

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 7, 2020 Consent Regular
 Ordinance Public Hearing

Department: Housing and Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

- A)** an Economic Development Incentive Agreement (Agreement) with Esports Play LLC (Company), to provide a cash grant in an amount not to exceed \$21,000 over a six (6) year period;
- B)** a Budget Transfer of \$21,000 from the General Fund Contingency Reserves to the Economic Development Fund; and,
- C)** a Budget Amendment of \$21,000 in the Economic Development Fund to recognize the funds from the General Fund.

Summary: On September 10, 2019 the Board of County Commissioners (BCC) conceptually approved (R2019-1458) an Economic Development Incentive (Incentive) for the Company totaling \$21,000. This Agreement discloses the name of the Company, Esports Play LLC, previously referred to as Project League. The Company is a professional video game team operating in a global league of professional gaming. The Agreement requires the Company to make a minimum capital investment of \$1,350,000 to lease, renovate, and equip a 12,500 square foot facility. The Company shall create 30 new jobs over a three (3) year period. These new jobs must have an annualized average wage of \$95,550 excluding benefits and a median wage of \$80,000 excluding benefits. The Company is required to maintain the new jobs for three (3) years from the date this Agreement becomes effective. The five (5) year economic impact is estimated to be \$55.6 million. Per the terms of the Agreement, the BCC delegates to the Director of the Department of Housing and Economic Sustainability the authority to exercise the County's rights including sending all written notices to the Company including any notice of default or termination.

The State of Florida approved a Qualified Target Industry (QTI) tax refund for the Company in the amount of \$210,000. Of this amount, \$168,000 is from the State of Florida and \$42,000 is a required match from local government entities. The required \$42,000 match to the QTI tax refund will be split equally between Palm Beach County (\$21,000) and the City of Boca Raton (\$21,000). The Palm Beach County match will be provided in the form of a cash grant in an amount not to exceed \$21,000 over a six (6) year period provided the project meets the requirements under Florida Statute 196.012 and the Agreement. District 4 (DB)

Background and Policy Issues: The Economic Development Incentive program continues to provide for long term economic growth in Palm Beach County and further diversification of the local economy. The program implements the BCC's policy to attract new business to Palm Beach County; to support expanding existing businesses in the county that would otherwise expand elsewhere; and to create employment opportunities for residents of Palm Beach County. The County's Economic Development Incentive program may be used as local participation for the State's QTI tax refund program. Approval of this Agreement will facilitate the establishment of a national headquarters company and the creation of new jobs in Palm Beach County.

- Attachment(s):**
- 1. Economic Development Incentive Agreement with Esports Play LLC
 - 2. Resolution R2019-1458
 - 3. Budget Transfer and Budget Amendment

Recommended By: Jonathan Brown 3/9/2020
 Department Director Date

Approved By: Donna M. Pulla 3/16/2020
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Grant Expenditures	\$1,750	\$3,500	\$5,250	\$5,250	\$3,500
Operating Costs					
External Revenues					
Program Income					
In-Kind Match					
NET FISCAL IMPACT	\$1,750	\$3,500	\$5,250	\$5,250	\$3,500
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No X
 Does this Item include the use of Federal funds? Yes _____ No X


Budget Account No.:

Fund 1539 Dept 143 Unit 1159 Object 8201 Program Code/Period _____

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


The source of funds is from the general fund contingency reserve for the Economic Development Incentive program. The annual fiscal impact is not to exceed \$21,000 over a six year period. Therefore, in addition to the allocations above, FY 2025 = \$1,750.

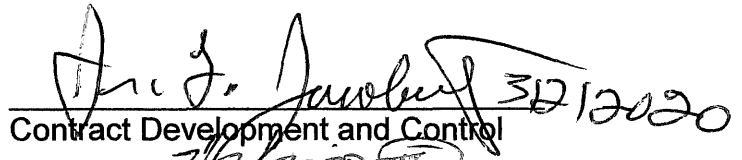
C. Departmental Fiscal Review:


 Beverley Reid, Division-Manager

III. REVIEW COMMENTS

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


 OFMB 2/21/2020
2/21


 Contract Development and Control
3/6/2020

B. Legal Sufficiency:


3/3/2020
 Assistant County Attorney

C. Other Department Review:

 Department Director

Economic Development Incentive Agreement

THIS AGREEMENT, dated as of this _____ day of _____, 20____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and Esports Play LLC, a Limited Liability Company, (hereinafter the "COMPANY").

