voters of the county or city. This referendum question can then be placed before the voters of a city or county at any regular election or special election called for voting on the tax incentive referendum or for any other purpose.

If the voters authorize exemptions, a company must first meet the definitions of a new or expanding business as stated in s. 196.012 (15) and (16), F.S.

The expansion must be on the same or a colocated site of the business current operations.

If a business meets one of the above definitions as a new or expanding business, it must then file this application with the county or city commission or both.

After the city or county commission receives this application, it must submit the application to the county property appraiser for review. After the property appraiser makes the report as to the fiscal impact of granting the exemption, the county or city commission shall then adopt an ordinance in the usual manner granting the exemption, if it chooses to do so.

A business cannot receive exemption from school taxes or water management district taxes. Also a business must pay taxes that were voted by the voters of a city or county to pay for bond issues and other special tax levies authorized by the voters of a city or county.

The exemption can only be for the improvements to the real property and for tangible personal property. The land on which the new or expanding business is to be located will still be taxed and taxes must be paid on it.

The action taken by a city or county commission can only exempt the taxes paid to that governmental body. A city can only exempt its taxes; a county can only exempt its taxes. All other taxes must be paid.

#### **Statutory Definitions**

#### Section 196.011 Annual application required for exemption.—

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

#### Section 196.012(15) and (16), Florida Statutes

- (15) "New business" means:
- (a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, 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;
- 2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s.220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or
- 3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.
- (b) Any business located in an enterprise zone that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.
- (c) A new business that is situated on property annexed into a municipality and that, at the time of annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.
  - (16) "Expansion of an existing business" means:
- (a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, 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
- 2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operation on a site colocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.
  - (b) Any business located in an enterprise zone that increases operations on a site collocated with a commercial or

industrial operation owned by the same business.

#### Section 196.1995 Economic development ad valorem tax exemption.

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the ess is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

- Section 220.15(5), Florida Statutes.
  (5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state 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.
- (a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:
- 1. Rental income is included in the term if a significant portion of the taxpayer's business consists of leasing or renting real or tangible personal property; and 2. Royalty income is included in the term if a significant portion of the taxpayer's business consists of dealing in or with the production, exploration, or development of minerals.
- (b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier.
- 2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.
- 3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.
- (c) Sales of a financial organization, including, but not limited to, banking and savings institutions, investment companies, real estate investment trust, and brokerage companies, occur in this state if derived from:
  - 1. Fees, commissions, or other compensation for financial services rendered within this state;
  - 2. Gross profits from trading in stocks, bonds, or other securities managed within this state:
- 3. Interest received within this state, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located in this state, and dividends received within this state;
- 4. Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts;
- 5. Interest, fees, commissions, or other charges or gains from loans secured by mortgages, deeds of trust or other liens upon real or tangible personal property located in this state or from installment sale agreements originally executed by a taxpayer or the taxpayer's agent to sell real or tangible personal property located in this state;
  - 6. Rents from real or tangible personal property located in this state; or
- 7. Any other gross income, including other interest, resulting from the operation as a financial organization within this

In computing the amounts under this paragraph, any amount received by a member of an affiliated group (determined under s. 1504(a) of the Internal Revenue code, but without reference to whether any such corporation is an "includable corporation" under s. 1504(b) of the Internal Revenue code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

Source: Florida Department of Revenue DR-418, R. 12/99 [ http://www.myflorida.com/dor/forms/2003/dr418r1299.pdf ]

Agenda Item #: 5 A3

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

T/HV 6-0 MB abs

#### **AGENDA ITEM SUMMARY**

R-2015-1521

Meeting Date:

October 20, 2015

[ ] Consent [ ] Ordinance [X] Regular [ ] Public Hearing

Submitted by:

**Department of Economic Sustainability** 

Submitted for:

**County Administration** 

#### I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Economic Development Incentive Agreement with Carrier Corporation and Otis Elevator Company (the "Companies"), divisions of United Technologies Corporation, for an Ad Valorem Tax Exemption not to exceed \$3 Million over a ten (10) year period.

