Passed 9-0

RESOLUTION 10-18

TO AMEND GUIDELINES FOR AND RENAME THE BUSINESS INVESTMENT INCENTIVE FUND (BIIF) PROGRAM

WHEREAS, the Common Council of the City of Bloomington ("Council") in Ordinance 86-04 established the Industrial Incentive Loan Fund with an initial allocation of $400,000 from the City's Special Non-Reverting Improvement Fund; and

WHEREAS, the ordinance provided for a revolving loan program from which loans would be made under procedures and criteria established by Resolution 86-06, which established guidelines for the administration of the Fund; and

WHEREAS, the Council subsequently adopted Resolution 99-17, which broadened the purpose of the program, changed the program name from the Industrial Incentive Loan Fund program to the Business Investment Incentive Fund ("BIIF") program, lifted the $400,000 lending cap, and made other amendments to the guidelines and procedures; and

WHEREAS, the Economic Development Commission, a statutory commission established by the Council pursuant to IC 36-7-12-5 and Bloomington Municipal Code Section 2.30 which oversees the administration of the BIIF, recently adopted additional amendments to the guidelines and procedures and recommends that the Common Council enact those amendments, which are included in "Exhibit A", which is entitled "City of Bloomington Investment Incentive Fund Operating Policies and Guidelines" and is attached hereto and incorporated herein; and

WHEREAS, the City of Bloomington Economic and Sustainable Development ("ESD") Department has worked, with a concentrated effort, to align the Departmental goals and objectives to go beyond the traditional assumption that job creation equals economic development. Consistent with the Council's efforts to redefine prosperity in Bloomington, the ESD staff strives to develop programs and structure incentives that prove that quality of life can enhance economic development and that the budding areas of sustainable development, arts-based economic development, social entrepreneurship and enterprises, and economic growth through the non-profit sector are important areas for sustainable job creation in Bloomington; and,

WHREAS, Given the focus on goals and objectives beyond traditional business and job creation, the Economic Development Commission hereby recommends amending the program name, to delete the term "Business" and simply replace with "Bloomington", thus entitling the program the Bloomington Investment Incentive Fund Program. This change will more precisely state that sectors, other than the traditional business sector can equate to strong economic development in the unique Bloomington community.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. The Common Council approves the attached document entitled the "City of Bloomington Investment Incentive Fund Operating Policies and Guidelines" in its entirety as an amendment to the guidelines and procedures for administration of the Fund. Subsequent changes to the Guidelines shall be approved by the Common Council.

SECTION 2. The Common Council renames the program the Bloomington Investment Incentive Fund.

SECTION 3. This resolution shall be effective from and after passage and execution by the Mayor and until rescinded by the Council.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1st day of DECEMBER, 2010.

ISABEL PIEDMONT-SMITH, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 2nd day of DECEMBER, 2010.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 2nd day of DECEMBER, 2010.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution amends the Business Investment Incentive Fund program, formerly known as the Industrial Incentive Loan Fund program, and renames it the Bloomington Investment Incentive Fund. Based upon the recommendation of the City's Economic Development Commission, this resolution amends the Fund's Operating Policies and Guidelines and allows for subsequent amendments by the Economic Development Commission. Prior resolutions, involving this Fund, include Resolution 99-17 and Resolution 86-04.

On December 1, 2010 the Council adopted three amendments to the resolution and guidelines. Am 01 amended Section 1 of the resolution. Am 02 amended Section IV of the Guidelines. Am 03 amended Section II(B)(4) and Section IV(A)(2)-(3).

Signed copies to:
legal
ECONDEV

paper - clerk (2)
CAPA (2)

City of Bloomington
Investment Incentive Fund
Operating Policies and Guidelines

I. BLOOMINGTON INVESTMENT INCENTIVE FUND (BIIF) DESCRIPTION

A. Statement of Purpose: The City of Bloomington seeks to expand economic opportunities while protecting the health of our environment and providing for the social equity of our citizenry. Working within this guiding framework of sustainable development, it is the intent of the City of Bloomington to assist in stimulating the economy and improving the quality of life in the community. One means of accomplishing this is by providing gap financing from the Fund to both new and expanding businesses and not-for-profit enterprises. This fund makes loans to eligible private businesses or not-for-profit organizations and makes grants to eligible not-for-profit organizations with the intention that such loans or grants will be instrumental in the creation and/or retention of jobs within new and existing enterprises, and that the projects funded will enhance the quality of life in the community. The loan or grant is not the primary source of financing for a project, however, the combination of public and private financing lessens the risk for the primary lender or investor and yields an overall lower cost of money for the borrower.

