

RESOLUTION NO. 04-2015 OF THE CITY OF LAKE WORTH, FLORIDA, FOR THE CONTINUATION OF THE ECONOMIC DEVELOPMENT ELECTRICITY INCENTIVE RATE PROGRAM AS ESTABLISHED THROUGH RESOLUTION NO. 07-2013 FOR QUALIFIED COMMERCIAL CUSTOMERS OF THE CITY ELECTRIC UTILITY; PROVIDING TERMS, CONDITIONS, APPLICABLE CREDITS AND AN AGREEMENT FOR THE PROGRAM; AND, PROVIDING 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, Florida, is authorized to set by resolution uniform rates for electric utility services; and

WHEREAS, pursuant to the City's authority to set such rates, the City desires to offer the continuation of the Economic Development Electricity Incentive Rate Program as established through Resolution No. 07-2013 to qualifying commercial electric customers; and

WHEREAS, the continuation of the Economic Development Electricity 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 continue the Economic Development Electricity Incentive Rate Program ("Program") available to qualifying commercial customers upon request throughout 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 was established through Resolution No. 07-2013 and is continued through this Resolution shall be available to qualifying customers through January 15, 2017.

Section 4. This Resolution shall become effective upon passage.

The passage of the Resolution was moved by Vice Mayor Maxwell, seconded by Commissioner Amoroso, and upon put to a vote was as follows:

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

The Mayor thereupon declared this Resolution duly passed and adopted on this 6<sup>th</sup> day of January, 2015.

LAKE WORTH CITY COMMISSION

By:   
Pam Triolo, Mayor

ATTEST:

  
Pamela J. Lopez, City Clerk

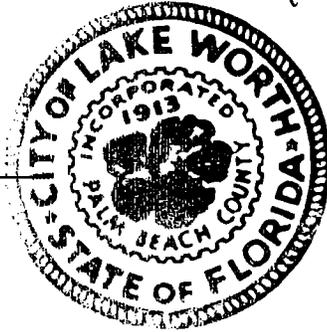


EXHIBIT "A"

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, 2017**.

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

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

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

#### MONTHLY RATE:

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

Year 1 – 23.6% reduction on applicable charges from Year 1 and applied in Year 2

Year 2 – 20% reduction on applicable charges from Year 2 and applied in Year 3

Year 3 – 15% reduction on applicable charges from Year 3 and applied in Year 4

Year 4 – 10% reduction on applicable charges from Year 4 and applied in Year 5

Year 5 – 5% reduction on applicable charges from Year 5 and applied in Year 6

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

#### TERMS OF SERVICE AND CONDITIONS:

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

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

At least 20 days prior to the end of each anniversary year of the Program (as applicable to each Customer), the Customer shall submit to the Economic Development Manager an annual report in the format required by the Economic Development Manager documenting compliance with the requirement for employment of 10 new, full-time

employees for the year. Failure to submit the annual report will forfeit the credit for that year and may be grounds for termination of the Program.

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

**APPLYING FOR THE PROGRAM:**

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

The City's Economic Development Manager will review the qualifications of each applicant with the Utilities Department and determine if an applicant qualifies under the Program. If the applicant qualifies, the applicant will be required to execute the Program's written agreement with the City. The City Manager or his/her designee is authorized to sign the Program agreement on behalf of the City.

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**ECONOMIC DEVELOPMENT ELECTRICITY  
INCENTIVE RATE PROGRAM AGREEMENT**

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 thereafter.
7. To comply with all terms and conditions of the Program as set forth in the City Resolution establishing the Program and in this agreement.
8. To provide thirty (30) days written notice to the City's Utility Department if the Customer desires to terminate this agreement.
9. To have this agreement terminated by the City upon thirty (30) days written notice

to the Customer's billing address if Customer fails to:

- a. Pay all applicable charges, fees, taxes or other costs related to or arising from the City's provision of electric utility services to the Customer; and/or,
  - b. Comply with all terms and conditions of the Program; and/or,
  - c. Comply with all applicable rules and regulations of the City's electric utility system.
10. If this agreement is terminated prior to the end of the five-year term by either the City or the Customer, the Customer will be required to reimburse the City for all credits received under the Program and no further credits will be provided by the City.
  11. Upon termination or expiration of this agreement, the Customer's service will revert back to the City's then existing electric rate schedule applicable to the Customer and all applicable rules and regulations associated with such service.
  12. This Agreement is not renewable.
  13. Customer is subject to all terms and conditions contained in the Schedule "Commercial Demand Service" (Schedule CD-S), or its successor Rate Schedule. Customer acknowledges that this agreement addresses only the Economic Development Electricity Incentive Rate Program; it does not address the other terms and conditions related to electric service provided by the City which otherwise govern Customer's service.
  14. Customer shall be responsible to pay all miscellaneous fees, charges and taxes as set forth in the Schedule CD-S. All charges for electric service pursuant to this agreement shall be subject to any applicable state or federal energy tax, and any other governmental taxes, duties, or fees, as may be revised from time to time by the relevant regulatory authority, applicable to electric service provided by the City.
  15. This Agreement is personal to Customer and shall not be assigned or transferred in whole or in part without the prior written consent of the City's Economic Development Manager, which consent shall not be unreasonably withheld. Any attempt by Customer to make such an assignment or transfer without the City's prior written consent shall be void and shall confer no right on any third party.
  16. The City shall not be liable for any damages including, but not limited to, consequential, incidental, indirect, or special damages, whether in contract, tort, or strict liability including, but not limited to, lost profits, property damage, personal injury and loss of power, arising out of or in any way related to power outages, surges, other electric service interruption(s), or the City's performance or nonperformance of its obligations under this agreement or termination of this agreement.
  17. WAIVER OF TRIAL BY JURY: TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

18. The validity of this agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.
19. Should any part, term or provision of this agreement or the Program or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.
20. This agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document.
21. This agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
22. In accordance with Palm Beach County ordinance number 2011-009, the Customer acknowledges that this agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General.

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SIGNATURE PAGE FOLLOWS**

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: \_\_\_\_\_