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RESOLUTION NO. 07-2013 OF THE CITY OF LAKE WORTH, FLORIDA, RELATING TO ESTABLISHMENT OF AN ECONOMIC DEVELOPMENT ELECTRICITY INCENTIVE RATE PROGRAM FOR QUALIFIED COMMERCIAL CUSTOMERS OF THE CITY ELECTRIC UTILITY; PROVIDING TERMS, CONDITIONS, APPLICABLE CREDITS AND AN AGREEMENT FOR THE PROGRAM; AND, PROVIDING FOR AN EFFECTIVE DATE AND A DATE FOR TERMINATION OF THE PROGRAM.

WHEREAS, the City of Lake Worth, Florida, desires to create economic development incentive to businesses who bring jobs and economic growth to the community; and

WHEREAS, the City of Lake Worth is authorized to set by resolution uniform rates for its electric utility services; and

WHEREAS, pursuant to the City's authority to set such rates, the City desires to offer an Economic Development Electricity Incentive Rate Program to qualifying commercial electric customers; and

WHEREAS, the establishment of an Economic Development Electricity Incentive Rate Program as set forth herein services a vital public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. The City shall make an Economic Development Electricity Incentive Rate Program ("Program") available to qualifying commercial customers upon request throughout the municipal boundaries of the City of Lake Worth.

Section 2. The terms, conditions, and applicable credits for the Program are set out in Exhibit "A" to this resolution, which exhibit is incorporated herein. The Program agreement for qualifying customers under the Program is attached to Exhibit "A" and incorporated herein.

Section 3. The Program established by this Resolution shall be available to qualifying customers who commence service under the Program during the period beginning **January 16, 2013 and ending January 15, 2015.**

Section 4. This Resolution shall become effective upon passage.

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The passage of this Resolution was moved by Commissioner Szerdi, seconded by Commissioner McVoy, and upon being put to a vote, the vote was as follows:

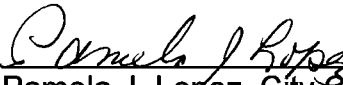
Mayor Pam Triolo	ABSENT
Vice Mayor Scott Maxwell	AYE
Commissioner Christopher McVoy	AYE
Commissioner Andy Amoroso	AYE
Commissioner John Szerdi	AYE

The Vice Mayor thereupon declared this Resolution duly passed and adopted on this 15th day of January, 2013.

LAKE WORTH CITY COMMISSION

By: 
Pam Triolo, Mayor

ATTEST:


Pamela J. Lopez, City Clerk

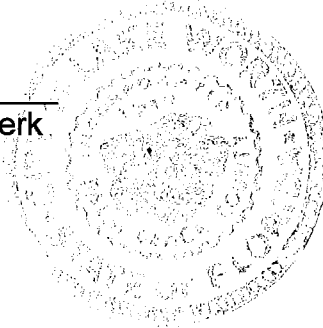


EXHIBIT "A"

ECONOMIC DEVELOPMENT ELECTRICITY INCENTIVE RATE PROGRAM

AVAILABILITY:

Beginning January 16, 2013, the Economic Development Electricity Incentive Rate Program (the "Program") is available throughout the municipal boundaries of the City of Lake Worth as served by the City's electric utility. Application for service under the Program must be made and service must commence prior to **January 15, 2015**.

APPLICATION & QUALIFICATIONS:

The Program is applicable to new electric load associated with:

1. Initial, permanent service to new establishments.
2. Commercial or industrial space that has been vacant for more than one (1) month prior to the application for service under the Program. Verification of vacancy will be established by evidence of no or minimal electric load during the time period in question.
3. The expansion of existing establishments. For existing establishments, new load is the net incremental load above that which existed prior to approval for service under the Program.

The new load applicable under the Program for new and vacant establishments must be a minimum of 150kW per month at a single delivery point. In the case of expansion of existing facilities, the added new load must be a minimum of 150kW per month at a single delivery point. Prior load shall be the average monthly energy use and demand for the Customer for over a maximum of three (3) years.

In addition to the load requirement, to qualify for service under the Program, the Customer must:

1. Employ a new work force of at least 10 full-time employees at the delivery point to which the load is added for the full term of the agreement under the Program.
2. Be on or elect to be on the City's existing Schedule "Demand Commercial Service" (Schedule D-S) or its successor rate for the full term of the agreement under the Program.
3. Provide sufficient evidence to the City to establish that the availability

121 of the Program is a significant factor in the Customer's location or
122 expansion decision.

123
124 If a change in ownership occurs after the Customer enters an agreement
125 under this Program, the successor Customer may be allowed to fulfill the
126 balance of the agreement under the Program and continue the schedule of
127 credits outlined below.