PART I RECITALS

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

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

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

WHEREAS, the COUNTY has determined that offering an economic 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 COMPANY: is committing to establishing its national headquarters in Palm Beach County; will invest \$1,350,000 to lease, renovate, and equip a 12,500 square foot facility; will create 30 New Jobs over three years at an Average Annual Wage of \$95,550, and a Median Wage of \$80,000; will maintain the New Jobs for three years from date of creation; and

WHEREAS, the State of the Florida has approved a Qualified Target Industry (QTI) Tax Refund in the amount of \$210,000; of which the State of Florida will provide \$168,000; and

WHEREAS, the local match requirement is \$42,000, of which the City of Boca Raton will provide \$21,000 and COUNTY will provide \$21,000; and

WHEREAS, the Board of County Commissioners on September 10, 2019, conceptually approved an economic development incentive in the form of a Cash Grant in an amount not to exceed \$21,000 over a period of six years as the local match for the State QTI Tax Refund ("Incentive") in consideration for the COMPANY'S commitment of the Capital Investment, New Jobs created and maintained, Average Annual Wage, Median Wage, and other terms memorialized under this Agreement; and

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

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

**PART II
DEFINITIONS**

1. **Definitions:** The below terms as used in this Agreement shall mean:
- A. **New Job:** A “New Job” means a full-time salaried employee, or a full-time equivalent employee who works at least 35 paid hours per week, performing tasks directly related to the products or services of COMPANY and which:
- (1) Results in a net increase in the number of the COMPANY’S Palm Beach County employees; and
 - (2) Involves an employee working on-site at the COMPANY’S facility located at 5300 Broken Sound Boulevard NW, Boca Raton, FL 33487 as shown on the attached Exhibit A.
- B. **Full Time Equivalent Job:** Shall mean any two or more part-time employees whose sum total work hours, inclusive of vacation, holidays, and sick leave, is at least 35 paid hours per week, performing tasks directly related to the products or services of the COMPANY. Notwithstanding the foregoing, the 35 paid hours per week shall be determined pursuant to the job requirement of the employee, and not the actual number of hours clocked at work, allowing for vacation, holidays, and sick leave.
- C. **Omitted**
- D. **Omitted**
- E. **Average Annual Wage:** In calculating the Average Annual Wage for New Jobs during the applicable performance period, the following forms of compensation may be included:
- Wages
 - Salaries
 - Commissions
 - Bonuses
 - Advances given to an employee against future earnings
 - Vacation pay
 - Sick leave pay
 - Dismissal pay
 - Cash prizes and awards
 - Supplemental payments to make up the difference between regular pay and jury-duty pay or workers’ compensation benefits; and
 - Payments to employees on leave while serving in the military
- F. **Median Wage:** Shall mean the annual wage of a New Job that lies in the middle of all annual wages for such jobs, excluding the highest and lowest wage. If there are an odd number of annual wages, then the median wage shall be determined by taking the middle annual wage on the list. If there are an even number of annual wages, then the median wage shall be determined by taking the higher of the two middle annual wages.
- G. **Omitted**

**PART III
WHOLLY OWNED SUBSIDIARIES**

1. **Establishment of Wholly Owned Subsidiaries:** The COMPANY may create or purchase wholly-owned subsidiaries in connection with activities undertaken by the COMPANY pursuant to this Agreement (“Wholly-Owned Subsidiaries”). All Wholly-Owned Subsidiaries shall be under the full control of the COMPANY. The COMPANY shall obligate all Wholly-Owned Subsidiaries to comply with the

requirements of this Agreement, in writing, and shall provide a copy of that agreement to the COUNTY upon execution. The obligations imposed on COMPANY in this Agreement are fully applicable to any subsidiaries of COMPANY that are used in connection with the activities contemplated by this Agreement. Notwithstanding the preceding or anything to the contrary, COMPANY agrees that this Agreement is solely between COMPANY and COUNTY and that, while Wholly-Owned Subsidiaries are subject to all of the duties provided herein, they shall not have standing to enforce any term of this Agreement.

