

BROOKHAVEN DEVELOPMENT AUTHORITY
ECONOMIC DEVELOPMENT POLICY GUIDELINES

Background and Purpose

The Brookhaven Development Authority (the “Authority”) is a public body corporate and politic, duly organized and existing under the Constitution and laws of the State of Georgia, including O.C.G.A. § 36-62-1, *et seq.*, as amended (the “Development Authorities Law”), and an activating resolution of the Mayor and Council of the City of Brookhaven adopted on April 9, 2013. The Authority was created for the purpose of developing and promoting trade, commerce, industry and employment opportunities for the public good and the general welfare of the City of Brookhaven (the “City”).

Taxable lease-purchase revenue bond financing (“Lease-Purchase Bonds”) is available for certain qualifying projects (the “Project”) that bring new capital investment, leading to job creation and/or retention and other economic and public benefits to the City. If a Project qualifies for Lease-Purchase Bond financing, title to the land, building and/or personal property comprising the Project will be conveyed to the Authority. The property is then leased by the Authority to the company. Because of the Authority’s fee simple ownership of the Project, the Project will receive favorable ad valorem real property tax treatment based on the company’s leasehold interest in the Project (the “Tax Incentive”).

The Tax Incentive is available for Projects of \$10,000,000 and above, provided that the Authority may, in its sole discretion, consider exceptions if a compelling economic reason is presented. Because the company will be responsible for paying all legal fees associated with the Lease-Purchase Bonds, it must weight such costs against the Tax Incentive.

The following guidelines have been adopted by the Authority’s Board of Directors (i) to provide procedural and substantive guidance to developers applying for Tax Incentives and (ii) to guide the Authority in its review and evaluation of such applications. These guidelines do not establish mandatory or exclusive standards or procedures and the Authority retains the right to make exceptions to these guidelines or alter them from time to time, and its judgments and decisions in any instance are not subject to challenge or review. No person shall be entitled to maintain an action against the Authority for its actions in approving or disapproving applications based on its adherence to or departure from the provisions hereof.

Requirements under Lease-Purchase Bond Program

Projects applying for a Tax Incentive must demonstrate economic development benefits to the City, in furtherance of the purpose for which the Authority was organized. Economic development benefits can be shown by an applicant (the “Applicant”) through the creation of new jobs and/or retention of existing jobs. Additional economic and community development benefits may include, among others, the attraction of target industries, capital investment, public infrastructure improvements and affordable housing. Applicants must also comply with the following policies and procedures of the Authority:

1. The Project must qualify as an eligible “project” under Section 36-62-2 of the Development Authorities Law.
2. A majority of the Board of Directors of the Authority must determine that the issuance of the Lease-Purchase Bonds for the Project will develop and promote trade, commerce, industry and employment opportunities in the City.
3. The Authority must determine that the Applicant can meet its obligations under the applicable agreements relating to the Lease-Purchase Bonds.
4. A fiscal impact study and/or market analysis of the Project must be conducted by an independent third party consultant approved by the Authority. The Applicant will be required to pay all costs associated with such study or analysis.
5. The Project must comply with the City’s code of ordinances, including historic preservation, zoning and permitting requirements or the ability to obtain rezoning or variances.
6. The Project must be consistent with existing local and regional comprehensive planning and development initiatives.

Economic Development Criteria

Prior to approving an Applicant/Project for a Tax Incentive, the Authority may, in its sole discretion, consult with its economic development partners and stakeholders to discuss the economic development benefits contemplated by a Project. The Authority may consider the following economic development and public interest criteria in determining whether to approve a Tax Incentive:

1. The Project supports target industries and investment in capital for new and emerging industries;
2. The Project creates jobs in target areas, including the Buford Highway Corridor, the Peachtree Corridor Overlay District or the City Centre, consistent with the City’s Economic Development Strategy;
3. The amount of new capital investment in the City;
4. The number of new and/or retained permanent jobs and salaries;
5. The increase in positive tax revenues to the applicable taxing jurisdictions;
6. The contribution of public infrastructure or facilities such as parks and recreation, transportation improvements and/or public safety facilities;
7. Multifamily housing set-asides for low and moderate income residents or public service households;

8. The apparent quality of the development with respect to design, function, location and durability;
9. The financial capacity of the Applicant and other participants in the development and their experience in the development model;
10. The criticality of the requested financial assistance to the development's success; and
11. Other economic, environmental or public benefits to the City, including, but not limited to minority/female business enterprise (M/FBE) participation, environmental remediation, green/sustainable design and other local objectives.

