

RESOLUTION No. 2008-152-839

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING AMENDED POLICIES AND PROCEDURES FOR THE BUSINESS INCENTIVE PROGRAM AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Department of Community Development ("Department") has established a Business Incentive Program to assist new and existing businesses in the City of Miami Gardens, by providing financial assistance to these businesses, and

WHEREAS, the Department is recommending amendments to the policies and procedures governing the Business Incentive Program,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

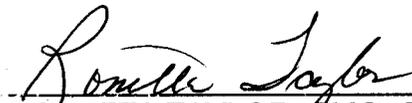
Section 2. AUTHORIZATION: The City Council of the City of Miami Gardens hereby approves the amended Policies and Procedures for the Business Incentive Program attached hereto as Exhibit "A."

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JULY 23, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Mayor Gibson
SECOND BY: Councilman Bratton

VOTE: 5-0

Mayor Shirley Gibson	<u>X</u> (Yes)	___ (No)
Vice Mayor Barbara Watson	<u>X</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>X</u> (Yes)	___ (No)
Councilman Oliver Gilbert, III	<u>X</u> (Yes)	___ (No)
Councilman Aaron Campbell	___ (Yes)	___ (No) (not present)
Councilwoman Sharon Pritchett	___ (Yes)	___ (No) (not present)
Councilman André Williams	<u>X</u> (Yes)	___ (No)

SKD/teh
8145611_1.DOC

City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice Mayor Barbara Watson
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman André Williams
Councilman Oliver Gilbert III

Agenda Cover Page

Date: **July 23, 2008**

Fiscal Impact: No **X** Yes

(If yes, explain in Staff Summary)

Funding Source: **N/A**

Contract/P.O. Requirement: Yes No **X**

Sponsor Name/Department: **Danny Crew, City Manager**

Public hearing

Ordinance

1st Reading

Advertising requirement:

Quasi-Judicial

Resolution **X**

2nd Reading

Yes **X** No

RFP/RFQ/Bid # **N/A**

Title

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING AMENDED POLICIES AND PROCEDURES FOR THE BUSINESS INCENTIVE PROGRAM AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary

Background

The Department of Community Development is charged with the responsibility of administering programs funded with federal and state entitlement (grant) funds. City staff structures the basic program parameters and takes into account community (resident) input obtained during the Consolidated/Action Planning process. The intended outcome for all Community Development programs is a benefit to low to moderate income persons/households.

One of the areas of concern to residents is the establishment of some program to benefit local businesses. Understanding that federal and state funds are very restrictive and governed by numerous rules and regulations, City staff sought to establish a program that would benefit new and existing businesses while being administered in an easy to understand manner.

In March of this year, the Department established the Business Incentive Program (B.I.P.), which provides financial assistance to: 1) existing business/property owners to

improve the façade of their existing business, or 2) new business/property owners for the build-out of their new space.

Since launching the program, the Department has received funding requests in excess of \$1M. Unfortunately, many of the requests have been denied due in part to the applicant not meeting the program criteria (delinquent property taxes, lack of business owner contribution or no evidence of needing city financing, and insufficient equity on the property). In reviewing the program, however, staff has determined that many of the businesses that have applied for assistance are tenants in spaces owned by others. The current program policies require that the property owner agree to have a lien placed on the property protecting the City's investment for a five (5) year period. Many applicants have been unable to obtain the property owner's approval of this condition.

The attached resolution proposes amending the B.I.P. policies to allow the City to serve business applicants who are renting space. The policy amendments include the following:

- Criteria for business applicants who are renting space
- Maximum amount of assistance to business applicants in this category would be \$20,000
- Repayment terms (security for city assistance)
- Eligible activities to be undertaken under this program

It is the intent of these proposed amendments to provide much needed financial assistance to small business owners who are limited by both physical space and access to conventional financing as a result of their physical space. The overall B.I.P. will continue to be available all business in the City, irrespective of their ownership circumstance.

The Department's goal with this program is to both stimulate economic development in the City as well as sustain the viability of local businesses by providing financial assistance that will result in job creation.

This resolution seeks the City Council approval of the attached amendments to the policies that will govern the Business Incentive Program.

Recommendation

City staff recommends the approval of the attached resolution approving Business Incentive Program policy amendments.