Summary: On March 10, 2015, the Board of County Commissioners (BCC) conceptually approved an Economic Development Ad Valorem Tax Exemption (R2015-0356) not to exceed \$3 Million over a period of ten (10) years. The Agreement with Carrier Corporation and Otis Elevator Company, (Project Diamond) requires the Companies to make a minimum \$115 Million capital investment, create 380 jobs over a six (6) year period at an average annualized wage of \$85,000 and retain those jobs for a period of five (5) years from creation. Additionally, 70 existing full-time jobs are required to be retained for a period of five (5) years. The State of Florida approved \$2.66 Million in the form of a Qualified Target Industry Tax Refund (QTI) with a High-Impact Sector Bonus, and \$4.9 Million from the Quick Action Closing Fund. The City of Palm Beach Gardens approved cash incentives totaling \$630,000 and a 100% Ad Valorem Tax Exemption for up to five (5) years and a 50% exemption for years six (6) through ten (10).

The project encompasses the construction of an approximately 250,000 sf state of the art building to be known as the "UTC Center for Intelligent Buildings" to be located on 30 acres within the Briger Property. The UTC Center for Intelligent Buildings will serve as a showcase to demonstrate new building technologies and will encourage global customer interaction, collaboration and inspiration to see the new possibilities for advanced integrated and sustainable building solutions. It will also provide office space for employees engaged in, amongst other things, research and product development activities of the company. The Companies are a \$29 Billion operating segment of United Technologies Corporation, a Fortune 500 Company. The Companies are the world's largest provider of building technologies, including security, fire safety, building automation, heating, ventilation, air conditioning, elevator, escalator and refrigeration systems. 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. This project is expected to have a five (5) year economic impact of \$662.4 Million. District 1 (JB)

Background and Justification: The County's Economic Development Ad Valorem Tax Exemption may be used as local participation for the State Qualified Target Industry Program and is designed to motivate businesses by providing funding assistance to either relocate or establish a facility in Palm Beach County, or to help an existing local business with an expansion project which creates full time jobs, increases the County's tax base and strengthens and diversifies the local economy.

Attachment(s):

1. Economic Development Incentive Agreement

Recommended By:

Department Director

0-"7-15 Date:

Approved By:

Assistant County Administrator

Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2016	2017	2018	2019	2020					
Grant Expenditures										
Operating Costs				·						
External Revenues	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000					
Program Income										
In-Kind Match (County)										
NET FISCAL IMPACT	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000					
# ADDITIONAL FTE POSITIONS (Cumulative)										
ls Item Included In Curre Budget Account No.:	nt Budget?	Yes	No <u>*</u>							
FundDept Ur	nitObj	jectPı	ogram Code	/Period	•					
B. Recommended So	•	• •								
Commissioners. T exemption for real overall County im improvement costs total \$115,000,000.										
C. Departmental Fisc	Departmental Fiscal Review: Shairette Major, Fiscal Manager II									
III. REVIEW COMMENTS										
A. OFMB Fiscal and/or Contract Development and Control Comments:										
Shand	h_	ز	A 4	- 1						
OFMBAD MI	8/498		tract Develop		ontrol (1)					
B. Legal Sufficiency:		σμ	Pheilia fo	1713	1					
June Lyn Assisfant County Al		_	•							
C. Other Department	Review:									

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

UTC - CARRIER CORPORATION (PROPERTY TAX)

