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ORDINANCE 2009- 13

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA CREATING A NEW CHAPTER 78, ARTICLE IX, SECTION 78-309 THROUGH 78-315 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES; ESTABLISHING AN ECONOMIC DEVELOPMENT INCENTIVE PROGRAM FOR QUALIFYING BUSINESSES; PROVIDING FOR SHORT TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ELIGIBILITY CRITERIA; PROVIDING FOR AMOUNT OF GRANT AWARD; PROVIDING FOR USE OF GRANT FUNDS; PROVIDING FOR PROGRAM ADMINISTRATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners finds that attracting, retaining, and providing favorable conditions for the growth of qualified businesses provides employment opportunities, enhances the economic tax base of the County, and increases the standard of living; and

WHEREAS, it is the policy of Escambia County to encourage economic activity within the County; and

WHEREAS, the Board of County Commissioners further finds the economic well-being of the citizens of Escambia County and the economic resources of Escambia County would be enhanced by the provision of an economic incentive fund program for qualifying businesses; and

WHEREAS, the Board of County Commissioners further finds an economic development incentive program and grants provided thereunder consistent with the provisions of this ordinance serves a vital public purpose and is in the best interest of the health, safety, and welfare of the citizens of Escambia County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. Short Title.

This ordinance shall be known as the "Economic Development Incentive Program Ordinance."

Section 2. Authority and Public Purpose.

This ordinance is enacted pursuant to the authority granted to the Board of County Commissioners under Article VIII, Section 1(f) of the Florida Constitution, Section 125.01(1)(w), Florida Statutes, and Section 125.045(2) and (3), Florida Statutes. The Board of County Commissioners (BCC) finds that attracting and retaining business enterprises in Escambia County constitutes a public purpose that justifies the use of public funds to achieve the County's economic development goals.

Verified By: *Atkins*

Date: 5/8/2009

Section 3. Goal and Intent.

The goal of this ordinance is to maintain a stable economy, fortify the tax base and provide a better standard of living for County residents by attracting, retaining and fostering the expansion of business enterprises that provide above-average salaries, benefits and employment opportunities to County residents. It is the intent of this ordinance to establish a mechanism to accomplish this goal.

Section 4. Chapter 78, Article IX, Section 78-309 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-309. Definitions.

- (a) *Business or industry* means any business entity authorized to do business in this state and Escambia County, including all members of an affiliated group of corporations as defined in § 220.03(1)(b), Florida Statutes.
- (b) *Expansion of an existing business or industry* means the expansion of a business or industry by or through additions to real and personal property on a site co-located with a target industry or business operation owned by the same owner.
- (c) *Jobs* means full-time equivalent positions, as such terms are consistent with terms used by the Florida Department of Labor and Employment Security and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation. Special emphasis will be made to create jobs that provide health care and other benefits to full time employees. Jobs shall not include temporary construction jobs involved with the construction of facilities for the project or any jobs which have previously been included in any application for benefits in this Ordinance.
- (d) *New business* is a business or industry which heretofore did not exist in Escambia County, first begins its operations on a site located in the County and is clearly separate from any other operation owned by the same business or industry that has been in existence less than 12 months and has not existed in another form with the same principals or products and is not an expansion of a company presently in operation in Escambia County.
- (e) *Project* means the creation of a new target business or industry or the expansion of an existing target business or industry.
- (f) *Target areas* shall mean areas specifically identified by the Board of County Commissioners, including, but not limited to, Community Development Block Grant Areas, Enterprise Zones and Community Redevelopment Areas.
- (g) *Target business or industry* shall mean business enterprises identified in Section 78-304 of the Code of Ordinances of Escambia County, Florida and identified pursuant to criteria developed by the Board of County

Commissioners, and also as identified by the County's designated Lead Economic Development Entity. The Board may revise or augment and adopt the list annually by resolution.

- (h) *Small business* shall mean any business that does not employ over 500 full-time employees or their full-time equivalent (FTE) as defined by the US Department of Labor.
- (i) *Average annual wage* means the statistic reported by the State of Florida showing the average (on an annual basis) of all wages paid in Escambia County. When calculating the average wages a proposed project will generate, all new jobs created by the project shall be considered as well as any existing jobs.

Section 5. Chapter 78, Article IX, Section 78-310 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-310. Economic Incentive Fund Program and Economic Incentive Fund Established.

- (a) The County hereby establishes the "Economic Development Incentive Fund". The Board of County Commissioners may, as part of the annual budget process, provide funding for this fund. Additional funding from other sources may be identified and authorized by the Board of County Commissioners.
- (b) The Economic Development Incentive Fund shall be utilized to implement the County's Economic Development Incentive Program which is hereby established.

Section 6. Chapter 78, Article IX, Section 78-311 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-311. Minimum Award Criteria.

