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# Downtown Business Attraction and Expansion Program

## PROGRAM GUIDELINES & POLICIES

CITY OF BEAUMONT  
DOWNTOWN BUSINESS INCENTIVE  
LOAN POLICY

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**I. INTRODUCTION**

This written policy is intended as a guide in making credit decisions regarding applications for business Incentive loan projects for the City of Beaumont (City). This policy is written to allow flexibility as credit needs change. It should be used as a tool to provide some consistency for project selection. Projects will be considered for funding on a case-by-case basis, until available funding is exhausted. Only those projects falling within the scope of the guidelines will be considered for funding. Depending on funding amount as provided below, successful applicants will be determined by the City Council.

**II. PURPOSE**

This policy provides financial assistance to support economic development and business retention and expansion goals with the Downtown Beaumont Area. The goals are structured to promote Downtown Beaumont as a positive place for quality business, promote business expansion and attraction to enhance local economic growth, and ensure that government regulations promote a favorable business climate with the intent of furthering the health, safety and welfare of the residents of Beaumont.

This loan program is not to be equated with a loan program available through banking or financial institutions. As a public lender, the source of funds is interested as much in the social benefits as return on investment, and preservation of capital. The return to Beaumont is multiple: increased investment in the business community, additional jobs, increased foot traffic and business activity, increased tax revenues and quality of life for our residents.

The purpose of the economic development assistance is to:

1. Fulfill a need within the community.
2. Create jobs within the community.
3. Generate increased sales tax revenue.
4. Create opportunities for business expansion for existing Beaumont businesses.
5. Create opportunities for recruiting new businesses.
6. Encourage additional foot traffic and social activity within the Downtown Area.
7. Diversify the City's sales tax base.

**III. PROHIBITION AGAINST CHANGE IN OWNERSHIP, MANAGEMENT AND CONTROL OF PARTICIPANT**

The qualifications and identity of Participant in this program are of particular concern to the City. It is because of those qualifications and identity that the City will enter into an Agreement with the Participant. No voluntary or involuntary successor in interest of the Participant shall acquire any rights or powers under this program except as expressly set forth within executed documents under this program.

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A change in ownership, management and control shall be subject to the approval of the City, but such approval shall not be unreasonably withheld.

Participant shall not assign all or any part of any Agreements or Notes under this program without the prior written approval of the City, which approval shall not be unreasonably withheld.

**IV. POTENTIAL LOAN FORGIVENESS**

Participants in this program will be required to comply with the terms of the loan and provide the goods and services as promised for a specified minimum amount of time, as outlined in Section V below. In meeting this requirement and compliance with the program, funds loaned may be forgiven at the end of that period. If the Participant does not comply with all of the terms of the loan and the program, the loan will not be forgiven and must be repaid.

**V. PARTICIPATION PERIOD REQUIRED**

The required period of time for program compliance and fund forgiveness/repayment depends on the amount loaned. The following schedule applies:

<u>Amount of Loan</u>	<u>Forgiveness/Reporting Period</u>
Up to \$25,000 . . . . .	3 years
\$50,000 . . . . .	5 years

**VI. ELIGIBLE BUSINESSES**

Only commercial properties located within the Downtown Incentive Area Program Boundary area are eligible to apply. View the map showing the program boundary via the City website [beaumontca.gov/downtown](http://beaumontca.gov/downtown).

The following types of businesses are eligible for a business incentive loan:

- Proposed sales tax generating businesses that are new to Beaumont.
- Existing sales tax generating businesses in Beaumont wanting to expand their gross floor area (square footage) and/or occupant load by 50% or more.
- For applicants seeking a loan under this program, the restaurant/business must fall within one of the five categories below. The City shall determine, in its sole discretion, whether a business falls within one of these five categories:

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- i.) Premium Casual Restaurants (upscale, fast casual dining, high quality food, elevated atmosphere but more casual than fine dining, seating areas indoors or outdoors)
- ii.) Sit Down Fine Dining Restaurants (upscale dining, high quality food, wine list, formal atmosphere, sizable seating area indoors and bonus for outdoor seating)
- iii.) Bars and Cocktail Lounges (upscale and elevated atmosphere, premium offerings, activities and events)
- iv.) Breweries, Distilleries, small scale alcohol production (manufacturing of craft beer, spirits, or wine, product sold for onsite and offsite consumption, retail component with elevated atmosphere)
- v.) Entertainment Uses. Live entertainment, music stores, bookstores, art house or art showcases, technology focused, and gadgetry businesses such as high-tech video games or virtual realty, etc.

