

ORDINANCE NO. 56-2016

Offered by: All of Council

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A JOB RETENTION AND JOB CREATION INCOME TAX INCENTIVE GRANT AGREEMENT WITH NATIONAL INTERSTATE INSURANCE COMPANY, AND DECLARING AN EMERGENCY

WHEREAS, Richfield has encouraged the creation and retention of job opportunities throughout the Village; and

WHEREAS, National Interstate Insurance Company (hereinafter the "Company") proposes to retain its existing employees within the Village and to create additional employment opportunities by constructing a new, approximately 112,500 square foot office building on Interstate Drive (the "Project") within the boundaries of the Village of Richfield, provided that the appropriate development incentives are available to support the economic viability of said Project; and

WHEREAS, the Project is projected to include the retention of approximately 513 full-time employees with a current payroll of approximately \$31,672,000 and create employment opportunities for approximately 217 full-time employees in Richfield, generating approximately \$13,020,000 in annual payroll, by year end 2021; and

WHEREAS, the Project is economically sound, will increase employment opportunities and will strengthen the economy of Richfield; and

WHEREAS, Richfield wishes to provide local incentives for the economic development of the Project; and

WHEREAS, Richfield wishes to act under its full Home Rule powers as granted by Article XVIII, Section 3 of the Ohio Constitution, as well as its economic development powers granted under Ohio Constitution Article VIII, Section 13 and Article VIII, Section 2(p).

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into a Job Retention and Job Creation Income Tax Incentive Grant Agreement with National Interstate Insurance Company, substantially in accordance with the draft Agreement on file with the Clerk of Council.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in

compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to provide for the retention of and creation of new job opportunities in the Village; wherefore, provided this Ordinance receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 8/25/16



President of Council



Mayor

Dated: 8/25/16

ATTEST:



Clerk of Council

JOB RETENTION AND JOB CREATION INCOME TAX INCENTIVE GRANT
AGREEMENT

This Agreement is made and entered into on this ___ day of August, 2016 (“Effective Date”) by and between the VILLAGE OF RICHFIELD, OHIO, a municipal corporation, with its main offices located at 4410 West Streetsboro Road, P.O. Box 387, Richfield, Ohio 44286 (hereinafter referred to as “Village”), and NATIONAL INTERSTATE INSURANCE COMPANY, an Ohio corporation, with its main offices located at 3250 Interstate Drive, Richfield, Ohio 44286 (hereinafter referred to as “Company”).

WITNESSETH:

WHEREAS, the Village has determined that it is in the best interest of its residents to encourage the creation and retention of job opportunities throughout the Village; and

WHEREAS, the Company has proposed to continue its current operations and expand those operations in the Village by constructing an approximately 112,500 square foot office building on the property located on Interstate Drive in the Village, having an estimated construction cost of approximately \$24,000,000 (the “Project”); and

WHEREAS, the Project will provide the Company the opportunity to retain, in the Village, the employment of 513 full-time employees with a current approximate payroll of \$31,672,000 and create an additional 217 full-time jobs by year end 2021 with an estimated new additional payroll of approximately \$13,020,000; and

WHEREAS, based upon the application of, and certain documentation presented to the Village by, the Company, the Company represents that the Project is economically sound and will strengthen the economy of the Village; and

WHEREAS, the Village has investigated the application and documentation of the Company and recommended that Village Council approve of certain incentives to the Company on the basis that the Company is qualified by financial responsibility and business experience to create employment opportunities in the Village and further support the economic climate of the Village; and

WHEREAS, the Village wishes to act under its full Home Rule powers as granted by Article XVIII, Section 3 of the Ohio Constitution, as well as its economic development powers granted under Ohio Constitution Article VIII, Section 13 and Article VIII, Section 2(p); and

WHEREAS, the Village, having the appropriate authority, is desirous of providing the Company with incentives available for the development of the Project based upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as

follows:

1. Description of the Project.

- A. The Company shall construct and equip the Project on Interstate Drive, Richfield, Ohio to house its expanded operations and associated office facilities.