2. **Notification and Approval of Wholly Owned Subsidiaries:** Prior to creating or purchasing Wholly-Owned Subsidiaries, the COMPANY shall notify the COUNTY, in writing, of its intention to do so. Said notice shall, at a minimum, identify the name of the Wholly-Owned Subsidiaries and the location of the entity's facilities. In addition, the COMPANY shall provide the COUNTY, to the COUNTY'S satisfaction, documentation evidencing the COMPANY'S full control of any Wholly-Owned Subsidiaries. The utilization of any Wholly-Owned Subsidiaries in connection with any activities under taken by COMPANY pursuant to this Agreement shall be subject to the COUNTY'S approval, which may be withheld or delayed at the COUNTY'S sole discretion.
3. **Acceptance of Jobs Created by Wholly-Owned Subsidiaries:** Notwithstanding any approval from the COUNTY for COMPANY to utilize Wholly-Owned Subsidiaries in connection with any activities undertaken pursuant to this Agreement, including, but not limited to, the creation, maintenance, and retention of New Jobs, COMPANY agrees that COUNTY has and retains the right, in its sole and absolute discretion, to reject or accept any or all New Jobs created by, or relating to, any Wholly-Owned Subsidiaries.

PART IV COMPANY OBLIGATIONS

1. **New Job Creation:** The COMPANY shall create 30 New Jobs in accordance with Section 6(c) of the State of Florida Department of Economic Opportunity Qualified Target Industry Tax Refund Agreement between COMPANY and State dated December 18, 2019.
2. **Omitted**
3. **New Job Maintenance:** The COMPANY shall maintain the required New Jobs for a period of three (3) years from the date each New Job is created ("Maintenance Period").
4. **Salaries:** The COMPANY shall pay an Average Annual Wage equal to or greater than \$95,550, excluding benefits and also shall pay a Median Wage equal to or greater than \$80,000, excluding benefits for each New Job created under this Agreement.
5. **Capital Investment:** The COMPANY shall make a minimum capital investment ("Capital Investment") of \$1,350,000 at the address of COMPANY'S facility in Palm Beach County 5300 Broken Sound Boulevard NW, Boca Raton, FL 33487 as shown on the attached Exhibit A. The Capital Investment shall be completed within five years of the Effective Date of this Agreement.
6. **Performance Security:** As a condition precedent to any Incentive being awarded and/or disbursed hereunder, the COMPANY shall provide the COUNTY with a performance security ("Security"), in the form of either a clean, irrevocable letter of credit or a cash bond, equal to the maximum amount of the Incentive to be awarded as that Incentive is more fully described in PART VI. All forms of Security shall be in compliance with COUNTY policies and acceptable to the COUNTY in its sole discretion.

The Security shall remain in effect until the COUNTY has received the last Job Creation and Maintenance Report and verified that the COMPANY has complied

with the requirements outlined in this Agreement. Upon the COUNTY'S determination that the COMPANY has satisfactorily complied with the terms of this Agreement, the COUNTY shall notify the COMPANY that the Security may be released.

7. **Submission of Reports:** The COMPANY shall submit Job Creation and Maintenance Reports as described in PART IX herein.
8. **All Other Terms:** The aforementioned list of COMPANY obligations is not intended to identify the universe of obligations imposed on COMPANY pursuant to this Agreement. COMPANY shall be obligated to comply with any and all terms identified herein.

PART V PERFORMANCE PERIOD

1. **Effective Date:** This Agreement is contingent upon the approval of the COUNTY'S Board of County Commissioners ("Board") and the execution by all parties, and shall become effective on the date it is approved by the Board (the "Effective Date").
2. **Expiration Date:** Unless earlier terminated according to the terms of this Agreement, this Agreement shall expire thirty-six (36) months after the creation of the last required New Job.