EAGLE BANK 11961 TECH ROAD SILVER SPRING, MD 20904 NO. 72582160

PH: 860-728-6431 8 FARM SPRINGS ROADC/O TAX DEPT. - 8FS2 FARMINGTON CT 06032

**VOID 180 DAYS AFTER ISSUE** 

200268944 65-358/550

 CHECK DATE
 CHECK NUMBER
 CHECK AMOUNT

 02/20/2019
 72582160
 2,000.00

PAY

WATERMARK IN PAPER; HOLD UP TO A LIGHT TO VIEW

\*\*\* Two Thousand And 00/100-Dollars \*\*\*

\$ \*\* 2,000.00 \*\*

TO THE ORDER OF

PALM BEACH COUNTY DEPT OF ECONOMIC SUSTAINABILITY.
100 AUSTRALIAN AVE, SUITE 500
WEST PALM BEACH, FL 33406

10 0 8

Account No: PROJECT DIAMOND Invoice No: 2019 FL APP FEE - PROJ DIAMOND

#72582160# #055003586# 200268944#

# EXHIBIT "B" ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Chapter 196.1995, Florida Statutes

Busin	Business Name: Carrier Corporation (Project Diamond)								
PCN	52-42-41-26-03-002-0000			Tangible Ac	ccount No.	N/A			
		Property Apprais	ser's	Use Only					
1.	Total revenue available to the co \$897,324,824	ounty or municipality fo \$187,665,967,526	or the c	current fiscal you	rear from ad val (2018 millage)	orem sources:			
II.	Revenue lost to the county or mugranted under this section: \$256,124	unicipality for the curre	ent fisc	cal year by virtu	ue of exemption (2018 millage)	ns previously			
III.	Estimate of the revenue which w year if the exemption applied for would otherwise have been subjest \$295,814	were granted and the	-	, ,	-				
IV.	Estimate of the taxable value los granted:	t to the county or mun	nicipalit	y if the exemp	otion applied for	r were			
	Improvemer Personal Pro	nts to Real Property:		+	\$61,866,443				
		TOTAL	:		\$61,866,443				
V.	<ul> <li>V. I have determined that the property listed above meets the definition, as defined by Section 196.012</li> <li>(15) or (16), Florida Statutes, as a</li> </ul>								
	X New Business	Expansion of an Existing Business		N	Neither				
VI.	Last year for which exemption m	ay be applied:			2028	•			
DATE	Mar 27 2019	SIGNATURE	Dorothy	Jacks/CFA, AAS	S, Palm Beach Cou	unty Property Appraiser			

APPLICATION TO BE FILED NOT LATER THAN MARCH 1st

# R2015 41521

# **Economic Development Incentive Agreement**

THIS AGREEMENT, dated as of this \_\_\_\_ day of \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2015, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and CARRIER CORPORATION, a Foreign For-Profit Corporation, whose Federal I.D. Number is 06-0991716, and OTIS ELEVATOR COMPANY, a Foreign For-Profit Corporation, whose Federal I.D. Number is 13-5583389, its successors and assigns (hereinafter jointly and severally referred to as the "COMPANIES").

#### 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 Development Incentive 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 COMPANIES are legal entities which operate as part of United Technologies Corporation.

WHEREAS, the COMPANIES are locating regional managing offices to Palm Beach County with total a capital expenditure of approximately \$115 Million (inclusive of costs to acquire land), will create 380 new jobs over six (6) years and retain 70 existing full-time jobs at an annualized average wage of \$85,000, and will maintain the new jobs for five (5) years `from date of creation and maintain the existing retained jobs for five (5) years; and,

WHEREAS, the State of Florida has approved a Qualified Target Industry (QTI) Tax Refund for COMPANIES with a High-Impact Sector Bonus in the amount of \$2.66 Million and \$4.9 Million from the Quick Action Closing Fund (QACF), both of which include local financial support; and,

WHEREAS, Palm Beach County's Ad Valorem Tax Exemption program may be used as local participation for the State QTI and QACF programs; and

WHEREAS, the Board of County Commissioners, on March 10, 2015, conceptually approved an Ad Valorem Tax Exemption to COMPANIES in an amount not to exceed \$3 Million over a period of ten (10) years; and