2. Job Creation.

- A. The Company shall use all commercially reasonable efforts to create at the Project by December 31, 2021, the equivalent of 217 new full-time ("F/T") job opportunities (the "New Jobs") on a cumulative basis as more particularly set forth in the Table included in Section 2(A)(1) below. The full-time job opportunities stated in this paragraph and in subsequent sections of this Agreement do not include the existing 513 F/T jobs at its current operations in the Village (the "Retained Jobs") which will be retained in accordance with this Agreement. The Parties acknowledge that one (1) F/T New Job can be achieved by two or more employees working at least 40 hours per week in the aggregate.

- 1) The Company's projected schedule for hiring the New Jobs, both on an annual and cumulative basis, as follows:

Year	Cumulative New Jobs in Village at end of Year	Cumulative New Payroll in Village at end of Year
No later than December 31, 2016	15 F/T Jobs	\$900,000
No later than December 31, 2017	38 F/T Jobs	\$2,280,000
No later than December 31, 2018	79 F/T Jobs	\$4,740,000
No later than December 31, 2019	122 FT Jobs	\$7,320,000
No later than December 31, 2020	168 F/T Jobs	\$10,080,000
No later than December 31, 2021	217 F/T Jobs	\$13,020,000

- B. The job creation period shall begin on January 1, 2016 and all New Jobs shall be in place by December 31, 2021.

- C. The Company projects that the increase in the number of New Jobs to the Village

will result in approximately \$13,020,000 of additional annual payroll in the Village when the maximum employment level is achieved no later than December 31, 2021 as set forth above, which does not include the \$31,672,000 of current payroll being paid to existing employees working in the Village.

3. Job Retention.

- A. The Company shall use all commercially reasonable efforts to retain the equivalent of the existing 513 F/T jobs (the "Existing Jobs") in the Village.
- B. The job retention period shall begin on January 1, 2016 and shall conclude ten (10) years thereafter on December 31, 2025, subject to Section 5(A) below.
- C. The Company projects that the retention of the Existing Jobs in the Village will maintain approximately \$633,442 of annual payroll taxes being paid to the Village, assuming no change in the applicable tax rates.

4. Issuance of Grants.

- A. The Village authorizes the below incentive grant based upon the creation of payroll from New Jobs in the Village, according to the schedules in Section 2(A)(1) above and below (the "Job Creation Grant"). The term of the Job Creation Grant shall commence on January 1, 2016 and expire on the tenth (10th) anniversary thereof. Said Job Creation Grant will not be paid on existing payroll of the Existing Jobs.

Years	Amount of Annual Job Creation Grant as a Percentage of Payroll Taxes on New Jobs
1 through 10	30% of Annual Payroll Taxes

- B. The Village authorizes the below incentive grant based upon the payroll from Existing Jobs in Village as of December 31, 2015 according to the schedule below (the "Job Retention Grant"). The term of the Job Retention Grant shall commence on January 1, 2016 and expire on the tenth (10th) anniversary thereof.

Years	Amount of Annual Job Retention Grant as a Percentage of Payroll Taxes on Existing Jobs
1 through 10	5% of Annual Payroll Taxes

- C. Job Creation Grant payments on the payroll of New Jobs shall be made according to the parameters below:

1)

Year(s)	Minimum New Employment to Receive Job Creation Grant (50% of Projected New Jobs) (cumulative)	Minimum New Employment to Receive Full Job Creation Grant (80% of Projected New Jobs) (cumulative)	Minimum New Payroll to Receive Job Creation Grant (cumulative)	Minimum New Payroll to Receive Full Job Creation Grant (cumulative)
1	7.5	12	\$450,000	\$720,000
2	19	30.4	\$1,140,000	\$1,824,000
3	39.5	63.2	\$2,370,000	\$3,792,000
4	61	97.6	\$3,660,000	\$5,856,000
5	84	134.4	\$5,040,000	\$8,064,000
6	108.5	173.6	\$6,510,000	\$10,416,000
7-10	N/A			

2) If the Company does not achieve at least 80% of the minimum payroll projections required for the Job Creation Grant on a cumulative basis, but the Company achieves at least 50% of the minimum payroll projections required for the Job Creation Grant on a cumulative basis, then the Company will receive reduced incentives according to the Schedule set forth in this Section 4(C)(2) below. See Examples set forth on Exhibit A attached hereto and made a part hereof.