- Existing businesses that are unable to meet the expansion percentage (50%) requirements above, due to unique circumstances or site constraints, may still apply if they feel they can still meet the program objectives below (section VIII) and earn a qualifying score under the established rating system.

**VII. ELIGIBLE ACTIVITIES**

Within these categories funding can be used for the following types of activities:

- Interior and/or exterior leasehold improvements
- Purchase of business equipment, furniture, and fixtures
- Working Capital

The applicant is responsible for checking and working with the city to determine whether the use of funding would trigger the requirement to pay prevailing wages to workers.

**VIII. PROPOSAL RATING**

Given the limited amount of funding available annually, loan proposals submitted by applicants will be reviewed and graded. Eligible applicants loan proposals will be weighted using the following rating system:

- |   |        |
|---|--------|
| 1. Fulfill a need within the community.   | 10 pts |
| 2. Generate increased sales tax revenue.  | 5 pts  |
| 3. Create opportunities for recruiting new businesses to fill commercial vacancies.             | 10 pts |
| 4. Create opportunities for business expansion for existing Beaumont businesses.                | 10 pts |
| 5. Encourage additional foot traffic and social activity within the proposed business location. | 10 pts |
| 6. Diversify the City's sales tax base.   | 10 pts |

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7. The risk determination analysis (see Section XIII). 5 pts

**Total:** 60 pts

Funding decisions will be made based on the rating of the proposal, the number of other proposals and their ratings, and the availability of funding. The date of submission of a proposal as compared to other submissions is not a factor (e.g., funding is not “first come first served”). However, there are limitations on the amount of funding available.

**IX. ADMINISTRATION**

**A. Staff Recommendations**

In order to ensure timely review of applications, the Program Administrator will establish an internal review process whereby the review and recommendation of the City Manager, Community Development Director, Economic Development Manager, and Finance Director (Program Administrator) and other staff members as determined by the Program Administrator will be solicited. The internal review process shall result in the Program Administrator making a recommendation of approval, approval subject to conditions or denial based upon the rating system in section VII of this policy. The Program Administrator will also solicit from staff review and recommend approval, conditional approval or denial of requests from approved borrowers for payment deferrals, substitution or release of collateral, waiver or release of covenants, and amendments to loan documents all of which shall be subject to final action by the City Council.

**B. Program Administrator**

The Finance Director will serve as the Program Administrator. The Program Administrator will market, solicit, review, and process potential borrowers' applications for credit. The Program Administrator will decline or refer out to other departments any applicant who clearly does not qualify under eligibility standards as set forth by the policy. The Program Administrator will recommend new credit, payment deferrals, release or substitution of collateral, waivers/amendments to loan covenants and exceptions to loan policy to the City.

**X. LOAN APPROVAL**

Approval of all Loans shall require City Council action. The City Council retains the discretion to approve, approve with conditions or reject applications.

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**XI. FUNDING AVAILABILITY**

The business incentive loan program is funded on a fiscal year basis. The City of Beaumont fiscal year begins on July 1 and ends on June 30 of the following year. Limited funds are available in each fiscal year when the program is funded. Applications may be rejected if funding is exhausted.

**XII. APPLICATION PERIOD**

**A. Submittal**

Applications will be accepted on a continuous basis.

**B. Processing**

Applications will be processed when funds are available. The City has no obligation to process applications if all available funding has been exhausted.