**WHEREAS**, the COUNTY finds and declares that it is in the public interest to award an Economic Development Incentive to the COMPANIES 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. <u>Definitions</u>: The below terms as used in this Agreement shall mean:
- A. New Job: Shall include an employee (including employees obtained from a temporary employment agency or employee leasing company) in a full time job working a minimum of 1,820 hours annualized (inclusive of vacation, holidays, sick leave, and other paid activities), a Full Time Equivalent Job, or a Relocated Employee. Each New Job shall also:
  - (1) Result in a net increase in the number of the COMPANIES' Palm Beach County employees; and
  - (2) Involve only an employee working on-site at the COMPANIES' Palm Beach County facilities at the addresses shown in Exhibit "A" attached hereto and made a part hereof and at United Technologies Corporation's Palm Beach County Campus at 17900 Beeline Highway, Jupiter, FL where the Companies may locate jobs prior to the completion of the UTC Center for Intelligent Buildings.
- B. <u>Full Time Equivalent Job</u>: Shall mean any two or more part-time employees whose sum total work hours, inclusive of vacation and holidays, equals 1,820 hours annualized. Notwithstanding the foregoing, the 1,820 hours annualized 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 1,820 hours annualized (inclusive of vacation and holidays), or a Full Time Equivalent Job that is identified on the COMPANIES' payrolls, in each case, who transferred to the COMPANIES' facilities in Palm Beach County from COMPANIES' facilities in a location other than one located in a county adjacent to the borders of Palm Beach County. Notwithstanding any provision in this Agreement to the contrary, for all purposes under this Agreement it shall be deemed that any employee in a full time job working a minimum of 1,820 hours annualized (inclusive of vacation and holidays), or a Full Time Equivalent Job that is identified on the COMPANIES' payrolls, in each case, who transferred to the COMPANIES' facilities in a location other than one located in a county adjacent to the borders of Palm Beach County prior to the Effective Date for the purpose of effectuating COMPANIES' facilities in Palm Beach County is a Relocated Employee deemed to have transferred to Palm Beach County after the Effective Date and shall constitute a New Job.
- D. <u>Annualized Average Wage</u>: The average of the actual annual wage, salaries, and other payments for jobs created and retained under this Agreement as follows:

wages; salaries; commissions; bonuses; drawing accounts (advances to employees against future earnings); prizes and awards (if given by employer for employment); vacation pay; payment to employees of difference between regular pay and jury pay; payments to employees temporarily absent while in military service; wages earned before death but paid after death; dismissal pay; sick pay (not made under a plan or system); and supplemental payments (difference between workers' compensation and employee's salary).

## PART III WHOLLY OWNED SUBSIDIARIES

1. <u>Establishment of Wholly Owned Subsidiaries</u>: The COMPANIES may create or purchase wholly owned subsidiaries in connection with activities undertaken by the COMPANIES pursuant to this Agreement. All wholly owned subsidiaries, thus

created or purchased, shall be under the full control of the COMPANIES, and the COMPANIES shall oblige all such wholly owned subsidiaries to comply with the requirements of this Agreement as provided for herein.

- 2. <u>Notification of Wholly Owned Subsidiaries</u>: The COMPANIES shall, within thirty (30) days of creation or purchase of wholly owned subsidiaries in connection with this Agreement, notify the COUNTY in writing of such wholly owned subsidiaries by divulging to the COUNTY the name of such entities and the location of the entities' facilities, and the COMPANIES shall provide the COUNTY, to the COUNTY'S satisfaction, documentation evidencing the COMPANIES' full control of such wholly owned subsidiaries.
- 3. Acceptance of Jobs Created by Subsidiaries: The parties agree that all jobs created and maintained by the Companies' wholly owned subsidiaries that satisfy the requirements of paragraphs 1 and 2 of this Part III will be treated pursuant to this Agreement as jobs created and maintained by the Companies. COMPANIES agrees that this Agreement is solely between COMPANIES and COUNTY and COUNTY has the right, in its sole and absolute discretion to reject or accept any or all jobs created by COMPANIES' wholly owned subsidiaries.

# PART IV COMPANIES' OBLIGATIONS

- **1.** <u>Job Creation</u>: The COMPANIES shall create 380 New Jobs within six (6) years of March 13, 2015.
- **2. Existing Job Retention**: The COMPANIES shall retain 70 existing full-time jobs ("Retained Jobs") for five (5) years from March 13, 2015.
- 3. <u>New Job Maintenance</u>: The COMPANIES shall maintain the required New Jobs for a period of five (5) years from the date each New Job was created.
- **4.** Annualized Average Wage: The COMPANIES shall pay an Annualized Average Wage equal to or greater than \$85,000 (excluding benefits) for all New Jobs created and all Retained Jobs maintained under this Agreement.
- **5.** <u>Capital Investment</u>: The COMPANIES shall provide proof that they have made a minimum total Capital Investment of \$115 Million (inclusive of costs to acquire land) at the addresses shown on Exhibit "A" attached hereto and made a part hereof.