B. Goals and Objectives: The City of Bloomington seeks to work with healthy companies that have excellent potential for growth, will provide increased employment in the city and will help diversify the economic base. Further the **BIIF** seeks to:

1. Retain and attract enterprises that provide permanent jobs.
2. Provide financial assistance to eligible enterprises.
3. Support social enterprises and not-for-profits in contributing to the economic vitality of the community.
4. Further the Bloomington Entertainment and Arts District Strategic Plan and the sustainable development policies of the City.

C. Programs: The Bloomington Investment Incentive Fund is the funding source for the following programs:

1. General Revolving Loan Fund Program for:

   a. **Business retention, expansion, attraction:** Business demonstrating a commitment to job growth, quality wages and benefits, and the overall economic vitality of the community.
   b. **Public-purpose induced business relocation:** Business that is required to relocate due to acquisition of the property by the City of Bloomington for a project serving a public purpose. "Relocate" as used in this subsection means that the business is required to move its primary business operations from the property.

c. **Initiative with sustainability or arts related focus:** An initiative undertaken by a business or non-profit organization whose purpose may or may not be sustainability- or arts-related that will support the City's sustainability or arts policies or goals.

2. Business Disruption Bridge Loan Program
3. Grant Fund for non-profit organizations

D. **Geographical Limitation:** Only applicants within or contiguous to the City of Bloomington's corporate boundaries or within an "Area Intended for Annexation" (AIFA) are eligible to seek assistance from the Bloomington Investment Incentive Fund. The area must be properly zoned and have or plan to have access to adequate infrastructure, including water, sewer, roads, and telecommunications. If the business is located within the AIFA or contiguous to the City's corporate boundary and is eligible for annexation, then the applicant (and property owner, if different) must agree to voluntary annexation. If the applicant is ineligible for annexation at the time the loan or grant is approved, then the property owner must sign and record a waiver of remonstrance against future annexation.

E. **Ineligible Activities:** With exceptions as noted in the Business Disruption Bridge Loan, payroll and operational expenses (not including inventory), debt-service, liens, judgments are ineligible for funding by the BIIF.

F. **Evaluation criteria:** Certain factors shall be considered when evaluating an eligible loan or grant application. The Common Council and/or Economic Development Commission may choose to waive one or more of the requirements if it finds that public policy so dictates, or if requirement(s) do not apply. These criteria do not apply to the Business Disruption Bridge Loan. Evaluation criteria shall include, but are not limited to the following:

1. Strength of business plan or proposal, including:

   a. Extent to which sustainability goals are equal to traditional business goals and/or
   b. Extent to which proposal enhances Bloomington as an arts and cultural destination

2. Projected new jobs to be created as a result of the project.
3. Overall projected impact on the economic vitality of the community.
4. Priority will be given to applicants:

   a. Retain and attract enterprises that provide permanent jobs.
   b. Support social enterprises and not-for-profits in contributing to the economic vitality of the community.
   c. Further the Bloomington Entertainment and Arts District Strategic Plan and the sustainable development policies of the City.

5. Nature and extent of equity participation by principal owner(s).
6. Use of funds to leverage other sources of capital including venture, conventional, and grant funds.
7. Nature and extent of security/guarantees.
8. Credit history.
9. Expected tax base increases or decreases as a result of the project. (Loan Fund Only)
10. Any proposed tax abatements or other city/state-sponsored incentives expected to be received for the proposed project.

11. Compliance and compatibility with the City of Bloomington Unified Development Ordinance and the policies of the Historic Preservation Commission.
12. Projected public benefit of relocation.

II. PROGRAM ELIGIBILITY, USE OF FUNDS AND LOAN TERMS

A. General Revolving Loan Fund

1. **Eligible Businesses & Activities:** Any qualified business or not-for-profit enterprise is eligible to submit a loan application for permissible projects as identified by the guidelines. The following eligible activities have been targeted as the primary beneficiaries of loan proceeds to promote a diverse economic base.

   a. Business retention, expansion, attraction
   b. Public-purpose induced business relocation
   c. Initiative with sustainability or arts related focus

2. **Permissible Uses of Funds:** Loan proceeds shall be applied to qualified capital improvement costs associated with a qualified project including land acquisition; building acquisition; construction, expansion, or renovation of buildings; purchase of eligible equipment or inventory; infrastructure improvements; or workforce development in combination with capital expenditures with no more than 20% of the loan amount being used for Workforce Development purposes.

