

## **COUNCIL/ADMINISTRATIVE POLICY**

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### **PURPOSE**

The City of Brentwood seeks to maintain and enhance Brentwood's quality of life by developing an economy that is vibrant and diverse. The City recognizes the key opportunities to build upon the "Better in Brentwood" brand, assist businesses to grow, capitalize on economic development prospects and enhance key industries. The City of Brentwood has created incentives that eliminate or reduce impediments for development in order to benefit the City's long-term economic development goals, as described in the City's Economic Development Strategy and Strategic Action Plan.

The primary purpose of the Brentwood Economic Development Incentive Policy (Policy) is to provide financial incentives in the form of financial assistance, grants, loans, advancements or matches to help achieve the following program goals:

- Assist the City in attraction of key targets across industries.
- Increase the local tax base, including sales and use tax, transient occupancy tax (TOT) and/or property tax.
- Diversify the local economy.
- Attract, grow and advance employers that create or provide sustainable, living wage jobs.
- Repair, expand and improve City infrastructure as needed to attract high quality private development.

### **POLICY**

#### **1. Authority Granted to City Manager**

The City Council has delegated incentive program implementation, oversight, authority and execution of all program terms and agreements to the City Manager, or his/her designee, where allowed by law and up to a maximum total subsidy amount of \$100,000 per agreement. The City Attorney is authorized to assist the City Manager in negotiating, drafting and executing necessary agreements to carry out this Policy.

Any subsidies above \$100,000 must be approved by the City Council as required by California Government Code Section 53083.

#### **2. Economic Development Incentive Eligibility**

##### **a. Eligible Project Areas**

Incentives may be made available for projects proposed to be developed within Brentwood city limits.

##### **b. Eligible Applicants**

- i. A business located in Brentwood, or seeking to locate in Brentwood, that provides a good or service that advances the City's economic development program goals contained in the City's adopted General Plan or Economic

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Development Strategic Plan, as determined by the City Manager, or his/her designee.

- ii. Developer or property owner acting on behalf of a business as described above.

c. Ineligible Applicants

- i. Residential uses
- ii. Home occupancy based businesses operating or proposing to operate on a residential property
- iii. Logistics and warehousing
- iv. Non-profits
- v. Business Associations
- vi. Operators of uses prohibited by the Brentwood Municipal Code, including the City Zoning Ordinance.
- vii. Businesses, the establishment or expansion of which would fail to further the goals of this Policy and/or the economic development program goals contained in the City's adopted General Plan or Economic Development Strategic Plan.

d. Projects must meet two (2) of the following minimum selection criteria:

- i. Create at least twenty-five (25) net new full time equivalent jobs, equal to or exceeding the median per capita income for a Brentwood resident.
- ii. Create at least five (5) net new full time equivalent jobs, equal to or exceeding the moderate income level for a single individual as determined by the California Housing and Community Development Department (HCD) or U.S. Department of Housing Urban Development Department (HUD).
- iii. Generate \$100,000 annually in new revenue through the form of sales tax, TOT or property taxes directly to the City of Brentwood.
- iv. Retain existing businesses that contribute \$100,000 annually in revenue through the form of sales tax, TOT or property taxes directly to the City of Brentwood.
- v. Generate at least \$50,000 in General Fund revenue through fees contained in the City Cost Allocation Plan, including building plan review and permit fees.
- vi. Leverages a net new private investment amount of at least \$4M in Brentwood.
- vii. New occupancy of a building or leasable space that has been vacant for six (6) months or more.
- viii. New construction commercial or industrial building.
- ix. Repairs or rehabilitates a historically recognized or historically sensitive building, including revitalization of a building in Downtown Brentwood.

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### **3. Form of Economic Development Incentives**

a. Eligible Projects and Uses of Incentive Funding

Preference in the allocation of funds will be given to projects that create new or expanded economic development opportunities in the community, particularly projects and businesses which will generate substantial additional tax revenue and/or sustainable living wage jobs.

b. City incentive funding uses may include the following components to facilitate new economic development opportunities:

- i. Abatement, rebate, forgiveness, payment on behalf of, and/or deferral of certain fees contained in the City of Brentwood Development Fee Program that would otherwise be payable by the owner or developer of the eligible private development project.
- ii. Abatement, rebate, forgiveness, payment on behalf of, and/or deferral of certain fees contained in the City Cost Allocation Plan for Building Permits, Inspections, Infrastructure Fees that would otherwise be payable by the owner or developer of an eligible private development project and other actions needed to construct the eligible private development project.
- iii. Abatement, rebate, forgiveness, payment on behalf of, and/or deferral of costs to be incurred by the owner or developer of an eligible private development project for public infrastructure improvements, including offsite improvements, utility undergrounding and extensions and/or other City owned/dedicated public improvements, required as a project condition of approval.
- iv. Direct financial assistance to a business or party engaged in a private development project or business activity, where allowed by applicable law.

