

ORDINANCE NO. 100-2018

Offered by: All of Council

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT TO A JOB CREATION AND JOB RETENTION INCENTIVE GRANT AGREEMENT WITH NATIONAL INTERSTATE INSURANCE COMPANY AND DECLARING AN EMERGENCY.**

WHEREAS, on August 25, 2016, this Council passed Ordinance No. 56-2016, effective that same date, which authorized the Mayor and the Finance Director to enter into a Job Creation and Job Retention Incentive Grant Agreement between the Village of Richfield and National Interstate Insurance Company ("National Interstate") in connection with National Interstate's then-proposed headquarters expansion project in the Village; and

WHEREAS, the Village and National Interstate have identified several minor modifications and clarifications that would improve the ability of the parties to realize the benefits intended under the aforesaid Agreement, with reference to the metrics used to determine grant eligibility and the need to provide for potential adjustments due to income tax refunds and similar disbursements by the Village related to current and potential changes in the geographical distribution of National Interstate's workforce due to work-from-home and other initiatives; and

WHEREAS, this Council finds that it is in the Village's best interest to enter into an amendment to the Job Creation and Job Retention Incentive Grant Agreement between the Village and National Interstate substantially in accordance with the amendment on file with the Clerk of Council and incorporated herein by reference; 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).

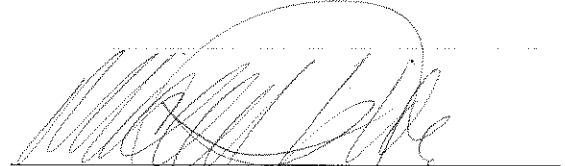
NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

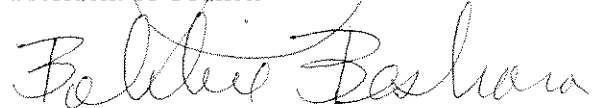
SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into an amendment to the Job Creation and Job Retention Incentive Grant Agreement between the Village and National Interstate substantially in accordance with the amendment currently on file with the Clerk of Council and incorporated herein by reference.

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.

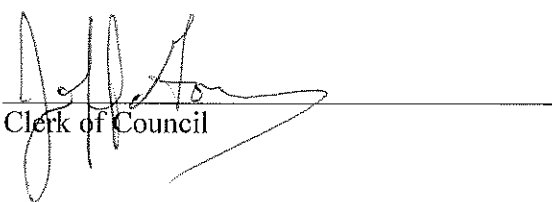
SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to ensure that the Agreement is timely modified to provide for the continued retention of and creation of new job opportunities in the Village and the Village's receipt of income tax revenues; 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: 12-18-18

  
\_\_\_\_\_  
President of Council

  
\_\_\_\_\_  
Mayor

Dated: 12-18-18

ATTEST:  
  
\_\_\_\_\_  
Clerk of Council

**AMENDMENT TO JOB RETENTION AND JOB CREATION INCOME TAX  
INCENTIVE GRANT AGREEMENT**

THIS AMENDMENT TO JOB RETENTION AND JOB CREATION INCOME TAX INCENTIVE GRANT AGREEMENT ("Amendment") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2018 ("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"). Capitalized terms used herein shall have the same meanings as set forth in the Agreement.

RECITALS:

WHEREAS, the Village and Company have entered into that certain Job Retention and Job Creation Income Tax Incentive Grant Agreement, dated September 26, 2016 (the "Agreement"); and

WHEREAS, the parties now hereby desire to amend the Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and Company hereby amend the Agreement as follows:

1. Section 2 of the Agreement shall be deleted in its entirety and replaced with the following:

2. Job Creation.

- A. The Company shall use all commercially reasonable efforts to create at the Project by December 31, 2022, the equivalent of 217 new full time ("F/T") job opportunities (the "New Jobs") and \$13,020,000 of associated new payroll (the "New Payroll") on a cumulative basis as more particularly set forth in the Table included in Section 2(A)(1) below. The full time job opportunities and associated payroll stated in this paragraph and in subsequent sections of this Agreement do not include the existing jobs (the "Retained Jobs") and \$31,672,000 of existing payroll (the "Retained Payroll") at its current operations in the Village 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. For the avoidance of doubt, eligibility for and calculations of the Job Retention Grant and Job Creation Grant, as defined below and as illustrated in Exhibit A, attached hereto, shall be based solely upon the Retained Payroll and the New Payroll created, not the Retained Jobs nor the New Jobs.

- 1) The Company’s projected schedule for creating the New Payroll, both on an annual and cumulative basis, as follows:

Year	Cumulative New Payroll in Village at end of Year
No later than December 31, 2017	\$900,000
No later than December 31, 2018	\$2,280,000
No later than December 31, 2019	\$4,740,000
No later than December 31, 2020	\$7,320,000
No later than December 31, 2021	\$10,080,000
No later than December 31, 2022	\$13,020,000

- B. The payroll creation period shall begin on January 1, 2017 and all New Payroll shall be in place by December 31, 2022.