Affordable Housing Requirements

Applicants seeking Tax Incentives for multifamily rental housing projects must agree to set aside at least: (i) 10% of the housing units in the project for households with income that does not exceed 60% of the area median income for the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area, as determined from time to time by the U.S. Department of Housing and Urban Development ("AMI") or (ii) 20% for households with income that does not exceed 80% of AMI (the "Applicable AMI Percentage") for a term of 20 years.

[PUBLIC SERVICE HOUSEHOLDS][Certain workforce housing tenants, including teachers at public schools located within [the City][the DeKalb County School District], police officers, firefighters and other public safety employees of the City (the "Public Service Households"), will qualify under the set-aside requirements if the applicable household's income (as certified by the tenant's employer among other means) does not exceed 120% of the Applicable AMI Percentage (60% of AMI or 80% of AMI) that would otherwise apply.]

[RENT LIMIT][Households counted toward the Applicable AMI Percentage must not be required to pay more than 30% of the applicable AMI for rent. This will be adjusted and based upon the number of bedrooms with an assumed family size of (i) 1 person for a studio unit or (ii) 1.5 persons per bedroom for units with 1 or more separate bedrooms.]

In addition, multifamily rental housing projects that constitute elderly housing may utilize a different definition of income from other housing projects for purposes of determining the affordable set-aside.

Multifamily rental housing projects may be required to provide the Authority with a recorded land use restriction agreement (in a form acceptable to the Authority) setting forth the affordable set-aside requirements. Applicants for multifamily rental housing projects must agree to certain affordability covenants, including, but not limited to, the delivery of annual monitoring and compliance reports, maintaining verifiable waiting lists for affordable units, periodic on-site visits and participating in annual compliance training. Applicants for multifamily rental housing

projects must also agree not to refuse to lease affordable units to holders of Section 8 vouchers or other comparable tenant-based assistance program.

The legal documentation will require that all affordable units be similar in construction and appearance to the market units and not be in isolated or undesirable areas of the project. Unless otherwise authorized by the Authority, affordable units may not be leased to households comprised solely of full-time undergraduate students. [In addition, incumbent tenants of affordable units whose income exceeds the current applicable income limit will be permitted to remain in their units if the tenant's annual household income falls within 140% of the Applicable AMI Percentage (60% of AMI, 80% of AMI or the Public Service Households limit) that would otherwise apply.]

Projects having a multifamily rental housing component will be subject to an annual compliance fee equal to \$5,000, payable to the Authority as a one-time payment at closing.

Timeline of Lease-Purchase Bond Transaction

In order for the Authority to consider a Project for a Tax Incentive, four conditions must be satisfied: (i) the Applicant must have control of the property, (ii) the property must be properly zoned for the use intended, (ii) the Applicant must agree to comply with the Authority's economic development policies, and (iii) the Applicant must submit an Inducement Application to the Authority's Executive Director, in the form attached hereto as Exhibit A.

Upon the Authority's review and acceptance of an Inducement Application, the Authority will consider an Inducement Resolution prepared by the Authority's counsel declaring its intent to issue the Lease-Purchase Bonds. The Applicant must submit a fiscal impact analysis of the Project and any other necessary documentation prior to consideration of the Inducement Resolution. Applicants should be aware that approval of the Inducement Resolution does not guarantee final approval of the Project.