Per Part VI, Section 1 of this agreement, the COMPANIES may file for the Ad Valorem Property Tax Exemption by March 1<sup>st</sup> in the year that the exemption is desired to take effect. Therefore, the COMPANIES are not required to fully achieve the commitments listed in the above "Companies' Obligations" prior to initiating the Ad Valorem Tax Exemption, with the exception of the Capital Investment.

# PART V Performance Period

- 1. <u>Effective Date</u>: This Agreement is effective March 13, 2015.
- **2.** <u>Termination Date</u>: Unless earlier terminated according to the terms of this Agreement, this Agreement shall terminate on the later of (a) December 31<sup>st</sup> of the last year when an ad valorem tax exemption is claimed in accordance with Part VI herein, or (b) December 31, 2027.

### PART VI INCENTIVE AMOUNTS

1. <u>Ad Valorem Tax Exemption</u>: The COMPANIES were conceptually approved to receive an Ad Valorem Tax Exemption not to exceed \$3 Million over a ten (10) year period in consideration of the capital investments, new jobs created and maintained and Annualized Average Wage 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 COMPANIES shall submit a Formal Application for Ad Valorem Tax Exemption on the application entitled "Economic Development Ad Valorem Property Tax Exemption, Chapter 196.1995, Florida Statutes Form 418" by March 1<sup>st</sup> in the year that the exemption is desired by the COMPANIES 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. 2013-022.

The COMPANIES, 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 a total amount not to exceed \$3 Million over a ten (10) year period. The COMPANIES understand that the Ad Valorem Tax Exemption will not apply to the assessed value of property taxes relating to the land which are 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.

**Revocation of Ad Valorem Tax Exemption**: Should the COMPANIES fail to file the joint 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 COMPANIES in the application (Exhibit "B"), the Board may adopt an ordinance revoking the Ad Valorem Tax Exemption.

The revocation of the Ad Valorem Tax Exemption may occur if the COMPANIES fail to fulfill their obligations as provided for under the ordinance granting the COMPANIES an exemption. 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 COMPANIES were 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 COMPANIES 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 COMPANIES from reapplying for an ad valorem tax exemption pursuant to State law.

# PART VII ADVERTISING, RECRUITING AND JOB INFORMATION

1. <u>Job Advertising</u>: In the event the COMPANIES shall undertake advertising of job openings in Palm Beach County, COMPANIES will provide sufficient notice to Palm Beach County's residents concerning the availability of COMPANIES' new positions. The advertising regarding the new jobs at COMPANIES' facilities in Palm Beach County must be countywide, include Hispanic and Minority news venues, and not limited to a single advertisement. Advertising jobs on the COMPANIES' website or other internet sites shall fulfill this requirement.

- 2. <u>Job Availability</u>: The COMPANIES shall cooperate with the following agencies regarding new job opportunities:
  - A. CareerSource Palm Beach County 3400 Belvedere Road West Palm Beach, FL 33406 Attention: Executive Director
  - B. West Career Center1083 South Main StreetBelle Glade, FL 33430Attention: Chairperson
- 3. <u>Low-income Residents</u>: The COMPANIES shall make best efforts to provide qualified low-income residents opportunities for training and employment at the COMPANIES.
- **4.** Resident Preference: The COMPANIES shall, without risk of violating any laws, make best efforts to develop and implement hiring policies that provide qualified Palm Beach County residents preference in the hiring process.
- 5. <u>Veterans Preference</u>: The COMPANIES shall, without violating any laws, make best efforts to develop and implement hiring policies that provide qualified Veterans preference in the hiring process.
- **6.** <u>Local Businesses</u>: The COMPANIES shall, without risk of violating any laws, make reasonable efforts to award contracts in connection with this Agreement to qualified eligible business concerns located in or owned in substantial part by persons residing in Palm Beach County.
- 7. <u>Transportation To And From Job Location</u>: The COMPANIES shall make the following information available 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 COMPANIES' offices;
  - B. The name and location of Tri-Rail train station closest to COMPANIES' offices:
  - C. Information about COMPANIES' car pool programs (if they exist); and
  - D. Directions to COMPANIES' offices from Interstate 95.