<u>% of Payroll Projection Achieved</u>	<u>Amount of Job Creation Grant as a Percentage of New Payroll Taxes to Village</u>
80-100%	30%
75-79%	25%
70-74%	20%
60-69%	15%
55-59%	10%
50-54%	5%

3) If the Company fails to meet at least 50% of the minimum payroll in any given year for the Job Creation Grant on a cumulative basis, then the Job Creation Grant shall not be awarded for that year.

D. Job Retention Grant payments on the payroll of Existing Jobs shall be made so long as the Company maintains at a minimum the equivalent of 513 full-time jobs and

\$31,000,000 in annual payroll in the Village in each year of this Agreement. If the Company fails to maintain the minimum annual payroll required for the Job Retention Grant in any given year, then neither the Job Creation Grant nor the Job Retention Grant shall be awarded for that year.

5. Grant Payments.

A. Initial Grant Payment.

- (1) Year 1 projections must be met by January 1, 2017. The initial grant payment shall be made by April 15, 2017, provided that the Company files its Reconciliation of Return of Income Tax Withheld Form 17 by February 28, 2017 and meets the eligibility requirements in this Agreement.
- (2) If the Project start or occupancy of the Project is delayed, Year 1 may be extended to the following year and the Year 1 projections deadline adjusted accordingly and all subsequent deadlines may be extended by one (1) year, but only upon written request by the Company to the Village Mayor and provided that the extension is approved by the Mayor with notice to the Village Administration and Village Council.
- (3) If the Project or occupancy of the Project begins in the third or fourth quarter of the year and the Company is not able to meet its Year 1 projections by December 31st of that year, Year 1 will be considered the first full year of occupancy, and the first grant payment will occur in the year following the first full year of the Project or occupancy of the Project.

B. Timing of Annual Grant Payments. Annual grant payments shall be made by April 15th, provided that the Company files its Reconciliation of Village Income Tax Withheld Form S-W3 by February 28th of said year. If the Company requests an extension for filing of its S-W3 form, the Village will make the grant payment within three months of the extended filing date. It is the responsibility of the Company to advise the Director of Finance of the filing extension.

6. Payment of Taxes and Filing Reports and Returns. The Company shall pay such real and tangible personal property taxes as are charged against such property in the Village and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are terminated beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.
7. Information for Annual Review. The Company shall timely provide to the Village any information reasonably required by the Village to evaluate the Company's compliance with this Agreement.
8. Maintenance of Grant. The Village shall perform such acts as are reasonably necessary

or appropriate to effect, claim, reserve, and maintain the incentives granted under this Agreement including, without limitation, joining in the execution of all documentation and providing necessary information to maintain the incentives granted hereunder.

9. Certification as to Payment of Taxes. The Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which the Company is liable under Chapters 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, and further certifies that it has not filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has not been filed against the Company. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.
10. Non-Discrimination Hiring. By executing this Agreement, the Company is committed to following non-discriminatory hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.
11. Transfer and Assignment. This Agreement is not transferable or assignable without the express, written approval of Village Council. The Village acknowledges that it would be unreasonable to withhold such consent in the event of a proposed transfer or assignment to any parent, subsidiary or affiliate of the Company or to any third party so long as with respect to all or any of such proposed transfers or assignments, the proposed transferee or assignee adequately and sufficiently demonstrates to the Village, to the Village's reasonable satisfaction, its financial ability, business experience and intentions to continue its operations in the Village in a manner similar to that of the Company in all pertinent respects and the proposed transferee and assignee acknowledges and consents, in writing, to the assignment of this Agreement.
12. Termination or Modification of Incentives.
 - A. The Agreement shall terminate on the expiration of the term of the Job Creation Grant.
 - B. If the Project does not proceed to full completion as specified in Section 5(A)(1) of the Agreement or within the approved one year extension period as specified in Section 5(A)(2), the Village may terminate the Agreement upon recommendation of Village Council.
 - C. If the Company fails to submit required information and/or reports as set forth in Section 6 above, the Village, after sixty (60) days' notice of said default and failure to cure, may terminate this Agreement and deny future grants heretofore granted from the date of the Company's breach or default.

In the case as provided in this Subsection C, the Village's termination of this Agreement may be instituted only if the Company fails to cure any breach of any term of this Agreement as determined by the Village within sixty (60) days of receiving written notice of such failure from the Village or, if cure of the breach cannot be completed within sixty (60) days, if the Company has not made a good faith start of the cure, and/or not diligently pursued the same.