After adoption of the Inducement Resolution, the Authority will consider a Bond Resolution prepared by bond counsel at a subsequent meeting of the Authority's Board of Directors. The Bond Resolution will approve substantially final forms of the Lease-Purchase Bond documents. Following adoption of the Bond Resolution, validation proceedings will be filed and commenced in the Superior Court of DeKalb County. Upon receipt of a final bond validation order, the transaction may be closed.

Fees and Expenses

A non-refundable Application Fee in the amount of \$1,500 will be payable to the Authority at the time the Inducement Application is submitted. An Inducement Application submitted without payment of the Application Fee will be deemed incomplete.

An Issuer's Fee equal to [1/8 of 1%] of the maximum authorized amount of the Lease-Purchase Bonds will be payable to the Authority at the time of the closing.

If the Project has a housing component with a set-aside requirement, an annual Compliance Monitoring Fee equal to \$5,000 will be payable to the Authority.

All legal fees and expenses, including the Authority's counsel fees will be paid in full by the Applicant at the time of closing.

At its sole discretion, the Authority may increase, lower or waive the Application Fee, the Issuer's Fee or the Compliance Monitoring Fee.

Exhibit A

BROOKHAVEN DEVELOPMENT AUTHORITY

INDUCEMENT APPLICATION

NAME OF PROPOSED PROJECT: _____

APPLICANT INFORMATION

A. Name of Applicant: _____

B. Address of Applicant: _____

C. Designated Contact Person: _____

Title: _____ Email Address: _____

Company Name: _____

Address: _____

Telephone: _____ Mobile Phone: _____

D. General Nature of Business: _____

E. Is Proposed Project a New Facility? YES _____ NO _____
or Expansion of Existing Facility? YES _____ NO _____

F. IN CITY OF BROOKHAVEN Number of Current Employees: _____
Anticipated Increase in Number of Employees: _____
Average Annual Salary of New Employees: \$ _____

If Proposed Project will facilitate retaining employees in the City, indicate number of persons affected: _____

G. Legal Form:

- Individual General Partnership 501(c)(3) Corporation
 Profit Corporation Limited Partnership Non-profit Corporation

State of incorporation/partnership: _____. If not a Georgia corporation / partnership, is the corporation/partnership registered with the State of Georgia Secretary of State as a foreign corporation/partnership? YES _____ NO _____.

If a partnership, what is the principal business of the partnership? _____

Partnership Address: _____

Telephone: _____

Partnership Ownership:

Please include an organization chart that outlines the proposed general partnership structure.

General Partner Owns _____%

Name of Partner: _____ Owns _____%

Name of Partner: _____ Owns _____%

Total _____%

Limited Partner Owns _____%

Name of Partner: _____ Owns _____%

Name of Partner: _____ Owns _____%

Name of Partner: _____ Owns _____%

Name of Partner: _____ Owns _____%

Total _____%

H. Proposed Project Team (*Note: the Authority's Counsel will be identified by the Authority*):

Applicant's Proposed Financing Team:

Applicant's Counsel:

Firm: _____ Phone: _____

Contact Person: _____ Email: _____

Bond Counsel if selected:

Firm: _____ Phone: _____

Contact Person: _____ Email: _____

Other Key Team Members:

Capacity: _____

Firm: _____ Phone: _____

Contact Person: _____ Email: _____

Capacity: _____

Firm: _____ Phone: _____

Contact Person: _____ Email: _____

PROPOSED PROJECT INFORMATION

A. Name of Proposed Project: _____

B. Property Address: _____

Parcel ID Number(s) (describe any plans to combine parcels): _____

C. Type of bond issue requested:

- | | | |
|---------------------------------------------------|-----------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Lease Purchase Bonds | <input type="checkbox"/> Tax-Exempt Bonds | <input type="checkbox"/> Taxable Bonds |
| <input type="checkbox"/> Industrial Revenue Bonds | <input type="checkbox"/> 501(c)(3) Facilities Bonds | <input type="checkbox"/> Other: _____ |

D. (i) Applicant Funding Uses - Choose all that apply:

- | | | |
|-----------------------------------------------------|---------------------------------|----------------------------------------|
| <input type="checkbox"/> New Construction | <input type="checkbox"/> Office | <input type="checkbox"/> Mixed Use |
| <input type="checkbox"/> Acquisition/Rehabilitation | <input type="checkbox"/> Retail | <input type="checkbox"/> Residential |
| <input type="checkbox"/> Conversion | <input type="checkbox"/> Hotel | <input type="checkbox"/> Manufacturing |
| <input type="checkbox"/> Other: _____ | | |

If acquisition and/or rehabilitation, is the Proposed Project currently in use?

