PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:

April 16, 2019

[] Consent [] Ordinance

[X] Regular
[] Public Hearing

Department:

County Administration

Department of Housing & Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a modification to the Economic Development Incentive (EDI) Agreement audit requirement and retention of the existing performance security requirement.

Summary: Staff is recommending to the Board of County Commissioners' (BCC) to consider approval of a modification to the EDI Agreement audit requirement and retention of the existing performance security requirement. On January 15, 2019, the BCC directed staff to revisit the EDI Agreement audit and performance security requirements in connection with the Board's discussion regarding the termination of the Agreement with TBC Corporation. County Administration and the Department of Housing & Economic Sustainability (HES) staff developed the recommended modifications with input from the Inspector General's Office, the Internal Auditor, the Office of Financial Management and Budget, the Business Development Board (BDB) and the State Department of Economic Opportunity. On March 26, 2019, County Administration and HES staff met separately with the BDB staff regarding the proposed recommendations on the two subject provisions. Based on feedback received April 4, 2019, the BDB supports staff recommendations on the two subject provisions.

Staff is recommending the BCC eliminate the County's existing audit requirement and accept the State's audit requirement. The State utilizes their external auditor, RSM, (also the County's external auditor) to demonstrate the company's compliance with the required information (number of new jobs created, existing and new jobs retained and average annual wage of new jobs) for a three-year job maintenance period on a payment request basis. Whereas, under the County requirements, companies are allowed to utilize an internal or external auditor to demonstrate compliance with the required information (number of new jobs created, existing and new jobs retained, average annual and median wage for new jobs and capital investment and advertising compliance) for a five-year job maintenance period at the end of the Agreement term. If the BCC accepts the State audit requirements it would not include the additional information required by the County related to the capital investment, advertising and median wage. HES staff would verify compliance with these three additional requirements through internal reports from the company.

Staff is also recommending the BCC retains the County's existing performance security requirement. The County provides incentives in the form of cash and/or Ad Valorem Tax Exemption and requires companies to meet all required terms for the duration of the Agreement. Whereas, the State provides incentives in the form of refunds on certain taxes paid, through the Qualified Target Industry Tax (QTI) and does not require repayment on any funds disbursed, regardless if the company fulfills all required terms for the duration of the Agreement. (The State also has a High Impact Performance Incentive program which provides incentives in the form of cash and requires a form of security on a case by case basis. However, the County has not yet participated in this program). Both the State and the County allow for a pro-rata share of the payment if companies fall below 100% of the new job creation commitment. However if the job creation falls below 80% of the commitment, the Agreement could be terminated. Staff supports maintaining the County's performance security in the form of an irrevocable Letter of Credit or Cash Bond to continue to protect taxpayer dollars as well as reduce potential litigation costs to recover disbursed funds.

The BCC's approval of the modification to the County's audit requirement would make the County's EDI Agreement provisions align substantially with the State requirements. On October 16, 2018, the BCC approved ten modifications to the EDI Agreement (5B-1) to mirror the State definitions and streamline certain programmatic requirements, and to retain the audit and performance security requirements. Approval of this modification to the audit requirement will further align State and County requirements. Staff recommends BCC approval. Countywide (JB)

Background and Policy Issues: Continued on Page 3

Attachment(s):

1. Modification Summary Table

Recommended By: _	maine Juhasin	4/9/19
	Assistant County Administrator	Date
Approved By:	Make	4/15/19
	County Administrator	Datte l''

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE POSITIONS (Cumulative)					

	•	1	3	1		1
Γ	Operating Costs					
	External Revenues					
	Program Income (County)					
	In-Kind Match (County)					
L	NET FISCAL IMPACT					
r	// ADDITIONAL TOTAL			1		
	# ADDITIONAL FTE POSITIONS (Cumulative)					
ls I Do	Item Included In Current B es this item include the us	udget? se of Federal f	Yes unds? Yes	_X No No	<u>X</u> _	
Bu	dget Account No.:					
B.	Recommended Source	es of Funds/Sເ	ımmary of Fi	scal Impac	t:	
	No fiscal impact				·	
C.	Departmental Fiscal R		rly Reid, Divis	sion Manage	er	
		III. <u>REVIE</u> \	N COMMENT	r <u>s</u>		
A.	OFMB Fiscal and/or Co	ontract Develo	pment and C	Control Com	ments:	
	Jusu R u	lulia Ltt spula 4110 spula	Contract De	evelopment a	and Control	4112119
B.	Legal Sufficiency:		,	<i>/</i> · <i>,</i>		
	Jams Bruk Assistant County Attorne	<u>4/15/15</u> y				
C.	Other Department Revi	ew:				
	Department Director					

Background and Policy Issues: Continued from Page 1

On November 16, 1993, the Board of County Commissioners (BCC) established the Palm Beach County Job Growth Incentive Fund (JGI) Policy and Program (R93-1519) to stimulate economic growth in Palm Beach County (PBC) by attracting new businesses or encouraging the expansion of existing business within the County. When a cash or Ad Valorem Tax Exemption is provided to the company as an incentive to relocate or expand in the County, The Economic Development Incentive Agreement (Agreement) is the legal document executed between the BCC and a company detailing the commitments and mutual covenants agreed to by both parties. The Department of Housing and Economic Sustainability (HES) is responsible for the administration of the program as well as the development and monitoring of Agreements. The Economic Development Incentive Program continues to support long-term economic growth in Palm Beach County. The program implements the BCC policy to attract new businesses, to support expanding businesses that would otherwise expand elsewhere, and to create employment opportunities for residents of Palm Beach County. Modifications to the Agreement will facilitate ease of implementation compliance and monitoring.

Modification Summary Table

	Б	kisting Audit Requirements		
1	Audit Report	County/HES Provided 3 months after the conclusion of a 5-year maintenance period OR the Agreement expiration date; whichever is the latter	State/DEO Provided with each payment reques	
2	Conducted by CPA; AICPA standards	Can use either internal or external CPA	Must use RSM*	
3	Requires a Written Expressed Opinion	Yes	No	
NOTE	E: RSM, formerly McGladrey, is DEO's an	d the County's external auditor.		
		Audit Verification		
1	Jobs	County/HES New Jobs Created Existing Jobs Retained	State/DEO New Jobs Created Existing Jobs Potained	
2	Wages of New Jobs Created	Average Annual Wage Median Wage	Existing Jobs Retained Average Annual Wage	
3	New & Existing Jobs Maintenance Period	5 Years	3 Years	
4	Capital investment	Yes	Cash Incentives only	
5	Advertising, recruiting, & job information	Yes	No	
		Recommendation		
1	For All Incentives Accept State's RSM-performed Audit * Number of New Jobs Created & Exist * Number of New & Existing Jobs Main * Average Annual Wage of New Jobs C * Capital Investment, where State prov	ting Jobs Retained ntained for 3 years reated		
2	Require internal Company report veri * Median Wage of New Jobs Created;		ing highest & lowest staff salaries option Incentive	
3	HES verifies through CareerSource: * Compliance with Advertising, Recruit	ing, & Job Information requirements		
4	Reduce County New & Existing Jobs Maintenance Periods from 5 to 3 Years * County & State Maintenance Periods match			