**XIII. RISK ASSESSMENT**

All loans are subject to analysis to determine risk. Substantial evidence to support all decisions shall be required and such evidence shall be maintained by the Program Director and submitted to the City Council during the final review and approval process. Loans will be awarded only to projects, which demonstrate that the service provided is commensurate with the risks incurred. In return for the public moneys provided, the businesses is expected to generate increased investment, jobs, business activity, and thus increased tax revenues.

**A. General Credit Criteria**

The business loan applications will be analyzed for the following criteria, based on criteria specified by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development, and by the Small Business Administration:

- 1) Ability to repay in case of default or termination of business.
- 2) Balance Sheet Analysis  
Balance sheet must be sound before the loan is made.

Historical earnings and cash flow records, from verifiable sources as determined by the City, to ensure sufficient repayment of all requested credit, and to provide the owner(s) with a reasonable level of personal income to satisfy personal obligations. Typically, a borrower will have been profitable during the most recently completed year and will maintain a cash flow coverage ratio of

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1:1 (defined as earnings before debt service, interest and taxes divided by debt service), with sufficient collateral. The ratio would be 2:1 without collateral. If partial collateral is pledged, the ratio may be prorated downward.

3) Collateral

Collateral, when available in any form, may be requested by the City. Collateral will be pledged commensurate with the amount of requested credit, as well as a security interest in newly purchased assets, or those purchased with loan funds. If the project cannot repay the loan from cash flow, the City will collect payment by liquidating the asset and satisfying the specific lien securing the property. A letter of credit or bond may be accepted in lieu of collateral. Loan to value for collateral should be 75%.

4) Commitment

Personal and corporate guarantees may be required. The borrower should sign personally for the loan.

5) Management Experience

The management team must have experience in all areas of running the business: sales, finance, operations, personnel, etc. The management team includes the principals, directors, senior management and consultants.

The management team should have direct experience in these areas or have comparable business skills which can be transferred.

6) Business Plan

The business plan will help identify worthy ventures. The monthly cash flow statement for the first year is especially important.

7) Character

The owners and management should have favorable credit histories, a reputation for treating customers fairly and without discrimination, no bankruptcy filing in the past five years, and a criminal record free from felony convictions and convictions of crimes involving dishonesty or moral turpitude. Good character and creditworthiness will be determined by credit reports, payment history with verified vendors, personal interview, or other means as determined.

All of the above criteria are important, and the absence of any one may be sufficient to deny a loan request.

**B. Undesirable Credit Applications/Borrowers/Guarantors**



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Using the guidelines for the Small Business Administration and the Department of Housing and Urban Development, the following are undesirable or unacceptable without mitigating circumstances acceptable to the City:

- 1) Applications for funding that would substantially reduce the amount of non-Federal support for the activity available in other recognized, reasonable loan programs available in the target areas;
- 2) Requests for credit to repay existing creditors are prohibited.
- 3) Funds used to repay debt to applicant owner(s), partners, stockholders are prohibited.
- 4) Requests for funding for businesses which do not meet the criteria specified in Section XIII A through C.
- 5) Non-profit organizations, as designated by Charter/Bylaws, unless designated as approved Community Based Development Organizations (CBDO).
- 6) Lack of profitable operations, as demonstrated by sources acceptable to City.
- 7) Loans to restricted membership or discriminatory groups/organizations.
- 8) Loans to uses with access restrictions based on age.
- 9) Lack of sufficient equity/highly leveraged situations as determined by City.
- 10) Personal or business bankruptcy, or prior business failure without sufficient, documented information to mitigate, as determined by City.
- 11) Poor personal or business credit as evidenced by many derogatory items including public record items, tax liens, judgments, or excessive existing credit as determined by City.
- 13) Those unable to provide proof of citizenship or legal residency.
- 14) Felony convictions, dishonorable discharge or "Bad Conduct" discharge from military service (each situation will be independently evaluated);
- 15) Business active or associated with in any unlawful activity.