3. **Loan amount:** Loan maximum amount is 50% of total project cost for projects with total cost at or under $100,000, and 20% of any remaining project costs over $100,000. Total loan amount is not to exceed $100,000 and no loan shall be granted that equals more than 20% of the total fund balance.

4. **Interest Rate:** The interest rate will be the highest rate currently generated by other City fund investments at the time of application. The interest rate assigned is valid for a period of 90 days from the receipt of both completed application and application fee.

B. Business Disruption Bridge Loan Fund:

1. **Eligible Businesses & Activities:** A qualified business that suffers significant loss of sales and revenues in an area determined to be economically distressed due to disruptions caused by a City of Bloomington project is eligible to submit a loan application for short-term operating capital costs. For the purposes of this program, a City of Bloomington project is defined as any project lasting more than ninety (90) days that is initiated by the Parks and Recreation, Public Works or Utilities departments. Businesses applying for loans under this section must have been in operation at their affected site for at least 12 months prior to the start of construction of the project.

2. **Permissible Use of Funds:** Loan proceeds shall be applied to rent or mortgage, utilities, payroll, or other unavoidable expenses necessary to maintain the business at a minimum operational level.

3. **Loan amount:**

a. Subject to the availability of funds, a maximum of $150,000 in loans per project may be given out under this section unless the Common Council appropriates additional funds for this specific program.
b. Maximum loan per qualified applicant is $35,000.
c. The Committee may request a special warrant from the City Controller's office for expedited release of moneys from the fund if it determines that the business receiving the loan has demonstrated reasonable need for loan proceeds prior to schedule.

4. **Interest Rate:** No interest shall be charged or accrued on loans before the date the City of Bloomington project is complete. This date shall be determined by the BIIF Review Committee, in conjunction with the city department performing the project. Thereafter, interest on each loan shall accrue at the end of each month with an annual rate equal to one percent of the unpaid balance of the loan.

5. **Evaluation Criteria:** The loan BIIF Review Committee shall establish criteria for the acceptance, review and approval of Bridge Disruption loans, which shall at a minimum include, but not be limited to, the following:

a. Each business must demonstrate financial need for the loan in order to meet minimum operation expenses, including but not limited to rent or mortgage, utilities, payroll, or other unavoidable expenses necessary to maintaining the business at a minimum operational level.
b. Each business shall provide sales figures for the current time period in which the business has experienced economic distress due to the project, along with sales figures for the same time period in the prior calendar year.
c. Each business shall provide proof of similar expense levels required to generate the same level of sales in the current time period, compared to the sales levels for the same time period in the preceding calendar year.
d. Each business shall provide a plan that describes how the business will use loan proceeds; forecasted expenses and revenues for the period beginning with the first day of the month in which the loan is granted through the last day of the month preceding the month in which the loan is granted of the following year; and a proposed repayment schedule of the total loan amount shall be provided no later than one (1) year from the date on which the loan closing occurs.

C. Non-profit Matching Grant Fund:

1. **Eligible Organizations & Activities:** The non-profit grant fund is intended to encourage capital improvements to facilities owned and/or operated by eligible non-profit organizations. Under this section eligible non-profits are defined as follows:

a. Organizations that have a retail or commercial activity as a primary purpose including, but not limited to: performance venues, galleries, or retail shops.
b. Operate a social enterprise, in which at least one social or environmental goal is considered to be of equal importance to traditional commercial or other business goals.

2. **Permissible uses of funds:** Grant proceeds may be applied to qualified capital improvement costs including building and/or land acquisition; construction, expansion, or renovation of buildings; purchase of eligible equipment or inventory; or infrastructure improvements.

3. **Grant amount and Terms:**

   a. Subject to the availability of funds, a maximum of $50,000 in grants may be given out under this section in any calendar year.
   b. Maximum grant per qualified applicant is 50% of total project not to exceed $25,000.
   c. Grant disbursements are limited to one every 5 years per organization.
   d. Grant funds are in lieu of loan funds.

III. ADDITIONAL TERMS AND CONDITIONS

A. **Term:** The term will range between five and fifteen years. It will be defined based on the project at hand and is subject to approval.

B. **Confidentiality of financial and proprietary documents:** Financial and proprietary information provided to the City of Bloomington for the purpose of the Bloomington Investment Incentive Fund application process will be held confidential to the extent allowed by law. Economic and Sustainable Development Department staff will advise applicants on a case by case basis regarding the submittal of financial and proprietary information including, but not limited to, products, services, systems and concepts to protect the proprietary nature of said information.