PART VI INCENTIVES

1. **For Incentives Provided in the Form of a Cash Grant:** In exchange for the covenants contained herein, the County shall provide a maximum incentive in the form of a Cash Grant of \$21,000 over six year period ("Cash Grant").
2. **Omitted**

PART VII DISBURSEMENTS AND AWARDS

1. For Incentives Provided in the Form of a Cash Grant:

- A. **Disbursements as Match to State Programs:** The COUNTY shall, upon receipt of a written request from the State, disburse the Cash Grant funds to the State according to the schedule established by the State. Payment of tax refunds for the State and local match are conditioned on and subject to all applicable laws, including, but not limited to, pay amounts authorized in Fla. Stat. § 288.106.

As a prerequisite to disbursement of any Cash Grant funds, the COUNTY shall have received the following:

- i. **Performance Security:** The COMPANY shall have provided to the COUNTY the performance Security.
 - ii. **Written Request from the State:** If the Incentive is being awarded as part of a match to a State program, then the COUNTY must receive a written request from the State prior to the COUNTY'S disbursement.
 - iii. **Job Creation and Maintenance Report:** The COMPANY shall have provided the Job Creation and Maintenance Reports.
2. **Omitted**

PART VIII

ADVERTISING, RECRUITING AND JOB INFORMATION

1. **Job Availability:** The COMPANY shall coordinate with the following agencies regarding new job opportunities:
 - A. CareerSource Palm Beach County
3400 Belvedere Road
West Palm Beach, FL 33406
561-340-1060
 - B. West Career Center
1085 S Main Street
Belle Glade, FL 33430
561-829-2040
2. **Local Businesses:** The COMPANY 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.

PART IX REPORTS

1. **Job Creation and Maintenance Reports:** To ensure compliance with the terms provided in this Agreement, the COMPANY shall provide to the COUNTY the following reports, which, collectively, shall be referred to as the "Job Creation and Maintenance Report":
 - A. The State of Florida Department of Economic Opportunity, Division of Strategic Business Development Incentive Claim Review Results Memorandum ("State Memo"). The COMPANY shall provide the State Memo to the COUNTY immediately upon the COMPANY receiving the State Memo from the State; and
 - B. An internal compliance report prepared by the COMPANY that includes verification of compliance with the Median Wage and Capital Investment requirements imposed herein ("Internal Compliance Report"). The COMPANY shall provide the COUNTY the Internal Compliance Report at the same time that it provides the COUNTY the State Memo.

As provided for in Part VII, the COUNTY must receive the Job Creation and Maintenance Report as a precondition to any disbursement or granting of any Incentives.

PART X GENERAL CONDITIONS

1. **Timeline for Execution:** COMPANY'S failure to execute this Agreement within 120 days of the September 10, 2019 conceptual approval from the Board of County Commissioners (or January 8, 2020) will nullify the approval and rescind the COUNTY'S offer of an Economic Development Incentive unless, within the 120 day period, the business requests an extension from the COUNTY.
2. **Recitals:** The recitals contained in Part I of this Agreement are true and correct and incorporated herein by reference.
3. **Subject to Funding:** The COUNTY'S performance under this Agreement is contingent upon annual appropriations for such performance by the Board.
4. **Active Incentive Agreements:** To the extent the Incentives in this Agreement are a part of a match, the COUNTY'S performance under this Agreement is contingent upon the COMPANY having an active incentive agreement, in good

standing, with all other parties contributing to the total incentive.