**C. Exceptions to Loan Policy**

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If a project does not fall within the guidelines listed above, but is of such special character that it will substantially further the goals identified in Section II above the Program Administrator may submit to the City Council to consider for funding.

**XIV. PRICING AND TERMS**

Considerations of loan product pricing extended to borrowers will be based on a rate equal to the average rate earned by the City's investment in the California Local Investment Fund (LAIF) (LAIF's Annual Returns: <https://www.treasurer.ca.gov/pmia-laif/historical/annual.asp>), but in no event to exceed 10 per cent (10%) per annum. Interest which accrues and is unpaid shall be added to principal on a monthly basis and thereafter bear interest as if it were part of principal. Principal and all accrued and unpaid interest shall be due and payable not later than two years from the date the agreement is approved, as specified in the Note. Additional terms extended to borrowers will be based on the amount of risk involved.

**XV. COLLATERAL**

Collateral is recommended for all loans. Real property security is preferred but not required under appropriate circumstances. Property such as equipment will be considered as collateral. It is intended that any available collateral from the borrower and/or guarantor(s) will be required, as well as a first lien position on any assets purchased with any loan funds. Liens on real property will be required at the discretion of the City. It will be the policy that all collateral required for loan approval will be of material value. Caution will be used whenever taking a junior lien position on collateral where there is a substantial senior lien. It will be a determination of the City whether to waive a collateral position when available.

In all cases, a UCC-1 and security agreement will be taken against all business assets.

**XVI. CESSATION OF BUSINESS**

If Participant should cease business at the site, participant will be required to repay its obligations to City as provided in the Note which shall be executed when Agreement is signed. The term "cease business" shall mean when the site is no longer used as the principal place of business for Participant's business for an aggregate period of ten days or more, as determined by City. Participant shall give City written notice not less than thirty (30) days prior to cessation of business. If Participant should cease business at the site, Participant shall pay to the City, in cash, within fifteen (15) days of the Participant's receipt of written notification from the City the balance due on the Note. If the Participant moves the business to a new location within Beaumont upon written request of the Participant, the City may elect to not treat this relocation as a cessation of business.

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**XVII. GUARANTORS**

The City will generally follow the rules of the Small Business Administration as to qualification of guarantors:

- A. Individuals involved in active management with any ownership equity in borrower must guaranty the loan.
- B. Shareholders/owners of 20% or more equity in borrower must guaranty the loan regardless of active involvement in management.

Guarantees may be secured or unsecured as determined by the City.

**XVIII. PROBLEM CREDITS**

While it is the intent of this policy to be sensitive to the borrower's financial needs, and the intent to match any repayment schedule to the borrower's ability to repay, it is inevitable that there will be delinquencies and defaults. It is the responsibility of the Program Administrator to monitor all loan payments, especially those that are in arrears. It will be the stated policy that upon determination of a "problem credit" the City will pursue any and all remedies allowed by regulation or law in a professional, aggressive, and consistent manner until some resolution is reached.

**XIX. ACTION OCCURRENCES**

The following occurrences will warrant action on the part of the Program Administrator and/or City Council.

- A. Delinquent payment – whenever the terms of the Promissory Note are not being met in a timely manner (delinquent by more than 30 days or repeat delinquencies).
- B. Violation of Loan Covenants – whenever the terms of the Loan Agreement are not being met in a timely fashion. The severity and immediacy of action is dependent on the type of breach; some covenants are more serious and lead to a default, while others less severe can sometimes be managed at the discretion of the Program Administrator.
- C. Receipt of bankruptcy notice relative to borrower or guarantor(s).
- D. Filing of a "Notice of Default" by another lienholder on real property;
- E. Legal Service, such as Writs of Attachment, Tax Liens, Subpoenas for records;

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- F. Death of borrower or guarantor;
- G. Notice of significant legal action against borrower or guarantor;
- H. Returned mail from borrower's address by Post Office;
- I. "Skip Trace" inquiry from another creditor.