YES _____ NO _____

Total Project Square Footage: _____

Ground Floor Retail: YES _____ NO _____ Square Footage: _____

(ii) Narrative Description of Proposed Project (attach additional page if needed)

E. Current Project Debt.

Is there current debt associated with the Proposed Project? Yes _____ No _____

Loan Balance(s): \$ _____ Monthly Debt Service \$ _____

Remaining Term: _____

Describe source of revenue anticipated to service this debt. _____

F. If bonds are to be issued under name(s) other than Company named above, please list all names and give brief explanation: _____

G. Is the availability of bond financing critical to your Project?

YES _____ Please explain: _____

NO ____

H. Lender Information

Lender: _____

Term: _____ Loan Amount Requested: \$ _____

Loan Status _____

Describe source of revenue anticipated to service this debt. _____
A copy of the signed Commitment Letter from the above lender, including a contact person's name, address and telephone number and credit underwriting standards, must be attached. A Final Commitment letter must be provided prior to approval of the Proposed Project.

I. Housing Projects (skip if this does not apply)

Number of Buildings: _____ Number of Stories: _____ Amenities: _____

Number of Units: _____ Market Rate: _____ Affordable: _____

In an attachment, Breakdown by Unit Type, square footage and rents.

ECONOMIC FEASIBILITY OF PROPOSED PROJECT

In order to demonstrate the economic feasibility of the Proposed Project, a complete development budget must be attached and include, at a minimum, the following:

- A. Detailed sources and uses;
- B. Preliminary pro forma cash flows;
- C. Detailed total project costs;
- D. Amount of financing requested; and
- E. Detailed construction/rehabilitation budget.

ABILITY TO PROCEED

Each Inducement Application shall be reviewed for feasibility and ability of the Applicant to proceed with construction of the Proposed Project.

A. Site Control

Site Control must be demonstrated by the Applicant. At a minimum, an Agreement to Purchase must be held by the Applicant for the proposed site. Site control may be evidenced by:

_____ Option Agreement/Contract for Purchase & Sale

_____ Recorded Certificate of Title

_____ Recorded Deed

_____ Long-Term Lease: If site control is demonstrated by long-term lease, a copy of the executed lease must be provided. The lease may be contingent only upon the receipt of financing.

B. Zoning and Land Development Regulations

(i) Is the site appropriately zoned for the Proposed Project? No ____ Yes ____

- (ii) Applicant must provide a letter from the appropriate local government official that the Proposed Project is consistent with zoning and land development regulations regarding intended use.

C. Site Plan

- (i) Has the preliminary or conceptual site plan been approved by the City of Brookhaven? Yes ____ No ____
Attach copy of the site plan. Attach copy of map indicating location of Proposed Project.
- (ii) If formal site development process is underway, provide Application # _____.
Date submitted (or to be submitted) to the City. _____

D. Environmental Safety:

- (i) If new construction or conversion of a building not previously used for same purpose, Applicant must provide a Phase I environmental report. A Phase II report will be required if recommended in Phase I.
- (ii) Has the property ever been used for storage of hazardous or toxic materials?
Yes ____ No ____
- (iii) Are there any potential environmental hazards? Yes ____ No ____

If yes, describe: _____

The undersigned Applicant certifies that the information in this Application is true and correct.

Applicant

Name: _____

Title: _____

Date: _____

For More Information Contact:

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Executive Director
Brookhaven Development Authority
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shirlynnbrownell@brookhavenga.gov