

**INDIAN RIVER COUNTY
ECONOMIC DEVELOPMENT AD VALOREM
TAX ABATEMENT APPLICATION**



To be filed in the Community Development Department no later than March 1 of the year the exemption is desired to take effect.

I. APPLICANT INFORMATION:			
Business Name		Business Owners Name	
Address	City	State	Zip Code
Phone Number	Email	Website	
Contact Person		Title	
<ul style="list-style-type: none"> • Letter of authorization from corporate officer if applicant is other than corporate officer (if applicable, attach to completed application) 			
Business Unit's Federal Employer Identification Number:		_____	
Business Unit's Unemployment Compensation Number:		_____	
Which of the following best describes this business:			
<input type="checkbox"/> New business to Indian River County			
<input type="checkbox"/> Existing business in Indian River County creating new jobs			
If an expansion, how many jobs are currently in the business? _____			

II. PROJECT SITE LOCATION:			
Address	City	State	Zip Code
Property Parcel Number(s)			
Current Location (if different):			
Address	City	State	Zip Code
Property Parcel Number(s)			
<ul style="list-style-type: none"> • Legal description and survey sketch of real property (attach to completed application) • Verified statement (separate letter) naming every individual or entity having legal or equitable ownership interest in the real property (attach to completed application) 			

VII. CONFIDENTIALITY:

Under Florida Statutes 288.075 (see Appendix C), is the applicant requesting that any information provided as part of this application be treated as confidential? Yes No

If yes, indicate the specific information to be treated as confidential: _____

VIII. CRIMINAL/CIVIL FINES OR PENALTIES:

List and explain any criminal or civil fines or penalties or ongoing investigations that have been imposed upon the company, its executives, or its affiliates and any recent bankruptcy proceedings of the applicant or its parent company: _____

PLEASE FIND ATTACHED THE APPLICATION SCORING GUIDELINES USED BY THE COUNTY

To the best of my knowledge, the information included in this application is accurate.

Signature of Corporate Officer or Authorized Representative

Date

Printed Name

- **Indian River County Contact for Assistance**
Bill Schutt, Senior Planner
772-226-1243
bschutt@ircgov.com



TAX ABATEMENT APPLICATION CHECKLIST

	<u>YES</u>	<u>NO</u>
I. Brief narrative that describes nature of applicant's business	<input type="checkbox"/>	<input type="checkbox"/>
II. Letter of Authorization from corporate officer if applicable	<input type="checkbox"/>	<input type="checkbox"/>
III. Verified statement (separate letter) naming every individual or entity having legal or equitable ownership interest in the real property	<input type="checkbox"/>	<input type="checkbox"/>
IV. Legal description and sketch of project real property	<input type="checkbox"/>	<input type="checkbox"/>
V. Appendix A (job and wage information) completed	<input type="checkbox"/>	<input type="checkbox"/>
VI. State application form (DR-418) (to be filed no later than March 1 of the year the exemption is desired to take effect)	<input type="checkbox"/>	<input type="checkbox"/>

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 collocated 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 collocated 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 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 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 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.

Select Year:

Appendix C

The 2010 Florida Statutes

[Title XIX](#)
PUBLIC
BUSINESS

[Chapter 288](#)
COMMERCIAL DEVELOPMENT AND CAPITAL
IMPROVEMENTS

[View Entire
Chapter](#)

288.075 Confidentiality of records.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Economic development agency” means:

1. The Office of Tourism, Trade, and Economic Development;
2. Any industrial development authority created in accordance with part III of chapter 159 or by special law;
3. Space Florida created in part II of chapter 331;
4. The public economic development agency of a county or municipality or, if the county or municipality does not have a public economic development agency, the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality or the responsibilities related thereto;
5. Any research and development authority created in accordance with part V of chapter 159; or
6. Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.

(b) “Proprietary confidential business information” means information that is owned or controlled by the corporation, partnership, or person requesting confidentiality under this section; that is intended to be and is treated by the corporation, partnership, or person as private in that the disclosure of the information would cause harm to the business operations of the corporation, partnership, or person; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and that is information concerning:

1. Business plans.
2. Internal auditing controls and reports of internal auditors.
3. Reports of external auditors for privately held companies.

(c) “Trade secret” has the same meaning as in s. [688.002](#).