**XX. COLLECTION ACTION**

It is important to be clear and specific about any breach of the Note, Loan Agreement, or any of the above-mentioned occurrences. The circumstances of a particular situation will often dictate the method to use in taking corrective action. Telephone contact with the borrower/guarantor is the most expedient and cost effective; however, some cases demand more formal notification such as "Demand Letters", Legal Action, and Foreclosure. Personal site visits and conversations with the borrower are warranted at the discretion of the Program Administrator.

**XXI. NON-ACCRUAL LOAN STATUS**

Credits will be moved to a non-accrual status at the 90-day delinquency point unless otherwise directed by the City Council. At this point, many of the above-mentioned "Action Steps" should have been started; a collection plan, if applicable, should be in process at this point. Rewriting the entire Note in an effort to provide relief to the borrower should be considered after a detailed analysis of the financial condition of the borrower and his/her/its prospects for timely payments in the future. In any case, the City Council must approve a re-structured Note, depending on the dollar value of the re-structured Note.

**XXII. COLLATERAL APPRAISALS**

Collateral taken as security for any type of credit should be appraised if it has any significant value. In most cases, real property will be the collateral that is most needed for a third-party appraisal (the City may accept reliable "drive-by" and short-form appraisals). Since the City is not under the scrutiny of Federal and State Banking Regulators, there is more flexibility as to the extent of any appraisal and in which circumstances. It is the stated policy that some reliable form of valuation be used to determine the value of the equity of any collateral taken by the City, remembering that the cost and time of obtaining such appraisals may have an adverse affect on the borrower considering the size of the credit involved. The City shall use its discretion in all collateral matters, unless otherwise dictated by the City Council.

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**XXIII. FINANCIAL INFORMATION REQUIRED**

It will be the policy of the City to require financial statements from each applicant in the form of a balance sheet and income statement for any and all fiscal year-ends since inception of the business (up to 3 years), and within the past 90 days of application date. Current personal financial statements for each business owner and guarantor and personal and business federal tax returns for the prior three years are required, including all supporting schedules and statements. The City will obtain the written permission of the applicant to verify any and all tax returns with the Internal Revenue Service for accuracy (IRS Form 4506). Month-to-month projections covering any interim period until year-end, plus one full fiscal year is required, including the assumptions that the projections were based upon. Additional information will be requested at the discretion of the Program Administrator with direction from the staff and/or City Council:

All borrowers will be required as a covenant in the Loan Agreement to provide ongoing financial information as follows:

- A. Fiscal Year End balance sheet and income statement within 90 days of each year end;
- B. More frequent statements such as Accounts Receivable Agings, work in progress reports, or any other documents requested by the City to assist the borrower in the monitoring of the credit.
- C. Payroll reports showing employee status, on a quarterly basis.

**XXIV. FINANCIAL INQUIRIES**

The City will not provide responses to inquiries regarding credit status of program participants. Participants are advised that under the Public Records Act, the loan documents and related documents are subject to public disclosure and scrutiny. However, the City may, if appropriate, keep confidential certain information provided by applicants to the City to the extent permitted by law as determined by City in its sole discretion. The City shall have no obligation to incur legal fees to establish that information is not subject to the Public Records Act.

**XXV. INSURANCE**

All collateral taken as security for any credit must be insured appropriately as determined by the City; evidence of that coverage must be provided showing the City as "Additional Insured," "Loss Payee," or "Mortgagee," whichever is appropriate for the collateral insured. The lapse of any insurance will create a default on the Loan Agreement and must be remedied immediately by the borrower. If necessary, the City will obtain appropriate insurance to protect its collateral and debit the premium to the borrower.

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Additionally, in the case where real estate collateral is taken, a lender's Policy of Title Insurance will be required.

**XXVI. AMENDMENTS**

Amendments to these guidelines may be made from time to time by the City Council. Authority shall be granted to the City Manager or his/her designee to grant non-substantive minor waivers or non-substantive minor amendments to these guidelines, with the exception of state, federal or local laws, guidelines and regulations.