

ORDINANCE NO. C-10-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DESIGNATING THE CITY OF FORT LAUDERDALE A RECOVERY ZONE FOR PURPOSES OF SECTIONS 1400U-1, 1400U-2 AND 1400U-3 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; PROVIDING FINDINGS OF FACT; PROVIDING FOR FUNDING APPROPRIATION, ELIGIBLE PROJECTS FOR RECOVERY ZONE ECONOMIC BONDS AND RECOVERY ZONE FACILITY BONDS; PROVIDING FOR PROJECT INVESTMENT, APPLICATION AND SELECTION PROCESS; PROVIDING FOR INVESTMENT AMOUNT; PROVIDING A SUNSET DATE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 ("ARRA") added Sections 1400U-1 through 1400U-3 to the Internal Revenue Code (the "IRS Code"), authorizing state and local governments to issue Recovery Zone Bonds up to a specified volume cap based on relative declines in employment in 2008; and

WHEREAS, there are two types of Recovery Zone Bonds: (1) Recovery Zone Economic development Bonds ("Development Bonds"), which are used to finance government projects; and (2) Recovery Zone Facility Bonds ("Facility Bonds"), which provide tax-exempt financing for private facilities within a designated Recovery Zone; and

WHEREAS, the City of Fort Lauderdale ("City") has been allocated \$8,045,000.00 in Development Bonds and \$12,068,000.00 in Facility Bonds which must be issued on or before December 31, 2010 unless such date is extended by law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That there is hereby established a Recovery Zone Designation in the City of Fort Lauderdale, Florida, as follows:

RECOVERY ZONE DESIGNATION

1. Findings of Fact.

(a) Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 ("ARRA") added Sections 1400U-1 through 1400U-3 to the Internal Revenue Code (the "IRS Code"), authorizing state and local governments to issue Recovery Zone Bonds

through December 31, 2010, which provide tax incentives to state and local governments by lowering borrowing costs as a means to promote job creation and economic recovery to targeted areas particularly affected by employment declines.

(b) The Treasury Department established a national bond volume limitation ("volume cap") of \$10 billion for Recovery Zone Economic Development Bonds, and \$15 billion for Recovery Zone Facility Bonds (collectively referred to as "Recovery Zone Bonds"), which is allocated among the states in the proportion that each state's 2008 state employment decline bears to the aggregate of the 2008 state employment declines for all of the states ("Recovery Zone Bond Allocation").

(c) Recovery Zone Economic Development Bonds are taxable, tax-credit governmental bonds that may be used to finance certain "qualified economic development purposes", defined as promoting development or other economic activity in a designated Recovery Zone, including (1) capital expenditures paid or incurred with respect to property located in the recovery zone, (2) expenditures for public infrastructure and construction of public facilities, and (3) expenditures for job training and educational programs. Recovery Zone Facility Bonds are private activity bonds that may be used to finance certain property located within a designated Recovery Zone.

(d) Each state that has received a Recovery Zone Bond Allocation is required, without discretion, to reallocate such allocation among the counties and large municipalities (minimum 100,000 population) in such state in the proportion that each county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such state.

(e) The City of Fort Lauderdale has been allocated \$8,045,000.00 in Recovery Zone Economic Development Bonds, and \$12,068,000.00 in Recovery Zone Facility Bonds which must be issued on or before December 31, 2010.

(f) Section 1400U-1(b) of the IRS Code requires each governmental issuer of Recovery Zone Bonds to designate eligible recovery zones within its geographical jurisdiction using the following criteria: (1) significant poverty, unemployment, rate of home foreclosures or general distress; (2) economic distress by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in effect.

(g) The unemployment rate in the City of Fort Lauderdale has been rising steadily since December 2007 and is currently estimated to be in excess of 10%.

(h) The volume of foreclosures in the City of Fort Lauderdale in 2009 has increased more than 45% since 2008. The City of Fort Lauderdale has been impacted along with Broward County as a whole and all of South Florida.

(i) The high unemployment rate and volume of home foreclosures in the City of Fort Lauderdale have impacted citizens and businesses city-wide and have resulted in the general distress of the City. Accordingly it is in the best interests of the City of Fort Lauderdale that the entire geographic area of the City be designated a "Recovery Zone" for purposes of issuing Recovery Zone Bonds to promote job creation and economic recovery.