### **4. Prior Funding Source Approval Required by City Council**

The City Manager, or his/her designee, may offer incentives and enter into economic development incentive agreements as long as a source of funding has been previously budgeted and approved by the City Council to offset a loss of revenue that would have otherwise resulted from a private development project. The City Manager, or his/her designee, may not offer incentives or enter into any economic development incentive agreement that exceeds the spending and/or signature authority prescribed in this Policy or the City Council approved budget.

### **5. Approval Required by City Council for Tax Sharing Agreements and General Fund Revenue Loss**

Approval by City Council is required for any proposed abatement/rebate/forgiveness or sharing of City tax revenues, including property tax, transient occupancy tax (TOT), sales & use taxes under the Bradley-Burns Uniform Sales and Use Tax Law, or other similar tax revenues. The City Manager, or his/her designee, shall return for Council approval of any proposed Tax Sharing Agreements.

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No economic development incentive agreement resulting in a revenue loss to the City's General Fund shall be approved unless the City Council has previously budgeted and approved an expenditure of funds for such purpose.

### **6. Ineligible Uses of Incentive Funding**

The City Manager or his/her designee shall have the authority to determine whether a proposed business or project is eligible to receive an economic development incentive under this Policy. To the extent demand for funds exceeds the amount of funding available in any given funding period, the City Manager or his/her designee shall have the authority to determine the order of priority of applications with preference given to projects and/or businesses having the greatest incremental economic impact.

### **7. Compliance With Applicable Laws**

The City will adhere to all applicable laws, regulations and statutes pertaining to the issuance of economic development incentives and subsidies, including the requirement of California Government Code Sections 52200-52203 (Economic Opportunity) and Section 53083 (Economic Development Subsidy Report) and, to the extent applicable, State Prevailing Wage Law (Lab. Code, §1720 et seq.)

### **8. Criteria, Selection and Award**

An application will be required for each funding request. Applications will be developed by Economic Development staff in consultation with City Departments. Applications will be administratively reviewed by Economic Development staff, and thereafter presented to the City Manager or his/her designee.

All applications will include information explain how the project and/or business furthers the criteria and stated program goals:

- a. **Program Goals**: Explain how the project or business meets one or more of the following program goals:
  - Assist the City in attraction of key targets across industries.
  - Increase the local tax base, including sales and use tax, transient occupancy tax (TOT) and/or property tax.
  - Diversify the local economy.
  - Attract, grow and advance employers that create or provide sustainable, living wage jobs.
  - Repair, expand and improve City infrastructure.
  
- b. **Projected Outcome**: Each application must describe the project's expected outcome (i.e. amount of taxable sales and number of permanent jobs generated). Priority will be given to projects that provide the City of Brentwood a return on investment.
  
- c. **Leveraging Investment**: Funding from the City cannot be the sole funding source. Applications must demonstrate how the applicant will leverage other or private or public investment.

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- d. Impediment Analysis: Description of how one or more particular development requirements or fees payable in connection with the project constitute an impediment to the project moving forward.
- e. Public Benefit: Description of how the proposed program, project or event is of benefit to the City/community.

### 9. Reports to City Council

The City Manager or his/her designee, will implement a reporting procedure to update the City Council on the status of economic development incentives authorized and approved pursuant to the authority delegated to the City Manager under this Policy.

### 10. Disclosures

Applicants seeking Economic Development Incentives covered under this Policy may be required to enter into confidential negotiations with the City of Brentwood, which may include mutual execution of a binding, exclusive negotiating rights agreement, incentive agreement or other form of agreement between the parties in form acceptable to the City Attorney.

Documents pertaining to City business operations, including records pertaining to the implementation of this Policy, may be discoverable in certain instances under the California Public Records Act. Any all economic development incentive agreements entered into in connection with the implementation of this Program shall be public records.

The City will have the right to deny any application that present a conflict of interest or otherwise conflicts with City policy. The City will not discriminate against any applicant on the basis of race, color, religion, sex, sexual preference, marital status, ancestry, national origin, disability, pregnancy disability, medical condition, sexual orientation, gender, or any other status protected under state or federal law.