- D. If the Company fails to cure any Termination Default (defined below) within sixty (60) days after written notice of such Termination Default from the Village to the Company, the Village may, absent any legislative action, resolution or court ordered mandate to the contrary, terminate this Agreement and require repayment of and collect any and all grant payments awarded under this Agreement. Upon such termination, the Company shall, within thirty (30) days, pay directly to the Village or its authorized agent any and all grant payments awarded under this Agreement. For purposes of this Agreement, the following events shall be deemed "Termination Defaults" hereunder:
- 1) The Village determines in its reasonable discretion that the Company's certification as to delinquent taxes required by this Agreement is fraudulent; or
 - 2) The Company becomes delinquent in any taxes relating to this Agreement during the term of this Agreement; or
 - 3) The Company vacates the Project and moves substantially all of its operations out of the Village; or
 - 4) The Company terminates its operations in the Village altogether during the six (6) year period beginning on the Effective Date of this Agreement.
- E. The Company or its successor entity shall promptly notify the Village if any of the following events occur:
- (i) If Control of the Company (defined below), or substantially all of its assets located at the Project site, is obtained by an unaffiliated entity or entities; or
 - (ii) If the Company merges with an unaffiliated entity or entities with such other entity or entities being the survivor; or
 - (iii) If the Company substantially restructures itself through an acquisition or divestiture or otherwise.

and if any of these events affects the ability of the Company or its successor entity to substantially perform the obligations of the Company under this Agreement

and to meet the employment and payroll projections set forth herein. "Control of the Company" for the purposes of this subsection means that persons and/or entities owning a majority of the financial interest in the Company on the date of this Agreement cease to own such or cease to be shareholders of the corporation that is the Company.

- F. Each provision for modification or termination hereunder shall not affect the Company's obligations or the Village's rights under any other provision of this Agreement.
13. Any notices, statements, acknowledgements, consent approvals, certificates, or requests required to be given on behalf of either party shall be made in writing addressed as follows:

If to the Village to:

Village of Richfield
4410 West Streetsboro Road
P.O. Box 387
Richfield, Ohio 44286
Attention: Mayor

With a copy to:

Law Director – Village of Richfield
c/o Walter Haverfield LLP
The Tower at Erieview
1301 East Ninth Street, Suite 3500
Cleveland, Ohio 44114-1821
Attention: William R. Hanna

If to the Company to:

National Interstate Insurance Company
3250 Interstate Drive
Richfield, Ohio 44286
Attn: General Counsel

or such other address as may be noticed to the other party.

14. Condition Precedent. The Company and the Village acknowledge that this Agreement must be approved by formal action of the legislative authority of the Village as a condition for the Agreement to take effect.

The Village of Richfield, Ohio, by Bobbie Beshara, its Mayor, pursuant to Richfield Village Council Resolution No. _____, and National Interstate Corporation, by _____, its authorized representative, has caused this Agreement to be executed as of the Effective Date set forth above.

[The Remainder of Page Left Intentionally Blank]

8/12/16

56-2016 ON FILE WITH CLERK

VILLAGE OF RICHFIELD, OHIO

By: _____
Bobbie Beshara, Mayor

And: _____
Sandy Turk, Finance Director

NATIONAL INTERSTATE INSURANCE
COMPANY

By: _____
Print Name: Arthur J. Gonzales
Print Title: Senior Vice President,
General Counsel and Secretary

The legal form and correctness of this
Agreement is approved.

LAW DIRECTOR- VILLAGE OF RICHFIELD

By: _____
William R. Hanna

Date: _____

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned fiscal officer of the Village hereby certifies that the moneys required to meet the obligations of the Village during the year 2016 under this Agreement have been lawfully appropriated by the Council of the Village for such purposes and are in the treasury of the Village or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances.

Director of Finance, Sandy Turk

Date

DRAFT

Exhibit A

Examples for Income Tax Retention and Creation Incentive Grant Agreement

General Summary

Section 2(A)(1) of the Agreement sets forth the total cumulative New Jobs to be created by NI on an annual basis commencing as of January 1, 2016. The Agreement assumes that the salaries for New Jobs average \$60,000 per year. The Parties acknowledge that one (1) F/T New Job can be achieved by two or more employees working at least 40 hours per week in the aggregate.