# PART VIII AUDITS AND REPORTS

- 1. <u>Annual Job Creation and Maintenance Reports</u>: The COMPANIES 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 COMPANIES' 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** New Job, the date it was created, the duration of its maintenance period to date, and its annual wage for the year being reported.
  - B. Identify **each** Retained Job, the duration of its maintenance period to date, and its annual wage for the year being reported.

- C. Report on the annualized average wage for the year being reported for (i) all New Jobs that were created and/or maintained, and (ii) all Retained Jobs that were maintained.
- D. Report on the number of employees who reside in Palm Beach County at the time of the report.
- E. The Annual Job Creation and Maintenance Report shall be submitted to the COUNTY'S Department of Economic Sustainability by the anniversary of the effective date of this Agreement.
- **2.** Final Job Creation and Maintenance Performance Audit: The COMPANIES 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 COMPANIES' compliance with the requirements of PART IV of this Agreement. Such Audit, which shall be prepared at the COMPANIES' 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 and shall be submitted on the CPA's letterhead.
- B. The CPA shall "examine" the COMPANIES' records, statements, and schedules and those of all wholly owned subsidiaries created or purchased by the COMPANIES 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 annualized average wage for the 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 annualized average wage for these New Jobs.
- C. The CPA's report shall include examining evidence supporting the COMPANIES' schedules of New Jobs and the annualized average wage of the New Jobs and those of the wholly owned subsidiaries stated immediately above.
- D. The CPA's report must provide the annualized average wage for the below categories:
  - (1) All New Jobs: Identify the annualized average wage 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) <u>Low and Mid Echelon New Jobs Only</u>: Identify the annualized average wage 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 annualized average wages of all New Jobs as represented by the COMPANIES 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 COMPANIES' 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: Not applicable.
- 2. <u>Non-Discrimination</u>: The COMPANIES acknowledge that it is the express policy of the Board of County Commissioners of Palm Beach County, Florida that the County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. In compliance with the COUNTY's requirements, the COMPANIES have either submitted a copy of their written non-discrimination policies which are consistent with Resolution R-2014-1421 and the policy detailed above, or have submitted executed statements affirming that their non-discrimination policy is in conformance with Resolution R-2014-1421 and the policy detailed above.

In furtherance of such policy, the COMPANIES shall not, on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information, exclude any person from the benefits of, or subject any person to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the COUNTY shall have the right to terminate this Agreement.

- 3. <u>Workers' Compensation and Employers' Liability</u>: The COMPANIES 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 and noncontributory basis.
- 4. <u>Convicted Vendor List</u>: As provided in F.S. 283.132-133, by entering into this Agreement or performing any work in furtherance hereof, the COMPANIES certify that they, and their subsidiaries 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. 283.133(3) (a).
- 5. <u>Successors and Assigns</u>: The COUNTY and the COMPANIES 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 COMPANIES 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 COMPANIES. In the event that the COUNTY determines that the COMPANIES are in violation of this paragraph, the COUNTY shall have the right to terminate this Agreement.
- **6.** <u>Name Change</u>: Within fifteen (15) calendar days of the COMPANIES changing the name of the COMPANIES, the COMPANIES shall provide the COUNTY written notice regarding this change to COMPANIES' names.
- 7. <u>Material Change of Circumstances</u>: The COMPANIES shall immediately notify the COUNTY of any material change of circumstances for the COMPANIES' 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 COMPANIES to

diligently and actively pursue fulfillment of the terms hereof, the sale or transfer of COMPANIES' assets for the benefit of creditors, COMPANIES' relocation outside of Palm Beach County, the suspension, closing or cessation of operation of the COMPANIES, voluntary or involuntary bankruptcy or an assignment for the benefit of the COMPANIES' 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 COMPANIES under this Agreement.