The following criteria will be applied in awarding grants from the Economic Development Incentive Fund:

- (a) Minimum average wage:

New or Expanding Companies = 100% or more of Escambia County's Average Annual Wage. Benefits are not included as part of the wage.

Exceptions to the minimum average wage requirement may be approved on a case-by-case basis by the Board of County Commissioners.
- (b) Minimum number of jobs created or retained:

Expanding business = 10 new jobs within one year;
New business = 10 new jobs within two years.

- (c) The grantee must be designated as a target industry or business by the Board of County Commissioners pursuant to an adopted resolution.

Non-targeted industries may be eligible for consideration if proposed expansion or relocation is scheduled to occur within targeted areas (i.e., CRA areas, Enterprise Zones, other areas identified by the Board of County Commissioners) pursuant to an adopted Resolution.

- (d) New jobs created must be permanent, full-time positions with employer paid benefits including, but not limited to, health insurance and retirement benefits, or the option to purchase health insurance and retirement benefits.
- (e) New jobs must be created and retained for a period of at least three (3) years from grant award.
- (f) Funds must be expended within a specified time frame from grant award.
- (g) Business must either provide and fund employee health insurance and retirement benefits or provide employees the opportunity to purchase said benefits.

Section 7. Chapter 78, Article IX, Section 78-312 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-312. Amount of Award.

- (a) Amount. The amount of the award shall be determined using the “award matrix” contained in Table 1 herein.
- (b) Award Matrix. The award matrix shall make Award Level 1 equal to 100 percent of the average annual wage for Escambia County. Each subsequent award level (2 through 15) shall be increased at increments equal to 4.71 percent of the average annual wage for Escambia County. The “wage specific award matrix” may be revised at the beginning of each fiscal year.
- (c) Fiscal year. All calculations shall be based on the County’s fiscal year.
- (d) Bonuses. A business may be eligible to increase the baseline award level by meeting one or more bonus conditions as provided in Table 2 here.
- (e) Nothing herein shall be construed to obligate Escambia County to grant the maximum award amount or any award. Grants shall not be awarded in excess of \$5,000 per job without a super majority vote of the Escambia County Board of County Commissioners. The Escambia County Board of County Commissioners shall have the sole discretion to determine the eligibility of each applicant including the appropriate award level. Any award shall be subject to the availability of budgeted funds.

Section 6. Chapter 78, Article IX, Section 78-313 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-313. Use of Funds.

Funds can be used for any legitimate business expenses pertaining to a new location or expansion of a target industry or business. Expenses that are eligible for award include:

- (a) Payment of impact fees, permitting fees, environmental permitting fees, land development review fees, building permitting processing fees, franchise fees;
- (b) On-site and off-site infrastructure costs;
- (c) Leasehold improvements to interior and common areas;
- (d) Loan interest pay-downs for the acquisition of property, a finished site and its existing improvements, or the construction of new buildings and improvements;
- (e) Partial reimbursements for the costs of construction of a new industrial or office building, or partial reimbursements for the renovation of an existing industrial or office building;
- (f) Partial payment of initial rental fees for a period not to exceed one (1) year;
- (g) Job training conducted by a third party for new hires, relocated employees resulting from plant expansion or relocation;
- (h) Employee hiring expenses;
- (i) Expenses not listed above, which are consistent with the intent, may be deemed eligible as determined by the Boards of County Commissioners on a case-by-case basis; and
- (j) If adopted by resolution of the Board of County Commissioners, awards may also be used to provide the twenty (20) percent local contribution which is required by Florida's Qualified Target Industry (QTI) Tax Refund Program administered by Enterprise Florida.

Section 7. Chapter 78, Article IX, Section 78-314 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-314. Review of Economic Incentive Fund Applications.

- (a) Applicants may make application for grant funds with Escambia County's Lead Economic Development Entity. The Lead Economic Development Entity will review the application and make recommendations to the County Administrator with regard to the application. Recommendations shall be

made as to whether the grant application shall be approved and, if so, the award amount and conditions to be placed on the award. The review shall include a recommendation from the County Administrator. The recommendations shall be provided to the Board of County Commissioners for approval and award of funds or denial of the application.

- (b) The Lead Economic Development Entity is responsible for providing the County Commission with a report on each application. The Lead Economic Development Entity shall also provide the Board of County Commissioners with periodic reports providing for the monitoring of recipient contracts, new jobs created and, included in such reports, shall be an analysis relating to the success of the Jobs Growth Incentives Fund and Program. Such reports shall be reviewed by the County's Management and Budget Services Bureau Chief.
- (c) The grant application shall be made on an application form approved by the County.
- (d) The applicant shall be required to submit the following information and materials:
 - (1) Detailed project description including anticipated development time frame;
 - (2) Anticipated number of employees and hiring time frames;
 - (3) Job titles with starting salaries and benefits package;
 - (4) Proof of ability to execute the project under review by providing current income statements showing profit and loss and balance sheets showing the assets, liabilities, and equity. Income statements and balance sheets for the previous two years and applicable bank references shall also be provided; and
 - (5) Other submissions including, but not limited to financial records, contractual agreements, statements, and affidavits which are deemed relevant and necessary to review the viability of an application.