If NI achieves at least 80% of the total cumulative New Jobs/Payroll contemplated by Section 2(A)(1), then NI is entitled to the Full 30% Job Creation Grant on all New Jobs. If NI achieves less than 80% but at least 50% of the cumulative New Jobs/Payroll contemplated by Section 2(A)(1), then NI is entitled to a prorated Job Creation Grant as set forth in the Scale in Section 4(C)(2). If NI achieves less than 50% of the cumulative New Jobs/Payroll contemplated by Section 2(A)(1), then NI is not entitled to any Job Creation Grant. The Chart in Section 4(C)(1) of the Agreement sets forth the 80% and 50% thresholds for New Jobs/Payroll. Please see the following examples.

Example 1: **Full Job Creation Grant Two Consecutive Years**

a. **Job Creation**

Year 1 - 28 New Jobs (\$1,680,000 new payroll)
 Year 2 - 3.5 New Jobs (\$210,000 new payroll)

b. **Job Creation Grant Percentages**

Year 1 - Full 30% Job Creation Grant for Year 1
 Year 2 - Full 30% Job Creation Grant for Year 2

c. **Calculations**

Year 1

\$1,680,000 (28 New Jobs) is greater than \$720,000 (12 New Jobs) (80% of projected New Jobs for Year 1) (See Chart in Section 4(C)(1) of Agreement)

Year 2

\$1,890,000 (31.5 New Jobs) (cumulative) is greater than \$1,824,000 (30.4 New Jobs) (80% of 38 (projected cumulative New Jobs for Year 2)) (See Chart in Section 4(C)(1) of Agreement)

Example 2: **Full Job Creation Grant Year 1 and Prorated Job Creation Grant Year 2**

a. **Job Creation**

Year 1 - 25 New Jobs (\$1,500,000 new payroll)
Year 2 - 0 New Jobs (\$0.00 new payroll)

b. **Job Creation Grant Percentages**

Year 1 - Full 30% Job Creation Grant for Year 1
Year 2 - Prorated 15% Job Creation Grant for Year 2

c. **Calculations**

Year 1

\$1,500,000 (25 New Jobs) is greater than \$720,000 (12 New Jobs) (80% of projected New Jobs for Year 1) (See Chart in Section 4(C)(1) of Agreement)

Year 2

\$1,500,000 (25 New Jobs) (cumulative) is less than \$1,824,000 (30.4 New Jobs) (80% of 38 (projected New Jobs for Year 2)) (See Chart in Section 4(C)(1) of Agreement)

\$1,500,000 (25 New Jobs) (cumulative) is greater than \$1,140,000 (19 New Jobs) (50% of 38 (projected New Jobs for Year 2)) (See Chart in Section 4(C)(1) of Agreement)

$\$1,500,000 (25 \text{ New Jobs}) / \$2,280,000 (38 \text{ New Jobs}) (\text{projected cumulative New Jobs for Year 2}) = 66\%$

66% = 15% Job Creation Grant (See Scale in Section 4(C)(2) of Agreement)

Example 3: **Full Job Creation Grant Year 1 and No Job Creation Grant Year 2**

a. **Job Creation**

Year 1 - 15 New Jobs (\$900,000 new payroll)
Year 2 - 0 New Jobs (\$0.00 new payroll)

b. **Job Creation Grant Percentages**

Year 1 - Full 30% Job Creation Grant for Year 1
Year 2 - No Job Creation Grant for Year 2

c. **Calculations**

Year 1

\$900,000 (15 New Jobs) is greater than \$720,000 (12 New Jobs) (80% of projected New Jobs for Year 1) (See Chart in Section 4(C)(1) of Agreement)

Year 2

\$900,000 (15 New Jobs) (cumulative) is less than \$1,824,000 (30.4 New Jobs) (80% of 38 (projected cumulative New Jobs for Year 2)) (See Chart in Section 4(C)(1) of Agreement)

\$900,000 (15 New Jobs) (cumulative) is less than \$1,140,000 (19 New Jobs) (50% of 38 (projected cumulative New Jobs for Year 2)) (See Chart in Section 4(C)(1) of Agreement)

Because \$900,000 (15 New Jobs) (cumulative) is less than \$1,140,000 (50% minimum cumulative New Jobs/Payroll for Year 2), NI is not entitled to any Job Creation Grant in Year 2 (See Scale in Section 4(C)(2) of Agreement)