- **8.** Entire Agreement Between Parties: The COUNTY and the COMPANIES 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 COMPANIES.
- **9.** <u>Waiver</u>: 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.
- 10. <u>Invalid or Unenforceable Terms</u>: 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.
- 11. <u>Performance Time and Liability</u>: 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.
- **12.** <u>Defaults</u>: The occurrence of any one or more of the following events shall constitute a Default hereunder:
- A. Vacating, abandoning, or closing the UTC Center for Intelligent Buildings.
- B. Relocating the UTC Center for Intelligent Buildings in Palm Beach County outside Palm Beach County.
- C. Failure of the COMPANIES to create the number of New Jobs as required in this Agreement.
- D. Failure of the COMPANIES to maintain the required number of New Jobs for the entire Maintenance Period.
- E. Failure of the COMPANIES to make the capital investments required.
- F. Failure of the COMPANIES to submit to the COUNTY the Annual Job Creation and Maintenance Report and/or the Audit as required in this Agreement.
- G. Failure of the COMPANIES to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the COMPANIES where such failure continues for a period of thirty (30) days after written notice thereof from the COUNTY to the COMPANIES; provided, however, that if the nature of COMPANIES' default is such that more than thirty (30) days are reasonably required for its cure, then COMPANIES shall

not be deemed to be in default if the COMPANIES commenced such cure within said thirty (30) day period and thereafter diligently pursue such cure to completion.

- H. The making by the COMPANIES of any general assignment, or general arrangement for the benefit of creditors.
- I. The filing by or against COMPANIES of a petition to have the COMPANIES adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against COMPANIES, the same is dismissed within sixty (60) days).
- J. The appointment of a trustee or receiver to take possession of substantially all of COMPANIES' assets where possession is not restored to COMPANIES within forty-five (45) days.
- K. The attachment, execution or other judicial seizure of substantially all of COMPANIES' assets located within Palm Beach County where such seizure is not discharged within forty-five (45) days.
- L. The discovery by the COUNTY that any financial statement relating to this Agreement given to the COUNTY was materially false.
- 13. Remedies: In the event of a Default by the COMPANIES, 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 COMPANIES or any party joining in or consenting to this Agreement, all taxes exempted by the COUNTY, as applicable, pursuant to this Agreement. Except as set forth in Part IX Subpart 12, Subsections I, J, and K, COMPANIES shall be granted thirty (30) days from notification of default to cure any deficiency that triggered said default.
- 14. <u>Law and Remedy</u>: This Agreement shall be governed by the laws of the State of Florida. Unless otherwise agreed to in writing by the parties, 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.
- **15.** <u>Regulations</u>: The COMPANIES shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include conflict of interest and collusion. The COMPANIES are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may affect the services offered.
- **16.** <u>Headings</u>: 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.
- **17.** <u>Number and Gender</u>: Whenever the singular or plural number, masculine or feminine or neutral gender is used herein, it shall equally include the others and shall apply jointly and severally.
- 18. Access To Records: Upon thirty (30) business days' written notice and at any time during normal business hours and as the COUNTY deems reasonably necessary, there shall be made available by the COMPANIES to the COUNTY for examination, their records with respect to all requested matters covered by this Agreement. The COUNTY reserves the right to conduct an inspection of the COMPANIES' records regarding performance measures with respect to matters covered by this Agreement at any time for any period covered by this Agreement. In making any request for records, the COUNTY shall construct the request as narrowly as possible so as to avoid any undue burden on the COMPANIES.

- 19. 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 COMPANIES, and their wholly owned subsidiaries, their 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 123.69, Florida Statutes, in the same manner as a second degree misdemeanor.
- **20.** Indemnification and Hold Harmless: The COMPANIES agree 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 COMPANIES' or its officers, agents, and employees failure to comply with any provision of this Agreement. The COMPANIES recognize the broad nature of this indemnification and hold harmless clause, and voluntarily make this covenant and expressly acknowledge 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.
- **21.** <u>Notices</u>: All notices from the COMPANIES to the COUNTY and the COUNTY to COMPANIES 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:

DEPARTMENT OF ECONOMIC SUSTAINABILITY

100 Australian Avenue, 5<sup>th</sup> Floor West Palm Beach, FL 33406

Attn: Sherry Howard, Deputy Director

With a copy to:

**Board of County Commissioners** 

c/o Palm Beach County Attorney's Office

301 N. Olive Avenue, Suite 601 West Palm Beach, FL 33401

Attn: James Brako, Assistant County Attorney

TO COMPANIES:

If by US Mail:

Carrier Corporation/Otis Elevator Company

P.O. Box 109615 M/S 715-01 Palm Beach Gardens, FL 33410

ATTN: Sarah David, Vice President Legal Affairs

Telephone: 561-796-6091 Facsimile: 860-660-4511

If by overnight delivery/courier:

Carrier Corporation/Otis Elevator Company 15270 Endeavor Drive M/S 715-01

Jupiter, FL 33478

ATTN: Sarah David, Vice President Legal Affairs

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

- **22.** <u>Third Party Beneficiaries:</u> 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 COMPANIES.
- **23.** <u>Counterparts</u>: This Agreement, consisting of fourteen (14) 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.
- **24.** Force Majeure: If COMPANIES shall be delayed or hindered in or preventing from the performance of any act required hereunder by reason of strike, lockouts, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, terrorism, fire or other casualty, or other reason of a similar or dissimilar nature beyond the reasonable control of the COMPANIES, then performance of such act shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay without jeopardizing the continuation of the exemption.

# 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 COMPANIES, the requirements of the below listed Parts and Subparts shall also apply to all such wholly owned subsidiaries:

A. PART IV: Subparts 1, 2, 3 and 4.

B. PART VI: Subparts 1 and 2.

C. PART VII: Subparts 1, 2, 3, 4, 5, 6 and 7.

D. PART IX: Subparts 2, 3, 4, 6, 7, 12, 15, 18, 19 and 20.

IN WITNESS WHEREOF, the COMPANIES 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: **CARRIER CORPORATION** a foreign for profit corporation Name: VICTURA F. VALGUTINE Signature: Victoria F. Valederie VP, legal Arfais (print name and title) (SEAL) **OTIS ELEVATOR COMPANY** a foreign for profit corporation Name: VICTORIA F. VALENTINE Sagur Dainel VI, Legal AVENS Signature: Victoria J-Valedine (print name and title) (SEAL) STATE OF FLORIDA COUNTY OF PALM BEACH ) ss The foregoing instrument was acknowledged before me this it day of, September, 2015, by <u>Sarah A. Devid</u>, who are personally known to me, or who produced as identification and who did/did not take an oath. NOTARY PUBLIC Signature: STATE OF FLORIDA Comm# FF183517 Expires 12/15/2018 Notary Name: Tamela (NOTARY SEAL ABOVE) Notary Public - State of Florida STATE OF FLORIDA COUNTY OF PALM BEACH ) ss The foregoing instrument was acknowledged before me this 16th day of,

who did/did not take an oath.

Pamela A. Brunoli

NOTARY PUBLIC

STATE OF FLORIDA

Comm# FF183517

Expires 12/15/2018

(NOTARY SEAL ABOVE)

to me, or who produced

Signature: <u>Panulale Burnel</u>

Notary Name: <u>Fomela</u> A. Brunoj:

Notary Public - State of Florida

\_\_\_\_ a<del>s identificati</del>on and

September, 2015, by Sarah A. David, who are personally known

(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: July Clork

Approved as to Form and Legal Sufficiency

By:

James Brako

**Assistant County Attorney** 

Document No.: R 2 0 1 5 4 1 5 2

Shelley Vana, Mayor

OCT 0 A 201E

OCT 2 0 2015
Approved as to Terms and Conditions
Department of Economic Sustainability

3y: \_\_\_

Sherry Howard

Deputy Director

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### **EXHIBIT "A"**

# ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT BETWEEN PALM BEACH COUNTY AND CARRIER CORPORATION AND OTIS ELEVATOR COMPANY

# **COMPANY IDENTIFICATION AND INFORMATION**

QACF application date:

NA

**Company Names:** 

Carrier Corporation
Otis Elevator Company

**Existing Headquarters:** 

Address of the company's

facility in Palm Beach County:

UTC Center for Intelligent Buildings and United

Technologies Corporation's Palm Beach County Campus at 17900 Beeline Highway, Jupiter, FL where the Company may locate jobs prior to the completion

of the UTC Center for Intelligent Buildings.

Products/services to be provided from the company's facility in Palm Beach County:

Regional managing offices and technology center

**Business Type:** 

State of Florida Status:

Active

State of Florida Filing Date:

**Carrier Corporation** 

06/27/1979

Federal ID Number:

06-0991716

Otis Elevator Company

10/21/1909

13-5583389