5. **Non-Discrimination:** The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the COMPANY warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered a default of the Agreement.
6. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the COMPANY certifies that it, and its 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 Effective Date of this Agreement by the COUNTY. This notice is required by F.S. 287.133(3)(a).
7. **Binding Agreement:** This Agreement is binding upon the parties hereto, their heirs, successors, and assigns.
8. **No Assignability:** Neither this Agreement nor any obligation hereunder shall be assigned, subcontracted, transferred or otherwise encumbered by the COMPANY without the prior written consent of the COUNTY.
9. **No Agency:** Nothing contained herein is intended to nor shall create an agency relationship between the COUNTY and the COMPANY.
10. **Name Change:** Within fifteen (15) calendar days of the COMPANY changing the name of the COMPANY, the COMPANY shall provide the COUNTY written notice regarding this change to COMPANY'S name.
11. **Material Change of Circumstances:** The COMPANY shall immediately notify the COUNTY of any material change of circumstances ("Material Change in Circumstances") for the COMPANY'S business operations in Palm Beach County. For the purposes hereof, Material Change of Circumstances shall include, but not be limited to, the failure of the COMPANY to diligently and actively pursue fulfillment of the terms hereof, the sale or transfer of COMPANY'S assets for the benefit of creditors, COMPANY'S relocation outside of Palm Beach County, the suspension, closing or cessation of operation of the COMPANY, voluntary or involuntary bankruptcy or an assignment for the benefit of the COMPANY'S creditors.
12. **No Third Party Beneficiary:** 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 recipient, or official, employee, subsidiary, affiliate, or volunteer of either party.
13. **Waiver:** If the COUNTY shall waive any provisions of the Agreement, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such and the COUNTY shall thereafter have the right to insist upon the enforcement of such conditions or provisions.
14. **Severability:** 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.

15. **Amendments:** 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.
16. **Continuing Obligations:** Duties or obligations that are of a continuing nature, extending beyond the Agreement's expiration or termination, shall survive the Agreement's termination or expiration.
17. **Joint Preparation:** The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not be construed more severely against one of the parties than the other.
18. **Performance Time and Liability:** The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.
19. **Defaults:** The occurrence of any one or more of the following events shall constitute a default hereunder ("Default"):
 - A. Vacating, abandoning, or closing the COMPANY'S business operations in Palm Beach County.
 - B. Relocating the COMPANY'S business operations in Palm Beach County outside Palm Beach County.
 - C. Failure of the COMPANY to submit an acceptable form of performance Security to the COUNTY and to maintain the Security in effect for the period set forth in this Agreement.
 - D. Failure of the COMPANY to create the number of New Jobs as required in this Agreement.
 - E. Failure of the COMPANY to maintain the required number of New Jobs for the entire Maintenance Period.
 - F. Omitted.
 - G. Failure of the COMPANY to make the Capital Investments required.
 - H. Failure of the COMPANY to submit to the COUNTY the Job Creation and Maintenance Report as required in this Agreement.
 - I. Failure of the COMPANY to observe or perform any of the other terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the COMPANY where such failure continues for a period of thirty (30) calendar days after written notice thereof from the COUNTY to the COMPANY.
 - J. The making by the COMPANY of any general assignment, or general arrangement for the benefit of creditors.
 - K. The filing by or against COMPANY of a petition to have the COMPANY adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against COMPANY, the same is dismissed within sixty (60) days).
 - L. The appointment of a trustee or receiver to take possession of substantially all of COMPANY'S assets where possession is not restored to COMPANY within forty-five (45) days.

- M. The attachment, execution or other judicial seizure of substantially all of COMPANY'S assets located within Palm Beach County where such seizure is not discharged within forty-five (45) days.
- N. The discovery by the COUNTY that any information relating to this Agreement given to the COUNTY was materially false.
- O. Omitted.
- P. The occurrence of any Material Change in Circumstances.

19. **Termination:** COUNTY reserves the right to terminate this Agreement, at any time, for lack of funding, cause (i.e., COMPANY's default), or convenience upon thirty (30) days' notice to COMPANY. The parties acknowledge that COMPANY shall sustain no damages, of any kind or character, as a result of the termination of this Agreement. Upon termination, the COUNTY shall have no obligation to disburse any undisbursed Cash Grant. Moreover, the COUNTY shall have no obligation to award any Incentive in the form of an Ad Valorem Tax Exemption.