BUSINESS INCENTIVE PROGRAM POLICIES

Table of Contents

I.	Introduction	1
II.	Purpose	1
III.	Eligible Participants	1
IV.	Ineligible Participants	1
V.	Eligible Properties	1
VI.	Eligible Activities	2
VII.	Ineligible Activities	2
VIII.	Application Process	2
IX.	Fees	
X.	Rating Priorities	3
XI.	Loan Terms	3
XII.	Procurement	3
XIII.	Reimbursements	4
XIV.	Exceptions	4
XV.	Definitions	

I. Introduction

The City of Miami Gardens, Department of Community Development received Community Development Block Grant (CDBG) funding and Economic Development Incentive (EDI) funding from the U.S. Department of Housing and Urban Development (HUD) to provide economic development assistance to businesses within the City limits. The City recognizes that there are many small businesses within the City that are in need of financial assistance. These businesses do not generally have access to the commercial banking sector and some do not own the property where the business is located whereby limiting their funding options. This program intends to provide assistance for activities that will sustain and foster retaining, developing and expanding these businesses.

II. Purpose

The primary goal of this program is to encourage economic development in the City. This will be done by providing financial assistance to new businesses seeking to establish operations within the City limits or for existing businesses seeking to renovate or improve the business façade. Therefore, the program will provide assistance to enhance the commercial areas within the City and strengthen the commercial base by creating and retaining jobs, primarily for low and moderate income people, and stimulating economic development to improve the goods and services provided to low and moderate income people. This assistance is being made available to those businesses that do not have the equity, capital or the ability to obtain conventional financing. It is meant to provide support to the existing business operations which could include purchase of equipment, interior build-out, security and any other essentials that the business needs. Assistance will only be provided to established businesses meeting eligibility criteria; this assistance will not apply to those seeking to start a business.

The Department of Community Development will be responsible for the administration of this program.

III. Eligible Participants

Participants may be individuals, sole proprietorships, partnerships, for-profit or non-profit corporations, or any other legally identified form of business owner.

Priority will be given to businesses with five or fewer employees, including the owner or owners.

As a condition of eligibility, property taxes on the subject property must be current, and applicants must not have any debts owed to the City that are past due.

Owners of more than one eligible property may apply for assistance for each eligible property. Each application will be considered independently.

If the applicant is not the property owner, the applicant must have been in business a minimum of three (3) years.

If the applicant is the property owner, there is no set requirement on the length of business operations.

Business must have all licenses and permits required for operation by the City of Miami Gardens, Miami-Dade County and any other requirements for the specific type of business.

IV. Ineligible Participants

Government agencies and owners of properties used for the general conduct of government are not eligible to participate in this program.

Properties used primarily as residences, including businesses operating out of a residence, are not eligible for the program.

Businesses that are determined to have owner's equity or capital to carry out the activity without the assistance are not eligible for this program.

Any party who is the subject of unresolved findings of non-compliance related to previous CDBG assistance.

Any party who has been suspended or debarred by U.S. HUD or any other Federal Executive Branch Agency and is listed on the Current Exclusion List.

V. Eligible Properties

To be eligible for funding assistance, the property must be located within city limits and be zoned for commercial use. In addition, priority will be given to properties located in the City's designated Major Economic Development Corridors (State Road 7 (441), N.W. 27th Avenue or the Palmetto Expressway Corridor).

Properties with multiple business tenants (such as shopping centers or strip malls) must seek to make improvements across the entire property so that it is done as one project. However, it is conceivable that properties with multiple tenants may only seek to improve a limited section of the property.

VI. Eligible Activities

- Architectural/Engineering fees for the preparation of construction drawings, specifications and construction supervision
- Correction of existing or pending code or ordinance violations
- Handicap accessibility improvements
- Removal/Replacement of inappropriate façade covering material
- Repair or replacement of windows and doors as storefront
- New awnings or canopies, and/or replacement of awnings or canopies
- Exterior painting and cleaning
- Repair or cleaning of exterior masonry or stucco
- New or upgraded signage
- Repair, replacement or installation of exterior lighting
- Repair of walkways or entryways
- Parking repair including drainage, resurfacing and re-striping
- Fencing
- Landscaping
- Space build-out
- Equipment
- Roof Repair
- Security/Alarm System
- Other improvements as approved by the BIP Review Committee

Any Scope of Work approved must give priority to correcting any pending code or ordinance violation.

Any eligible costs incurred as a result of the application process can be included as part of the total project costs; however these costs will be applied towards the applicant's contribution and will not be reimbursable by the program.