(2) PLANS, INTENTIONS, AND INTERESTS.—

(a) Upon written request from a private corporation, partnership, or person, information held by an economic development agency concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed, whichever occurs first.

(b) An economic development agency may extend the period of confidentiality specified in paragraph (a) for up to an additional 12 months upon written request from the private corporation, partnership, or person who originally requested confidentiality under this section and upon a finding by the economic development agency that such private corporation, partnership, or person is still actively considering locating, relocating, or expanding its business activities in this state. Such a request for an extension in the period of confidentiality must be received prior to the expiration of any confidentiality originally provided under this section.

(c) A public officer or employee may not enter into a binding agreement with any corporation, partnership, or person who has requested confidentiality of information under this subsection until 90 days after the information is made public unless:

1. The public officer or employee is acting in an official capacity;
2. The agreement does not accrue to the personal benefit of such public officer or employee; and
3. In the professional judgment of the officer or employee, the agreement is necessary to effectuate an economic development project.

(3) **TRADE SECRETS.**—Trade secrets held by an economic development agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) **PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.**—Proprietary confidential business information held by an economic development agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such information is otherwise publicly available or is no longer treated by the proprietor as proprietary confidential business information.

(5) **IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.**—A federal employer identification number, unemployment compensation account number, or Florida sales tax registration number held by an economic development agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(6) **ECONOMIC INCENTIVE PROGRAMS.**—

(a) The following information held by an economic development agency pursuant to the administration of an economic incentive program for qualified businesses is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period not to exceed the duration of the incentive agreement, including an agreement authorizing a tax refund or tax credit, or upon termination of the incentive agreement:

1. The percentage of the business's sales occurring outside this state and, for businesses applying under s. 288.1045, the percentage of the business's gross receipts derived from Department of Defense contracts during the 5 years immediately preceding the date the business's application is submitted.
2. The anticipated wages for the project jobs that the business plans to create, as reported on the application for certification.
3. The average wage actually paid by the business for those jobs created by the project or an employee's personal identifying information which is held as evidence of the achievement or nonachievement of the wage requirements of the tax refund, tax credit, or incentive agreement programs or of the job creation requirements of such programs.
4. The amount of:
 - a. Taxes on sales, use, and other transactions paid pursuant to chapter 212;
 - b. Corporate income taxes paid pursuant to chapter 220;
 - c. Intangible personal property taxes paid pursuant to chapter 199;
 - d. Emergency excise taxes paid pursuant to chapter 221;

- e. Insurance premium taxes paid pursuant to chapter 624;
- f. Excise taxes paid on documents pursuant to chapter 201;
- g. Ad valorem taxes paid, as defined in s. [220.03\(1\)](#); or
- h. State communications services taxes paid pursuant to chapter 202.

(b)1. An economic development agency may release:

- a. Names of qualified businesses.
- b. The total number of jobs each business expects to create.
- c. The total number of jobs created by each business.
- d. The amount of tax refunds, tax credits, or incentives awarded to and claimed by each business.

2. For a business applying for certification under s. [288.1045](#) which is based on obtaining a new Department of Defense contract, the total number of jobs expected and the amount of tax refunds claimed may not be released until the new Department of Defense contract is awarded.

(c) An economic development agency may publish statistics in the aggregate and classified so as to prevent the identification of a single qualified applicant.

(7) PENALTIES.—Any person who is an employee of an economic development agency who violates the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(8) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 77-75; s. 1, ch. 79-395; s. 3, ch. 83-47; s. 1, ch. 86-152; s. 1, ch. 86-180; s. 1, ch. 86-218; s. 1, ch. 89-217; s. 104, ch. 90-360; s. 245, ch. 91-224; s. 220, ch. 95-148; s. 1, ch. 95-378; s. 1, ch. 96-353; s. 135, ch. 96-406; s. 14, ch. 99-256; s. 1, ch. 2001-161; s. 5, ch. 2002-183; s. 27, ch. 2003-286; s. 55, ch. 2006-60; s. 1, ch. 2006-157; s. 1, ch. 2007-203.

Appendix D

Definition of “Tangible personal property” per Florida Statutes 192.001(11)(d)

- (d) “Tangible personal property” means all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself. “Construction work in progress” consists of those items of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress shall be deemed substantially completed when connected with the preexisting, taxable, operational system or facility. Inventory and household goods are expressly excluded from this definition.