Section 8. Chapter 78, Article IX, Section 78-315 of the Code of Ordinances of Escambia County, Florida is hereby created to read as follows:

Sec. 78-315. Grant Agreements.

- 1. (a) Each applicant that is approved for a grant shall execute a grant agreement. In addition to implementing the award criteria set forth in Section 78-311 each agreement shall specify the criteria and time frames for meeting grant requirements. Grant awards shall be performance based and payment shall be made upon specific achievements including reaching employment thresholds, receipt of a Certificate of Occupation, and execution of a lease

agreement for a location in Escambia County. While multiple grant payments may be made, the final payment shall not be disbursed by the County until all employment and investment requirements are met. The County shall be provided annual audits and performance reports in a form satisfactory to the County which detail whether the criteria contained in the grant agreement have been met.

(b) An additional mandatory provision in each agreement shall be that repayment is required when a grant recipient fails to perform any condition of the grant agreement or violates any provision of law. The County may require security, in the form of irrevocable letters of credit or performance bonds, to ensure compliance with the terms and conditions of the grant agreement and repayment in the event of non-compliance.

2. (a) Each grantee shall, in addition to other requirements in the grant agreement, document the use of funds and certify that funds have been expended in accordance with the grant agreement; create and maintain records of new jobs created; and supply all records relating to the grant to the County as requested. The company shall also be required to submit annual reports in a format acceptable to the Board of County Commissioners. These annual reports will be due each year on the anniversary of the execution of the agreement.

(b) Should the grantee fail to comply with the terms and conditions of the grant agreement, the County may terminate the grant agreement and impose sanctions including, but not limited to, pursuit of a refund of all grant monies, reimbursement of all costs incurred in the processing and administration of the project and debarment from participation in future grants.

Section 10. Severability.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 11. Inclusion in the Code.

It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 12. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED THIS 7th DAY OF May, 2009.

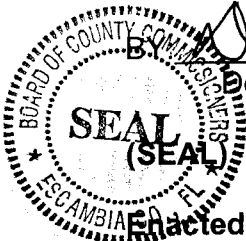
**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**

BY: *Marie Young*
Marie Young, Chairman

**ATTEST: ERNIE LEE MAGAHA
Clerk to the Circuit Court**

Date Executed

May 7, 2009


BY: *Doris Harris*
Deputy Clerk
**Enacted: May 7, 2009
Filed with Department of State: May 15, 2009
Effective: May 15, 2009**

This document approved as to form and legal sufficiency

By: *[Signature]*
Title: *Assistant County Attorney*
Date: *4/27/09*

Award Level	Annual Avg. Wage	Avg. Hourly Wage (\$)	Max Award Per Job (\$)
1	31,500.00	15.14	0.00
2	32,983.68	15.86	1,000.00
3	34,537.25	16.60	1,307.69
4	36,164.00	17.39	1,615.38
5	37,867.36	18.21	1,923.07
6	39,650.96	19.06	2,230.76
7	41,518.56	19.96	2,538.45
8	43,474.13	20.90	2,846.14
9	45,521.81	21.89	3,153.83
10	47,665.94	22.92	3,461.52
11	49,911.06	24.00	3,769.21
12	52,261.92	25.13	4,076.90
13	54,723.52	26.31	4,384.59
14	57,301.05	27.55	4,692.28
15	60,000.00	28.85	5,000.00

Bonus Condition	Increase # Award Levels
Business pays for employee's health insurance for new or retained jobs.	3
Business pays for a portion or all of employee's retirement for new or retained jobs.	2
Business offers tuition reimbursement to employees for new or retained jobs.	1
Business integrates pollution prevention and waste reduction with their technology and production processes.	2
Business demonstrates significant corporate citizenship supported by a history of promoting volunteerism and financial participation in local charities or events.	1
Business locates or expands in a Community Block Grant Target Area; Florida Enterprise Zone authorized under Florida Statutes, Chapter 290; or a Community Redevelopment Area authorized under Florida Statutes Chapter 163, Part III.	5
Percentage of new jobs locally advertised and provided to Escambia County residents:	
Less than 25%	0
25%-50%	1
51% or 75%	2
More than 75%	3
Capital Investment:	
Less than 1 million	1
1-5 million	2
More than 5 million	3

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