20. **Revocation and Remedies:** Upon COMPANY'S Default, the COUNTY may revoke any and all Incentives awarded. This includes, but is not limited to, the following:

- A. **Failure to satisfy New Job requirements:** If the COMPANY fails to satisfy the New Job requirements but fulfills all other applicable requirements under this Agreement, the COMPANY shall forfeit a pro rata share of the Incentive awarded as determined on a per job basis. The pro rata share shall be determined by dividing the total Incentive award by the total number of New Jobs required to be created, which will establish the value of each job. In turn, the COMPANY will forfeit the value of each New Job not created. However, if the COMPANY fails to satisfy at least eighty (80) percent of the New Job creation requirement, then the COUNTY has the right, in its sole discretion, to terminate this Agreement in its entirety and the COMPANY shall forfeit all Incentives.
- B. **For Incentives in the Form of a Cash Grant:** Upon the COMPANY'S Default, and if this Agreement concerns a Cash Grant that has already been disbursed, the COUNTY shall retain the right to seek reimbursement of the amount disbursed from any available source, including, but not limited to, the Security provided pursuant to this Agreement.
- C. **Omitted.**

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, 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.

21. **Choice of Law and Venue:** 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 a court of competent jurisdiction located in Palm Beach County, Florida.

22. **Regulations:** The COMPANY shall comply with all laws, ordinances and regulations applicable to this Agreement, to include conflict of interest and collusion. The COMPANY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may be applicable to this Agreement.

23. **Exhibits:** Any and all exhibits attached hereto are incorporated by reference and are made a part hereof.

dbehar@pbcgov.org

TO COMPANY: If by US Mail:
Registered Agent: Ben Spont
2255 Glades Rd, Ste 221A
Boca Raton, FL 33431

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

30. Scrutinized Companies:

- A. As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the COMPANY certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.
- B. **When Agreement value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the COMPANY certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

If the COUNTY determines, using credible information available to the public, that a false certification has been submitted by COMPANY, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Agreement renewal, if applicable.

31. Public Records: Notwithstanding anything contained herein to the contrary, the COMPANY acknowledges that its records relating to this Agreement may constitute public records for the purposes of Chapter 119, F.S., and agrees that it will comply and maintain such records in accordance with Florida's public records laws. To that end, Company agrees that it will:

- A. Upon request from the COUNTY, provide the COUNTY with a copy of any requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The COMPANY further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Procedures and Fees for Public Record Requests, as it may be amended or replaced from time to time.
- B. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the COMPANY does not transfer the records to the public agency.
- C. Upon completion of the Agreement the COMPANY shall transfer, at no cost to the COUNTY, all public records in possession of the COMPANY unless notified by COUNTY'S representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the COUNTY to perform the service. If the COMPANY transfers all public records to the COUNTY upon completion of the Agreement, the COMPANY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records

disclosure requirements. If the COMPANY keeps and maintains public records upon completion of the Agreement, the COMPANY shall meet all applicable requirements for retaining public records. All records stored electronically by the COMPANY must be provided to the COUNTY, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of COUNTY, at no cost to the COUNTY.

- D. The parties agree to ensure that any confidential and exempt, or otherwise legally protected information shall not be disclosed except as authorized by law.

Failure of the COMPANY to comply with the requirements of this article shall be a material breach of this Agreement. COUNTY shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate. COMPANY acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein. This section on public records shall survive the expiration or earlier termination of this Agreement.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 NORTH OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT (561) 355-6680.

32. **Entire Agreement:** This Agreement sets forth the entire agreement between the parties. There are no promises or understandings other than those stated herein.
33. **Counterparts:** This Agreement, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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

Signed, sealed and delivered in the presence of:

COMPANY

Witnesses:

[Handwritten Signature]
Witness Signature

HILLARY T. MATCHETT
Print Witness Name

[Handwritten Signature]
Witness Signature

JOSEPH WOLFSON
Print Witness Name

By: [Handwritten Signature]
Ben Spoot, Manager

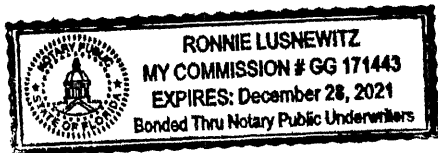
STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 4th day of February, 2020, by Ben Spoot, who is personally known to me, or who produced _____ as identification and who did/did not take an oath.