Appendix E

Definition of "Real property" per Florida Statutes 192.001(12)

- (12) "Real property" means land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably.

Appendix F

Sales Factor per Florida Statutes 220.15(5)

- **Definition**

- (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. However, for industries in NAICS National Number 311411, if the ultimate destination of the product is to a location outside this state, regardless of the method of shipment or f.o.b. point, the sale shall not be deemed to occur in this state. As used in this paragraph, “NAICS” means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.
 - 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 trusts, and brokerage companies, occur in this state if derived from:
 - 1. Fees, commissions, or other compensation for financial services rendered within this state;

Appendix F (continued)

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 without 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.

• **Calculation**

Total sales of the taxpayer in Florida from the facility location during the taxable year or period.

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Total sales of the taxpayer everywhere from the facility location during the taxable year or period.

To qualify for a tax abatement as a sales factor business, the result of the sales factor calculation must be less than 0.50 for each year the tax abatement is claimed.

INDIAN RIVER COUNTY AD VALOREM TAX ABATEMENT APPLICATION SCORING GUIDELINES

Scoring Matrix

NUMBER OF NEW FULL TIME JOBS CREATED Maximum Number of Points: 30	
	POINTS
1. 10 – 19 jobs (manufacturing) or 25 – 49 jobs (sales factor) or 50 – 99 jobs (corporate office) or 1 – 2 jobs (Enterprise Zone)	10
2. 20 – 29 jobs (manufacturing) or 50 – 74 jobs (sales factor) 100 – 149 jobs (corporate office) or 3 – 4 jobs (Enterprise Zone)	18
3. 30 – 49 jobs (manufacturing) or 75 – 99 jobs (sales factor) 150 – 199 jobs (corporate office) or 5 – 7 jobs (Enterprise Zone)	25
4. 50 or more jobs (manufacturing) or 100 or more jobs (sales factor) 200 or more jobs (corporate office) or 8 or more jobs (Enterprise Zone)	30

LEVEL OF AVERAGE WAGES Maximum Number of Points: 30	
	POINTS
1. More than 75% but less than 100% county average wage	10
2. 100% or more but less than 115% county average wage	18
3. 115% or more but less than 150% county average wage	25
4. 150% or more	30

LEVEL OF LOCAL CAPITAL INVESTMENT Maximum Number of Points: 20	
	POINTS
1. More than \$100,000 but less than \$500,000	20
2. \$500,000 or more but less than \$1,000,000	20
3. \$1,000,000 or more but less than \$5,000,000	20
4. \$5,000,000 or more	20

PROJECT EXCELLENCE	
Maximum Number of Points: 20	
<ul style="list-style-type: none"> Special project attributes that advance county economic development goals, objectives, and policies 	POINTS 0 - 20

Award Categories

Abatement Percentage by Year

Total Points	Yr. 1	Yr. 2	Yr. 3	Yr. 4	Yr. 5	Yr. 6	Yr. 7	Yr. 8	Yr. 9	Yr. 10
1. 40-60	100%	100%	80%	60%	40%	20%	10%	0%	0%	0%
2. 61-80	100%	100%	90%	80%	60%	40%	20%	10%	0%	0%
3. 81 or more	100%	100%	100%	90%	80%	70%	60%	50%	40%	30%

ORDINANCE NO. 20__ - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING TITLE XI OF THE CODE OF INDIAN RIVER COUNTY (ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION ORDINANCE) BY CREATING A NEW SECTION 1100.XX GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION TO _____; MAKING FINDINGS AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Title XI of the Code of Indian River County, entitled "Economic Development Ad Valorem Tax Exemption Ordinance," authorizes the Board of County Commissioners to grant economic development ad valorem tax exemptions ("Exemption") to certain new or expanding businesses; and

WHEREAS, Section 196.1995(10), Florida Statutes, requires that any action of the Board granting an Exemption to a new or expanding business be set forth in an ordinance; and

WHEREAS, the Board has determined that all prerequisites to the granting of an Exemption to _____ have been met, and the granting of such Exemption will promote and strengthen the local economy and thereby enhance the health, welfare and general well-being of the citizens of Indian River County,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, THAT:

Section 1. Enactment Authority.