2. Sections 3(A) and 3(B) of the Agreement shall be deleted in their entirety and replaced with the following:

3. Job Retention

- A. The Company shall use all commercially reasonable efforts to maintain the Retained Jobs and associated Retained Payroll of \$31,672,000 in the Village.
- B. The job and payroll retention period shall begin on January 1, 2017 and shall conclude ten (10) years thereafter on December 31, 2026.

3. For clarification purposes, any reference in the Agreement to “Existing Jobs” shall be replaced with “Retained Jobs.”

4. Based upon the February 9, 2017 letter request of the Company under Section 5(A)(2) of the Agreement and the Village’s March 9, 2017 approval of that request, any reference to a commencement date of January 1, 2016 for the term of the Job Creation Grant or Job Retention Grant in Section 4 of the Agreement shall be replaced with January 1, 2017.

5. The Table in Section 4(C)(1) of the Agreement shall be deleted in its entirety and replaced with the following:

Year(s)	Minimum New Payroll to Receive Job Creation Grant (cumulative)	Minimum New Payroll to Receive Full Job Creation Grant (cumulative)
1	\$450,000	\$720,000
2	\$1,140,000	\$1,824,000
3	\$2,370,000	\$3,792,000
4	\$3,660,000	\$5,856,000
5	\$5,040,000	\$8,064,000
6	\$6,510,000	\$10,416,000
7-10	N/A	

The above-noted table shall be read in conjunction with Section 4(C)(2) of the Agreement.

6. Section 4(D) of the Agreement shall be deleted in its entirety and replaced with the following:

- D. Job Retention Grant payments on the Retained payroll shall be made so long as the Company maintains at a minimum \$31,672,000 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.

7. Section 5 of the Agreement shall be deleted in its entirety and replaced with the following:

- A. Timing of Annual Grant Payments. Annual grant payments shall be made by April 15, 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.
- B. Adjustment of Annual Grant Payments. The Village shall be reimbursed by the Company for any income tax payments sent by the Village to another political subdivision on behalf of a Company employee, or for any payment sent directly to a Company employee as a refund, as required by law, for years one (1) through ten (10) of the payroll retention/payroll creation period plus for three (3) years from the end of the payroll retention/payroll creation period. In order to be reimbursed, the Village may deduct such amounts from any grant owed to the

Company for the year in which the amounts were paid by the Village, provided that any such deduction shall be itemized in writing. To receive reimbursement from the Company for payments described above during a year in which no grant payment is to be made, or associated with the three (3) year period after the end of the payroll retention/payroll creation grant period, the Village must send a written payment request to the Company not later than March 31 of the year immediately following the year in which the Village made the payment or refund. The Company shall reimburse the Village within 45 days of the date of the request.

- C. True-up. In addition to receiving reimbursement from the Company for payments or refunds of withheld taxes made by the Village as described in Section 5(B) of the Agreement, the Village may (1) re-determine the Company's eligibility for a grant under this Agreement for the year for which the taxes paid elsewhere or refunded by the Village were originally withheld, and (2) recalculate the amount of any such grant, in accordance with the provisions of this Agreement. In the event a grant previously paid is reduced or eliminated as a result, the Village shall be reimbursed by the Company for the difference between the original grant payment and the recalculated grant payment in accordance with the reimbursement procedures provided in Section 5(B).

8. Entire Agreement. The Agreement and this Amendment, including all exhibits, embody the entire understanding between the parties and supersede and replace any previously executed agreements pertaining to the matters stated herein that are in effect as of the execution of this Amendment. All prior and contemporaneous correspondence, conversations and memoranda are merged in, replaced by and without effect on this Amendment and the Agreement. No waiver, alteration, change, or modification of this Amendment or the Agreement or any covenant, condition or limitation contained therein shall be valid unless agreed to in writing by both parties.

9. Multiple Counterparts. This Amendment may be executed in one or more counterparts as may be convenient or required, and an executed copy hereof shall have the effect of an original, executed instrument.

10. No Construction Against Either Party. No inference in favor of or against any party shall be drawn from the fact that such party has drafted any provision of this Amendment or that such provisions have been drafted on behalf of said party.

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

*[The Remainder of Page Left Intentionally Blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in manner sufficient to bind them as of the Effective Date.

VILLAGE OF RICHFIELD, OHIO

By: \_\_\_\_\_  
Bobbie Beshara, Mayor

And: \_\_\_\_\_  
Sandy Turk, Finance Director

NATIONAL INTERSTATE INSURANCE  
COMPANY

By: \_\_\_\_\_  
Arthur J. Gonzales  
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: \_\_\_\_\_