Signature: [Handwritten Signature]
Notary Name: Ronnie Lusnewitz

(NOTARY SEAL ABOVE)

Notary Public - State of Florida



(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA,
BOARD OF COUNTY COMMISSIONERS**

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____
Dave Kerner, Mayor

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form
And Legal Sufficiency

Approved as to Terms and Conditions
Department of Housing and Economic
Sustainability

By: _____
David Behar,
Assistant County Attorney

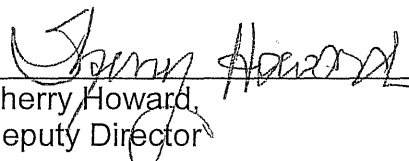
By:  _____
Sherry Howard,
Deputy Director

EXHIBIT A
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN
PALM BEACH COUNTY AND COMPANY

COMPANY IDENTIFICATION AND INFORMATION

QTI application date: June 4, 2019

Company Name: Esports Play LLC

Existing Headquarters: 10407 West Magnolia Blvd
Unit 209
North Hollywood, CA 91601

Address of the company's facility in Palm Beach County: 5300 Broken Sound Boulevard NW, Boca Raton, FL 33487

Products/services to be provided from the company's facility in Palm Beach County: Digital Media and Global e-Sports

Business Type: Limited Liability Company

State of Florida Status: Active

State of Florida Filing Date: January 1, 2018

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, RECOMMENDING APPROVAL OF PROJECT LEAGUE, A COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF FLORIDA, AS A QUALIFIED TARGET INDUSTRY (QTI) BUSINESS PURSUANT TO S.288.106, FLORIDA STATUTES; PROVIDING FOR LOCAL FINANCIAL SUPPORT FOR THE QUALIFIED TARGET INDUSTRY TAX REFUND WITH HIGH IMPACT SECTOR BONUS NOT TO EXCEED \$21,000 OVER A SIX (6) YEAR PERIOD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE;

WHEREAS, PROJECT LEAGUE, a company authorized to do business in the State of Florida, is considering establishing its national headquarters in Palm Beach County; and

WHEREAS, PROJECT LEAGUE, as part of establishing its headquarters in Palm Beach County, represents that it will lease and renovate an existing facility and purchase equipment; and

WHEREAS, PROJECT LEAGUE represents that its headquarters will create 30 new permanent full-time jobs in Palm Beach County at an average wage of \$95,550 excluding benefits, which is at least 200% of the average wage in the State of Florida; and

WHEREAS, Palm Beach County's Department of Housing and Economic Sustainability estimates the proposed project would result in an economic impact of \$55.6 million over five (5) years; and

WHEREAS, PROJECT LEAGUE has been identified as a Target Industry Business and, moreover, falls within one of the high-impact sectors designated under Florida Statute 288.108, specifically Corporate Headquarters, and is eligible to apply for the Qualified Target Industry Tax Refund with a High-Impact Sector Bonus, pursuant to s.288.106; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby acknowledges that local financial support of 20% of the total QTI is required under the provisions of s.288.106, Florida Statutes, governing the State's QTI program; and

WHEREAS, the City of Boca Raton has determined it will provide one half of the required local financial support in the amount of \$21,000; and

WHEREAS, Palm Beach County has determined it will provide one half of the required local financial support in the form of a cash grant in amount not to exceed \$21,000 over a six (6) year period; and

WHEREAS, PROJECT LEAGUE has filed a QTI Tax Refund Program application with Enterprise Florida, Inc. to seek State tax refunds; and

WHEREAS, the Palm Beach County Economic Development Incentive Program is utilized as local participation for the QTI 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 will result in the creation of full-time jobs in Palm Beach County, increase the County's tax base, and strengthen and diversify the County's local economy; and

WHEREAS, PROJECT LEAGUE is aware that the award is contingent upon the company entering into a formal agreement with the County to, among other things, create 30 permanent jobs at an average annual wage of \$95,550 within three (3) years and maintain those new jobs for a period of three (3) years; and

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the Board hereby

recommends that PROJECT LEAGUE be approved as a Qualified Target Industry Business pursuant to s.288.106, Florida Statutes.