Section 3, Article VII of the Florida Constitution and Section 196.1995 authorize the Board of County Commissioners to grant economic development ad valorem tax exemptions to certain new and expanding businesses, upon majority vote in favor of such authority in a referendum called for such purpose. In a referendum held on November 2, 2010, a majority of voters in Indian River County voted in favor of such authority, and Title XI of the Code of Indian River County, entitled "Economic Development Ad Valorem Tax Exemption Ordinance" became effective.

Section 2. Findings.

The Board finds that the above "Whereas" clauses are true and correct, and hereby incorporates such clauses as findings of the Board. Additionally, the Board specifically finds that _____ meets the requirements of Section 196.012(15) [or (16)], Florida Statutes.

Section 3. Creation of New Section.

Section 1100.XX of the Code of Indian River County, Florida, is hereby created to read as follows:

Section 1100.XX Economic Development Ad Valorem Tax Exemption Granted to _____ ('Business').

- (1) An economic development ad valorem tax exemption is hereby granted to Business whose address is _____. The exemption shall apply to its new improvements to real property and its new tangible personal property related to its new business [or expansion of its existing business] located at the following address _____. This exemption shall apply only to the improvements to real property and the tangible personal property described in Business' Application for such exemption.
- (2) The exemption shall be for a term of _____ years commencing with the first year the new improvements or new tangible personal property are added to the assessment roll. The amount of the exemption shall be _____ percent of county ad valorem taxes which would otherwise be due with respect to the new improvements or new tangible personal property in the absence of the exemption.
- (3) The total amount of revenue available to the County from ad valorem tax sources for the current fiscal year is \$ _____; the total amount of revenue lost to the County for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect is \$ _____; and the estimated revenue loss to the County for the current fiscal year attributable to the exemption granted in this section is \$ _____.
- (4) The exemption shall be subject to all provisions set forth in sections 1100.01 through 1100.13. Without limitation, the continuation of the exemption shall be contingent upon Business' compliance with section 1100.10 relating to "Continuing Performance."
- (5) The Board specifically finds that Business meets the requirements of section 196.012(15 [or (16)], Florida Statutes.

Section 4. Severability. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

Section 5. Effective Date. This ordinance shall become effective upon enactment by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Vero Beach Press Journal on the ____ day of _____, 20__, for a public hearing to be held on the ____ day of _____, 20__, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman _____	_____
Vice Chairman _____	_____
Commissioner _____	_____
Commissioner _____	_____
Commissioner _____	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ____ day of _____, 20__.

**BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY, FLORIDA**

By: _____
_____, Chairman

ATTEST: Jeffrey K. Barton, Clerk

By: _____
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the ____ day of _____, 20__.

ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION AGREEMENT

THIS AGREEMENT is entered into as of the ____ day of _____, by and between Indian River County, a political subdivision of the State of Florida (“County”) and _____, a _____, organized and existing under the laws of the State of _____ (“Business”).

WHEREAS, County has adopted the Indian River County Economic Development Ad Valorem Tax Exemption Ordinance (“Ordinance”), set forth in Title XI of the Indian River County Code (“Code”), and

WHEREAS, County has adopted Ordinance No. 20__ - _____ (“Exemption Ordinance”) granting an economic development ad valorem tax exemption (“Exemption”) to Business, and

WHEREAS, the Ordinance and the Exemption Ordinance both provide that the Exemption shall not be effective until County and Business enter into this Economic Development Ad Valorem Tax Exemption Agreement (“Agreement”),

NOW, THEREFORE, in consideration of the mutual undertakings herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree, as follows:

- 1. Recitals.** The above recitals are true and correct and are incorporated herein.
- 2. Definitions.** Unless otherwise stated, all capitalized terms herein shall have the meaning set forth in the Ordinance.
- 3. Business’ Representations, Covenants and Warranties.** At all times during the term of the Exemption, Business represents, covenants and warrants to County that: (a) all information submitted by Business in the Application is, and was at the time of submittal, true and correct, (b) all information submitted by Business in any annual report submitted pursuant to section 1100.10(b) of the Code will be, at the time of submittal, true and correct, (c) each representation previously made by Business to County’s Board of County Commissioners in a public meeting was, and each representation made by Business to County’s Board of County Commissioners in the future will be, at the time of such representation, true and correct, (d) Business will fully perform and remain in full compliance with all Exemption Requirements and all requirements of this Agreement, (e) without limitation, Business will establish and continue to provide all jobs required for Business to qualify as a New Business [or an Expansion of an Existing Business] (“Jobs”), (f) without limitation, the average wage paid by Business with respect to the Jobs during each calendar quarter will be equal to

or greater than the average wage represented by Business in the Application, and (g) Business has not committed and will not commit any Violation of Law (each of subparagraphs (a) through (f), "Commitment").