VII. Ineligible Activities

- Playground or recreational equipment
- Outdoor dining and seating facilities
- Projects requiring significant structural changes
- Additions of more than 20% of the total square footage of the existing structure
- Unlicensed contract work or “sweat equity”
- Other improvements deemed ineligible by the City Staff or the BIP Review Committee

Any project where work has already commenced prior to the execution of a contract with the City whereby an Environmental Review cannot be completed will be found ineligible under this program.

VIII. Application Process

Department of Community Development staff will review all applications for completeness and preliminary qualifications. Once all details are finalized and documents are received and are in accordance with program requirements, the BIP Review Committee will meet to review the applications. They will provide a statement of support to those applications meeting the criteria. Those not meeting the criteria, will receive notification of the Committee's decision to not support the project. Applications will be considered for assistance on a first-come, first-ready, first-served basis, based on funding availability.

The Committee members will rate the applications individually using the Selection Criteria established. The individual scores will be compiled into one overall score that will determine if assistance is granted. (See Application Rating Scale)

The Committee may suggest modifications to the amount of assistance, the scope of work or improvements originally intended.

The applicants who receive will be formally notified of the Committee's decision in writing within 48 hours. The approval notification will request that the applicant deposit with the City their project contribution of 20%.

The applicant will be required to execute a Contract, Promissory Note and Mortgage and Security Agreement prior to any disbursements being made.

IX. Fees

Upon submission of an application, an application fee of \$250.00 will be required. The fee will be used for costs associated with the review and eligibility process. If the assistance is approved, the fee will go towards the amount of the required owner contribution.

X. Rating Priorities

Priority will be given to the following projects:

- Buildings in Fair to Poor condition.
- Buildings to be located within the designated Economic Development corridors and that will yield the greatest visual and aesthetic improvement.
- Businesses that do not have the availability and/or affordability to seek private mortgage credit.
- Those that are ready to commence work immediately.

XI. Loan Terms

The amount of assistance to be provided to each applicant will be based on several factors; the viability of the proposed project, the need of the applicant, the time the business has been in operation and whether the business location is leased or owned. The applicant will be required to

contribute a portion of the cost, which could be up to 20% of the total project cost. All loan recipients will execute a Business Incentive Program Loan Agreement,

For **property owners**, the assistance will be provided as a loan and will be secured by a mortgage lien placed on the property. Personal guarantees may be required from all principals at the discretion of the Department Director. The loan amount will accrue interest at an annual interest rate of six percent (6%). The loan principal and all accrued interest will be forgiven upon maturity as long as the ownership of the property has not changed. At loan maturity date, the loan converts into a grant and is forgiven, and the mortgage is released. A satisfaction of mortgage is then recorded.

The Combined Loan to Value shall not exceed 100% of the estimated market value as reported by the Miami-Dade County Tax Appraiser.

The loan period will depend on the amount of assistance being provided. For loans less than \$100,000.00, the period of the loan would be five (5) years. No loans will be made in excess of \$100,000.00.

For **non-owners (Lessees)**, the assistance will be provided as a loan. Repayment will depend on the viability of the business and the activity being taken on with the funding assistance. Businesses that are established for a minimum of three (3) years, the maximum amount of assistance will be \$10,000.00. Applicants seeking more than \$10,000.00 must be established for a minimum of five (5) years. The loan will accrue interest at a rate of six percent (6%). The loan principal and all accrued interest will be forgiven upon loan maturity as long as the terms of the Business Incentive Program Loan Agreement are not in default. At loan maturity, the loan converts into a grant and is forgiven and the mortgage is released. No loans will be made in excess of \$20,000.00.

The assistance to lessees will be secured by a UCC Filing on all company assets and will continue throughout the life of the loan. Personal Guarantees may also be required from all principals, at the discretion of the Department Director. Additional collateral may be required in order to adequately secure the amount of the loan being requested.

The loan period will depend on whether or not repayment will be required but all assistance will be provided for a minimum term of five (5) years.

The loan terms will be recommended by the Director of Community Development. The Director will submit his recommendation to the City Manager (and/or his designee) for approval. The authority to approve exceptions and subordinations will also rest with the City Manager and/or his designee.

Subordinations of Mortgage will be approved by the City Manager and will only be approved if no cash out is occurring and the City's mortgage position is not exacerbated.