2. Designation of Recovery Zone. Pursuant to Section 1400U-1 of the Internal Revenue Service Code, the entire geographic area of the City of Fort Lauderdale is hereby designated as a "Recovery Zone" for the purpose of issuing Recovery Zone Bonds.

3. Funding Appropriation. Recommendations for the appropriation of Facility Bond proceeds will be based on project qualifications at the discretion of a selection committee to be comprised of the City's Economic Development Advisory Board. Recommendations of the selection committee for recipients of the City's Facility Bond allocation shall be presented to the City Commission for approval.

4. Recovery Zone Economic Development Bonds - Eligible Projects. Eligible projects that qualify for issuance of Recovery Zone Economic Development Bonds include projects within the Recovery Zone that promote economic development, as measured by the criteria set forth in subsection 6 of Section 1 of this Ordinance and may include:

- (a) Capital expenditures paid or incurred with respect to property located in the Recovery Zone, including working capital expenditures to promote development or other economic activity;
- (b) Expenditures for public infrastructure and construction of public facilities; and
- (c) Expenditures for job training and educational programs.

5. Recovery Zone Facility Bonds - Eligible Activities and Projects. Eligible activities and projects, or both ("Projects"), that qualify for issuance of Recovery Zone Facility Bonds include any

and all private activity bonds issued on behalf of qualified borrowers for Projects located within the designated Recovery Zone, including qualifying capital improvements and infrastructure Projects; provided, however, qualifying Projects do not include any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

6. Criteria for Project Investment. Eligible Projects for funding from Recovery Zone Bond proceeds shall be selected by the selection committee based upon, but not limited to, the following criteria:

- (a) Type of industry;
- (b) Number of current and/or projected employees;
- (c) Average wage of employees;
- (d) Capital investment;
- (e) Average job growth;
- (f) Financial stability;
- (g) New Project development;
- (h) Growth of sales;
- (i) Results of an economic impact study, if any;
- (j) Location of Project;
- (k) Commitment to local procurement and local hiring;
- (l) Regional impact; or

(m) Any such other activity or Project proposed by the applicant that can be demonstrated in a satisfactory fashion to the selection committee to promote economic development within the City of Fort Lauderdale.

7. Project Application and Selection Process.

(a) The Department of Economic Development shall establish a Project application and an application review process determining eligibility of Projects.

(b) With respect to the Recovery Zone Economic Development Bonds, the City Commission may, in its sole and absolute discretion, retain all or a part of the allocation for City use. For any portion of the allocation not retained, the City Commission shall consider all complete applications and make the final determination as to whether to reallocate all or a portion of its Recovery Zone Bond Allocation to Broward County for issuance of its own bonds, or to enter into an interlocal agreement with Broward County for use of proceeds from bonds issued by the City.

(c) With respect to Recovery Zone Facility Bonds, the selection committee shall consider all applications pursuant to established procedures for conduit financing.

8. Investment Amount. The investment amount of each Project shall be based on the amount of available funds, estimated Project value, the criteria set forth in subsection 6 of Section 1 of this Ordinance and any other factors determined by the selection committee to be in the public interest.

9. Compliance. All Projects financed through the issuance of Recovery Zone Bonds shall comply with all applicable existing federal, state or local laws, rules and regulations.

10. Sunset Date. This Ordinance shall automatically sunset on December 31, 2010 unless otherwise reaffirmed or otherwise amended by the City Commission prior to that date.


11. The form of the Project application and the process for reviewing applications for determining eligibility of Projects shall be promulgated by the Department of Economic Development.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

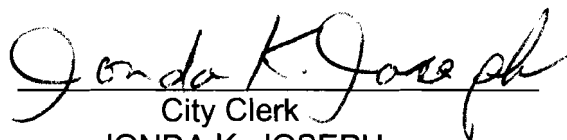
SECTION 4. That this Ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this 6th day of April, 2010.  
PASSED SECOND READING this 20th day of April, 2010.



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Mayor  
JOHN P. "JACK" SEILER

ATTEST:



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City Clerk  
JONDA K. JOSEPH