128
129 The Program is not available for load shifted from one establishment to
130 delivery point on the City to Lake Worth system to another on the City of Lake
131 Worth system.

132
133 MONTHLY RATE:

134
135 The rates and all other terms and conditions of the Customer's otherwise
136 applicable rate schedule shall be applicable under the Program. An annual
137 credit based on the percentages below will be applied to the demand charges
138 and non-fuel (base) energy charges of the Customer's otherwise applicable
139 rate schedule associated with the Customer's new load:

140
141 Year 1 - 23.6% reduction on applicable charges from Year 1 and applied in
142 Year 2

143
144 Year 2 - 20% reduction on applicable charges from Year 2 and applied in
145 Year 3

146
147 Year 3 - 15% reduction on applicable charges from Year 3 and applied in
148 Year 4

149
150 Year 4 - 10% reduction on applicable charges from Year 4 and applied in
151 Year 5

152
153 Year 5 - 5% reduction on applicable charges from Year 5 and applied in Year
154 6

155
156 The City shall review the Customer's qualifications on the annual anniversary
157 of the Customer's agreement under the Program and, if the qualifications are
158 met, apply the aforementioned credit from the prior year towards applicable
159 charges occurring in the next year. The City will not issue any refunds under
160 the Program for credit earned. The above credit will be deducted from the
161 Customer's applicable rate schedule before application of any discounts or
162 adjustments.

163
164 TERM OF SERVICE AND CONDITIONS:

165

166 The Customer agrees to a five-year agreement term. Service under the
167 Program will terminate at the end of the fifth year; however, any credits
168 earned in Year 5 will be applied by the City to the applicable charges
169 accruing in the next year (Year 6). The City may terminate the Customer's
170 agreement for service under the Program at any time if the Customer fails to
171 comply with all applicable rules and regulations for the City's electric utility
172 system and/or with the terms and conditions of the Program including, but
173 not limited to, failure to: (1) pay all charges and fees for electricity; (2)
174 maintain the level of employment specified in the Customer's agreement; or,
175 (3) purchase from the City the amount of load specified in the Customer's
176 agreement.

177
178 If the City terminates the Customer's agreement for service under the
179 Program for the Customer's failure to comply with its provisions, or if the
180 Customer opts to terminate service under the Program, the Customer will be
181 required to reimburse the City for all credits received under the Program and
182 no further credits will be provided by the City.

183
184 At least 20 days prior to the end of each anniversary year of the Program (as
185 applicable to each Customer), the Customer shall submit to the Economic
186 Development Manager an annual report in the format required by the
187 Economic Development Manager documenting compliance with the
188 requirement for employment of 10 new, full-time employees for the year.
189 Failure to submit the annual report will forfeit the credit for that year and may
190 be grounds for termination of the Program.

191
192 In addition to the annual report, Customers must allow the City to conduct an
193 annual site inspection and audit for the purpose of ensuring compliance with
194 the Program agreement.

195
196 **APPLYING FOR THE PROGRAM:**

197
198 In order to obtain service under this Program, interested applicants
199 shall contact the City's Economic Development Manager to apply for
200 the Program. The applicant will be required to provide documentation
201 verifying that the availability of the Program is a significant factor in the
202 applicant's location/expansion decision and verifying the employment of
203 10 new full-time employees. In the case of new load associated with
204 Commercial or Industrial space that has been vacant for more than one
205 (1) month, the applicant must verify that they have no affiliation with the
206 previous occupant.

207
208 The City's Economic Development Manager will review the
209 qualifications of each applicant with the Utilities Department and
210 determine if an applicant qualifies under the Program. If the applicant
211 qualifies, the applicant will be required to execute the Program's written

212 agreement with the City. The City Manager or his/her designee is
213 authorized to sign the Program agreement on behalf of the City.

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**ECONOMIC DEVELOPMENT ELECTRICITY
INCENTIVE RATE PROGRAM AGREEMENT**

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The below named customer is applying for service under the City of Lake Worth's (the "City") Economic Development Electricity Incentive Rate Program (the "Program") based on new or expanded load as indicated below (check one):

- New Load associated with a new establishment.
- New Load established in commercial or industrial space that has been vacant for more than one (1) month.
- Expanded Load associated with an existing establishment.

CUSTOMER NAME _____
SERVICE ADDRESS _____
TELEPHONE NUMBER _____
FAX _____
TYPE OF BUSINESS _____

The Customer hereto agrees as follows:

1. For new and vacant establishments, a minimum of 150kW per month of measured demand must be added at a single delivery point.
2. For existing establishments that are expanding, a minimum of 150kW per month of measured demand must be added to the existing demand at a single delivery point.
3. In all cases, the Customer must employ an additional work force of at least 10 full-time employees at the delivery point to which the load is added for the full term of this agreement.
4. That the quantity of new or expanded load shall be _____ kW of Demand.
5. The nature of this new or expanded load is _____.
6. To initiate service under this Program on _____, _____ and terminate service under this Program on _____, _____. This shall constitute a term of five years. If service under the Program is delayed, service must be initiated no later than January 15, 2015 and the term of this agreement will expire five years

261 thereafter.