B. **Payments on Loan Funds:** Principal and interest payments are to be made monthly. All payments are due on the first day of each month. Payments received after the tenth of the month will be assessed a 5% late fee.

   Loan payments are to be mailed to:
   City of Bloomington
   Controller's Office
   P.O. Box 100
   Bloomington, IN 47402

C. **Security for Loans:** Acceptable collateral includes a mortgage against real estate with at least 20% equity remaining after total project financing is secured, a lien against the cash value of life insurance, a lien against a Certificate of Deposit Account, a lien against qualified equipment, and/or any other acceptable and approved form of security.

   Loans will be secured to the extent that such security is feasible and does not impair the ability of the borrower to conduct its activities. Loans may be subordinated to other financing, to and including a subordinated position on personal guarantees, as long as the city's loan is adequately secured.

D. **Default** and Noncompliance

   1. If a **grant** agreement is violated, it may be declared in noncompliance and become due and payable within 30 days of written notice to the non-profit organization.

   2. **Loans** under the BIIF program may be declared in default and become due and payable within 30 days of written notice to the borrower for any of the following reasons:

      a. Failure of borrower to disclose any and all facts pertinent to the loan approval or any misrepresentation of information.

b. Failure of borrower to make timely payments.
c. Failure of borrower to use loan funds as described in the BIIF application.
d. Failure of borrower to maintain mortgaged property, keep it insured and/or pay property taxes on it.
e. Relocation of funded business activity or a significant part of the business activity without receiving specific approval from the Common Council.
f. Failure to comply with any material terms of the loan documents, including but not limited to, the loan agreement, mortgage, financing statement, and personal guaranty.
g. Failure to comply with voluntary annexation agreement or waiver of remonstrance agreement.

IV. APPLICATION FEE AND APPROVAL PROCESSES

All applications are first reviewed by the BIIF Review Committee. **BIIF Review Committee Membership:** The committee will be composed of the following members: the Director of the Economic and Sustainable Development Department or his/her departmental designee, a representative from the local financial lending community, the City Attorney or his/her departmental designee, the President of the Economic Development Commission or his/her designee from the Economic Development Commission and the Common Council member serving on the Economic Development Commission. The BIIF Review Committee shall be chaired by the Director of Economic & Sustainable Development. The Committee shall meet as often as needed.

A. The following procedures apply to the General Revolving Loan Fund and the Non-profit Grant Fund:

1. Upon receipt of a completed application and a $100.00 processing fee, the Director of Economic & Sustainable Development shall schedule a meeting of the BIIF Review Committee ("BRC").

2. Loans less than $75,000 recommended for approval by the BRC will be forwarded to the Economic Development Commission for final approval.

3. Loans of $75,000 or more and all grants that are recommended for approval by the BRC will require both Economic Development Commission and Common Council approval.

4. Upon final approval, the Department of Economic & Sustainable Development shall coordinate with the City's Legal and Controller's Department to prepare all necessary grant agreements or loan documents and a loan closing date. The borrower or grant recipient shall sign all necessary documents and agreements.

B. The following procedures apply to the Business Disruption Bridge Loan Fund.

1. Upon receipt of a completed application, the Director of the Department of Economic & Sustainable Development shall schedule a BRC meeting. The processing fee for the Business Disruption Bridge Loan fund shall be waived.

2. The BIIF Review Committee shall make final determination for all Business Disruption Bridge Loans.

3. Upon final approval, the Department of Economic & Sustainable Development shall coordinate with the City's Legal and Controller's Department to prepare all necessary loan documents and a loan closing date. The award recipient shall sign all necessary documents and agreements.

C. Applications and other materials.

1. The Department of Economic & Sustainable Development shall devise all application procedures and documents as necessary to fulfill these guidelines.

V. RELEASE OF FUNDS

A. All supplemental matching funds, securities, lien documents, insurance documentation, title insurance policies, and other conditional documentation or action applicable must be secured within 90 days. Failure to comply with any terms, conditions, or other requirements within this time period may result in nullification of the approved loan or grant.

B. All documentation must be on file with the Department of Economic & Sustainable Development and approved by the City of Bloomington's Legal Department prior to any release of funds.

C. Loan funds may be disbursed in full at time of closing or in two disbursements within the first year following approval.

D. Claims for the payment of Business Disruption Bridge Loan proceeds do not need approval of the Board of Public Works prior to disbursement. The Department of Economic & Sustainable Development will submit claims according to the City Controller's standard claim schedule.