BE IT FURTHER RESOLVED, that a cash commitment of local financial support for the Qualified Target Industry Tax Refund with High-Impact Sector Bonus exists for PROJECT LEAGUE in the amount of \$42,000, which includes \$30,000 for the Qualified Target Industry Tax Refund and \$12,000 for the High-Impact Sector Refund, and that one half of the local financial support in the amount of \$21,000 will be provided from Palm Beach County, and one half of the required local financial support in the amount of \$21,000 will be provided from the City of Boca Raton. This amount will be made available in accordance with the guidelines set forth by the Florida Department of Economic Opportunity with the stipulation that these funds are intended to represent local financial support pursuant to s.288.106, Florida Statutes.

BE IT FURTHER RESOLVED, that the **Palm Beach County Board of County Commissioners** has determined the basis of this project's average private wage sector commitment shall be at least 200% of the State's average annual wage.

SEVERABILITY

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

EFFECTIVE DATE

This resolution shall take effect immediately upon its passage and adoption.

The foregoing Resolution was offered by Commissioner Weinroth, who moved its adoption. The motion was seconded by Commissioner Berger, and being put to vote, the vote was as follows:

Commissioner Mack Bernard, Mayor	<u>Aye</u>
Commissioner Dave Kerner, Vice Mayor	<u>Aye</u>
Commissioner Hal R. Valeche	<u>Aye</u>
Commissioner Gregg K. Weiss	<u>Aye</u>
Commissioner Robert S. Weinroth	<u>Aye</u>
Commissioner Mary Lou Berger	<u>Aye</u>
Commissioner Melissa McKinlay	<u>Aye</u>

The Mayor thereupon declared the Resolution duly passed and adopted this 10th day of September, 2019.

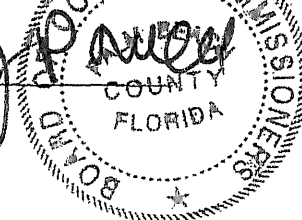
PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
David Behar
Assistant County Attorney

**ATTEST: SHARON R. BOCK
CLERK & COMPTROLLER**

By: [Signature]
Deputy Clerk

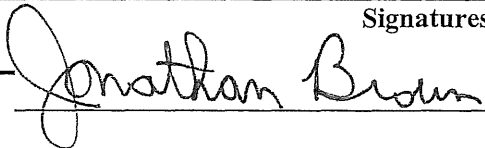


BOARD OF COUNTY COMMISSIONERS
 PALM BEACH COUNTY, FLORIDA
 BUDGET AMENDMENT

BGRV- 021320*0412
 BGEX- 021320*1009

FUND 1539 Economic Development

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 2/12/2020	REMAINING BALANCE
REVENUES								
1539-800-8000-8000	Transfer from the General Fund 0001	4,650,239	4,650,239	21,000	0	4,671,239		
Total Receipts and Balances		6,672,940	6,672,940	21,000	0	6,693,940		
EXPENDITURES								
1539-143-1159-8201	Contributions-Non-Govts Agnces	150,000	0	21,000	0	21,000	0	21,000
Total Appropriations & Expenditures		6,672,940	6,672,940	21,000	0	6,693,940		

Office of Financial Management & Budget INITIATING DEPARTMENT/DIVISION Administration/Budget Department Approval OFMB Department - Posted	Signatures & Dates  _____ _____	By Board of County Commissioners At Meeting Of April 7, 2020 Deputy Clerk to the Board of County Commissioners
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2/18/2020

BOARD OF COUNTY COMMISSIONERS
 PALM BEACH COUNTY, FLORIDA
 BUDGET TRANSFER

BGEX- 021320*1008

FUND 0001 General Fund

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 2/12/2020	REMAINING BALANCE
<u>REVENUES/EXPENDITURES</u>								
0001-820-9100-9099	Transfer to Economic Development Fd 1	4,750,239	4,750,239	21,000	0	4,771,239		
0001-820-9900-9901	Contingency Reserves	20,000,000	20,879,356	0	21,000	20,858,356		
Total Receipts and Balances				21,000	21,000			

Signatures & Dates

By Board of County Commissioners

Office of Financial Management & Budget
 INITIATING DEPARTMENT/DIVISION

Jonathan Brown 2/18/2020

At Meeting Of
 April 7, 2020

Administration/Budget Department Approval
 OFMB Department - Posted

Deputy Clerk to the
 Board of County Commissioners