262

263 7. To comply with all terms and conditions of the Program as set forth in the
264 City Resolution establishing the Program and in this agreement.

265

266 8. To provide thirty (30) days written notice to the City's Utility Department if
267 the Customer desires to terminate this agreement.

268

269 9. To have this agreement terminated by the City upon thirty (30) days written
270 notice to the Customer's billing address if Customer fails to:

271

272 a. Pay all applicable charges, fees, taxes or other costs related to or
273 arising from the City's provision of electric utility services to the
274 Customer; and/or,

275 b. Comply with all terms and conditions of the Program; and/or,

276 c. Comply with all applicable rules and regulations of the City's electric
277 utility system.

278

279 10. If this agreement is terminated prior to the end of the five-year term by
280 either the City or the Customer, the Customer will be required to reimburse
281 the City for all credits received under the Program and no further credits
282 will be provided by the City.

283

284 11. Upon termination or expiration of this agreement, the Customer's service
285 will revert back to the City's then existing electric rate schedule applicable
286 to the Customer and all applicable rules and regulations associated with
287 such service.

288

289 12. This Agreement is not renewable.

290

291 13. Customer is subject to all terms and conditions contained in the Schedule
292 "Commercial Demand Service" (Schedule CD-S), or its successor Rate
293 Schedule. Customer acknowledges that this agreement addresses only
294 the Economic Development Electricity Incentive Rate Program; it does not
295 address the other terms and conditions related to electric service provided
296 by the City which otherwise govern Customer's service.

297

298 14. Customer shall be responsible to pay all miscellaneous fees, charges and
299 taxes as set forth in the Schedule CD-S. All charges for electric service
300 pursuant to this agreement shall be subject to any applicable state or
301 federal energy tax, and any other governmental taxes, duties, or fees, as
302 may be revised from time to time by the relevant regulatory authority,
303 applicable to electric service provided by the City.

304

305 15. This Agreement is personal to Customer and shall not be assigned or
306 transferred in whole or in part without the prior written consent of the City's

307 Economic Development Manager, which consent shall not be
308 unreasonably withheld. Any attempt by Customer to make such an
309 assignment or transfer without the City's prior written consent shall be void
310 and shall confer no right on any third party.

311

312 16. The City shall not be liable for any damages including, but not limited to,
313 consequential, incidental, indirect, or special damages, whether in
314 contract, tort, or strict liability including, but not limited to, lost profits,
315 property damage, personal injury and loss of power, arising out of or in any
316 way related to power outages, surges, other electric service interruption(s),
317 or the City's performance or nonperformance of its obligations under this
318 agreement or termination of this agreement.

319

320 17. WAIVER OF TRIAL BY JURY: TO ENCOURAGE PROMPT AND
321 EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY
322 HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY
323 LITIGATION RELATED TO THIS AGREEMENT.

324

325 18. The validity of this agreement and of any of its terms or provisions, as well
326 as the rights and duties of the parties hereunder, shall be governed by the
327 laws of the State of Florida and venue shall be in Palm Beach County,
328 Florida.

329

330 19. Should any part, term or provision of this agreement or the Program or any
331 document required herein to be executed be declared invalid, void or
332 unenforceable, all remaining parts, terms and provisions hereof shall
333 remain in full force and effect and shall in no way be invalidated, impaired
334 or affected thereby.

335

336 20. This agreement may be executed in counterparts, each of which shall be
337 an original, but all of which shall constitute one and the same document.

338

339 21. This agreement shall not be construed more strongly against either party
340 regardless of who was more responsible for its preparation.

341

342 22. In accordance with Palm Beach County ordinance number 2011-009, the
343 Customer acknowledges that this agreement may be subject to
344 investigation and/or audit by the Palm Beach County Inspector General.

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347 **SIGNATURE PAGE FOLLOWS**

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IN WITNESS WHEREOF the parties hereto have made and executed this Economic Development Electricity Incentive Rate Program agreement on the day and year inserted below by the City.

CITY OF LAKE WORTH, FLORIDA

DATE: _____ By: _____
City Manager or Designee

CUSTOMER: _____

By _____

[Corporate Seal] Print Name: _____

Title: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, as _____ (applicable title), an individual or a Florida corporation and who is personally known to me or who has produced the following _____ as identification.

Notary Public:

Print Name: _____
My commission expires: _____