- 4. Violation by Business of Commitment:** In the event of a violation by Business of any Commitment, County may, in its sole discretion, (a) revoke or revise the Exemption, effective as of the date of such action, (b) revoke or revise the exemption, effective as of the date of violation of the Commitment. In such case County, the Property Appraiser or the Tax Collector shall be entitled to recover all or any portion of taxes not paid after the date of violation as a result of the Exemption, plus interest, costs of collection and attorney's fees, as set forth in section 1100.11(b) of the Code, or (c) pursue any other remedy available in law or in equity. Business shall immediately notify County in writing of any facts or events which constitute or may constitute a violation by Business of any Commitment.
- 5. No Limitation of County's Rights.** Nothing in this Agreement shall be construed as a restriction or limitation of County's rights as set forth in general law or the Code, including the Ordinance and the Exemption Ordinance.
- 6. County's Right of Inspection.** At any time during the term of the Exemption, County shall have the right to inspect any of Business' books and records to determine Business' compliance with all Exemption Requirements and all requirements of this Agreement; provided, however, that nothing in this paragraph shall be interpreted as relieving Business of its obligation to notify County in writing of any facts or events which constitute or may constitute a violation by Business of any Commitment, as set forth in paragraph 4 above.
- 7. Public Records.** Business acknowledges that any records made or received by County in connection with the Exemption are subject to the Public Records Act, Chapter 119, Florida Statutes.
- 8. Transfer of Property Subject to Exemption.** Business shall notify County of any transfer of real or personal property subject to the Exemption, within thirty (30) days of the date of such transfer.
- 9. Form of Notice.** Any notice hereunder shall be in writing and delivered by (i) certified mail, return receipt requested, (ii) overnight or priority mail, in a form providing proof of receipt, or (iii) hand delivery, with written acknowledgement of receipt by the recipient.

- 10. Interpretation.** This Agreement has been submitted to the equal review and scrutiny of both parties, and both parties agree that it fairly and accurately sets forth the terms their agreement. In any dispute between the parties, the Agreement shall be given a fair and reasonable interpretation, without consideration or weight being given to the fact that it was initially prepared or drafted by any particular party.
- 11. Severability.** Each provision of this Agreement is deemed to be separate and divisible. If any provision shall be held invalid, the remaining provisions shall remain in full force and effect.
- 12. Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
- 13. Jurisdiction and Venue.** Exclusive jurisdiction for any proceedings arising out of or relating to this Agreement shall be in the circuit court of the State of Florida. Venue shall be in Indian River County, Florida.
- 14. Attorney's Fees, etc.** In any legal proceedings arising out of or relating in any way to this Agreement, the prevailing party shall recover from the non-prevailing part all fees, costs and expenses, including, without limitation, reasonable attorney's fees at all trial, appellate and collection levels.
- 15. Waiver of Jury Trial.** EACH PARTY HEREBY KNOWINGLY AND INTENTIONALLY WAIVES TRIAL BY JURY OF ANY ISSUE ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT. ALL SUCH ISSUES SHALL BE RESOLVED BY NON-JURY TRIAL.
- 16. Amendment.** This Agreement may be amended or modified only by subsequent written agreement signed by all parties and, with respect to County, approved by County's Board of County Commissioners.
- 17. Successors and Assigns.** This agreement shall be binding upon the parties and their successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

INDIAN RIVER COUNTY

BUSINESS

By: _____
Chairman, Board of County Commissioners

By: _____
Its _____

Date approved by BCC: _____

ATTEST: J. K. Barton, Clerk

By: _____
_____, Deputy Clerk

Approved:

County Administrator

Approved as to form and legal sufficiency.

County Attorney