XII. Procurement

All projects must follow the "essence of good procurement" to assure that all purchases are handled fairly and in a manner that encourages full and open competition while following federal procurement rules when purchasing services, supplies, materials or equipment. The applicable federal regulations are contained in 24 CFR Part 85.

All goods and services will be contracted directly between the property owner/s and the contractor/supplier. The Department of Community Development will serve as a paying agent and contract facilitator only.

A competitive bidding process seeks to obtain the best possible quality at the best possible price. The Department will require a minimum of three (3) responsible bids or quotations per service or goods being contracted or purchased. A bid is considered responsible when submitted by a licensed and insured contractor/provider and for the same quality of goods or services as specified.

For services or goods less than \$100,000, not including construction, the Department will require a minimum of three (3) written quotations from vendors; quotations must include a detailed description of the goods or services needed. All quotations will be reviewed by the Department. The Department reserves the right to reject any and or all quotations.

For construction services less than \$100,000, the Department (on behalf of the property/business owner) will have an independent inspector prepare a Specification of Work Report that will provide a detailed description of the work to be performed and an estimate of the project cost. The Department will then hold a Pre-Bid Meeting at the property site to distribute the Report and answer questions. The Report will advise of a deadline for submission of their bids. The type and amount of work will determine the deadline timing. The bids must be submitted in a sealed envelope clearly marked with the vendor name, project name and address and the deadline for submission. The bids will be opened by the Department within 48 hours after expiration of the submission deadline. The selected bidder will be formally notified in writing.

All construction work in excess of \$2,000 that is financed in whole or in part with CDBG Funds must adhere to certain state and Federal labor standard requirements such as Davis-Bacon.

For all procurement, the lowest responsive and responsible bidder will be awarded the project. The Department reserves the right to reject all bids.

XIII. Disbursements

All disbursement requests must be submitted to the Department of Community Development for processing. Reimbursement requests will be made from the applicant's contribution first and until exhausted.

Reimbursement requests will require supporting documentation.

For construction, building permits with corresponding approvals from the City's Building Inspector must accompany the request and could require a site inspection be made prior to payment being made. For services, a formal invoice and supporting documentation to show satisfaction of services provided must accompany the request. For goods, the request must be accompanied by product information and proof of delivery and receipt by the business owner.

XIV. Exceptions

Exceptions to policy will be considered on a case-by-case basis. The Loan Program Manager must review such a request and make a recommendation to the Director for an approval or rejection citing reasons, which should include the policy from which the request is based and the reason for the exception. The decision to allow an exception must be based on the ability of the City to make that exception and whether the granting of the exception will put the City's investment at risk. Final approval of cases where exceptions will be made lies with the City Manager.

In situations where the exception contradicts the Statutes or Regulations for the funding source, an exception should first be obtained from the funding source. Such exception requests should be in writing and a written response solicited and made part of the loan file.

XV. Definitions

Combined Loan to Value – a percentage representing the value of the property in relation to the loan balances of ALL mortgages secured by the property.

Economic Development - a sustainable increase in living standards and increased per capita income, better education and health as well as environmental protection

Low and Moderate Income Person – a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD

Procurement - the process of obtaining services, supplies, and equipment in conformance with applicable laws and regulations.

Business Name: _____

Application Rating Scale

<p>1. The overall building condition: Poor Condition = 4 Fair Condition = 3 Good Condition = 2 Excellent Condition = 1</p>	
<p>2. Is this property in a Low Income Census Tract Area: Yes = 3 No = 0</p>	
<p>3. The ratio of private funds to be leveraged: 50/50 or more = 3 80/20 = 2 90/10 = 1</p>	
<p>4. The amount of time in business: Over 10 years = 4 5 to 10 years = 3 3 to 4 years = 2 1 to 2 years = 1 Less than 1 year = 0</p>	
<p>5. The property is currently: Vacant = 4 Occupied = 3</p>	
<p>6. The business is located in the City's designated Commercial Revitalization areas (441, 27th Avenue, 183 Street or the Palmetto Corridor) Yes = 3 No = 0</p>	
<p>7. Was the party denied financing for this project? Yes = 2 No = 0</p>	
<p>8. The applicant status for proceeding: Plans already prepared and approved by all parties or no plans required = 3 Plans ready but not approved = 2 No plans prepared, only sketch or intended project = 1 No preparation has taken place = 0</p>	
<p>Total Application Score</p>	

BIP Review Committee Date: _____

Comments: _____
