



Department of Planning & Community & Economic Development  
Economic & Community Development Division

## Office of Business Resources

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**TO: Economic Development Commission**

**FROM: Matthew B. Mikolajewski**

**DATE: August 29, 2007**

**SUBJECT: Recommended amendments to BREWD Guidelines**

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Following introduction of the Brownfields Remediation/Elimination & Workforce Development (BREWD) guidelines to the Common Council on August 7, 2007, staff has received suggestions for improving the BREWD Guidelines. The purpose of this memo is to outline these recommended changes to the BREWD Guidelines for consideration of the Economic Development Commission (EDC) at their September 5, 2007 meeting. If the EDC approves the BREWD guidelines on September 5<sup>th</sup>, they would next be referred to the September 11<sup>th</sup> meeting of the Board of Estimates.

### **Modifications to Emphasize Job Creation/Retention**

At its August 15, 2007 meeting, the EDC requested staff to develop alternative language to strengthen the job component of the BREWD program. Although tying job creation/retention to financial assistance is quite common, the criteria used is as varied as the programs. Following is a *sample* of job requirements for common programs:

Federal CDBG: Typically must create one (1) new position taken by, or made available to, a low-to-moderate income person for every \$35,000 of Federal CDBG dollars received.

Wisconsin Transportation Economic Assistance (TEA): A maximum of \$5,000 provided per new job. Jobs must be created within three (3) years and retained for seven (7) years.

Wisconsin Technology Zone Tax Credit: Must be new positions paying at least \$13/hour.

As specified in the current language of the BREWD program guidelines, all projects must have an employment-based plan for the property to be implemented immediately following remediation of the site. The question therefore becomes whether or not the EDC desires to require a greater jobs standard for BREWD eligibility and/or bonus modifications for projects meeting a certain job standard?

The job discussion at the last EDC meeting centered on the number of jobs, type of jobs created, and how long the jobs must be maintained. Following is sample language that could be used to specify number of jobs:

*“Within two (2) years of Project completion, no less than one (1) **new (?)** permanent full-time-equivalent (40 hours per week) Position that conforms to the City of Madison Living Wage Ordinance (Section 4.20, MGO) shall be employed on the Property for every \$35,000 of BREWD funds loaned or granted.”*

By type of job, staff infers a preference for permanent positions, which pay at least a moderate wage. Following is sample language that could be used:

*“Within two (2) years of Project completion, at least 50% of **new (?)** employees employed on the Property are permanent and paid annually at or above 60% of the Area Median Income calculated assuming a household of one (1).”* (For reference, the 2007 60% AMI for HH of 1 is \$30,960, or approximately \$14.88 per hour).

In both examples, the values included are arbitrary, and could be adjusted per the guidance of the EDC. The EDC should also consider if these positions must be new, or if they could be relocated from another site.

The EDC could utilize the job standards noted above in one of several ways:

1. The EDC could mandate one or both of the job standards noted above as requirements for eligibility to receive BREWD funds.
2. The EDC could include one or both of the standards as bonus criteria within the guidelines.
3. The EDC could include one or both of the standards as criteria that would automatically grant bonus modifications, irregardless of the project meeting any other bonus criteria.

Staff cautions the EDC that any absolute mandate regarding jobs for BREWD eligibility would automatically remove projects for consideration at an administrative level. In other words, applicants would either not apply for funding, or staff would inform the applicant that he or she would not be eligible if it were apparent that a project did not meet one of the mandated requirements. As this may prevent some worthwhile projects from becoming apparent to the staff or EDC, staff would recommend that these standards be included as bonus criteria, rather than requirements.

Assuming the EDC concurs with including the job standards noted above as bonus criteria, staff recommends deleting the following bonus criteria currently found within the BREWD guidelines:

*“The redevelopment/reuse of the Property accommodates the creation of 20 or more new permanent full-time-equivalent (40 hours per week) Positions that conform to the City of Madison Living Wage Ordinance (Section 4.20, MGO) within one (1) year of Project completion.”*

Regarding the tenure of positions created or retained through the BREWD program, it is important to consider the disparate nature of BREWD projects. Some projects will likely be owner-occupied with a single user, while others will be leased to multiple parties. Some will have repayment for a period of five (5) years, while others will be ten (10). Some will take advantage of the program’s bonus modifications, while others will not. Therefore, staff recommends that tenure of jobs on the Property be tailored within the loan documentation for each individual project.

In a similar manner staff recommends tailoring penalties if job standards, or other bonus criteria, are ultimately not met to the specific loan and ownership structure of each project.

## **Land Use Language**

To clarify the relationship between the BREWD program and other City planning initiatives, staff recommends adding the following language to the “BREWD Requirements” section of the guidelines:

“The BREWD Program is a financing tool to assist with the remediation of environmentally contaminated property within the City of Madison. Awarding of BREWD funds is contingent upon the proposed end-use of the property receiving the necessary approvals and permits from the City of Madison. In no way should these guidelines, and attachments thereto, be construed as superseding authority of the City’s Zoning Ordinance, Comprehensive Plan, adopted neighborhood plans, other adopted City plans, Plan Commission, or Common Council.”

## **Eligible Cost Additions**

Staff recommends adding the following two items to the list of eligible costs:

- The premium to purchase brownfield liability insurance through the Wisconsin Brownfields Insurance Program (WBIP).
- Costs associated with capital equipment needed to carryout remediation, including costs associated with monitoring equipment.

## **Amendment to Mapped Boundaries for Bonus Criteria # 1**

Several amendments were made to the boundaries of areas in the City eligible to receive Bonus Criteria # 1 in an effort to remove residential neighborhoods while adding additional commercial property. Suggestions to modify the maps further would be welcome. The maps were also renamed to better reflect their intended purpose.

## **Other Amendments**

Staff appreciates the feedback that was received from the community after introduction of the BREWD Guidelines to the Common Council. Following is a list of additional edits that staff recommends incorporating into the final BREWD guidelines:

- Specify within definition of “Applicant,” that prospective purchasers with an option on the Property in question may apply (p. 2).
- Provide a reference for the section of the Comprehensive Plan that defines transit-oriented development (p. 2).
- Reinforce that all three of the Forgivable Remediation Loan criteria must be met for a loan to be forgiven (p. 3).
- Note that required off-site remediation activities are eligible, regardless of the use of the off-site property (p. 4).
- Allow a DNR “Approval for Remedy” to be used in lieu of a “Closure Letter” in circumstances where full closure cannot be granted until after the post-Project construction occurs, or another clearly specified event takes place (p. 5).
- Under responsible party exceptions, allow an exception in situations where a tenant caused contamination with no knowledge of the owner (p. 5).
- Re-draft timing section to emphasize that Phase I Assessments, Phase II Assessments, and Remedial Action Plans completed before application are eligible remediation costs (p. 4/5).
- Simplify Sections II B, C, & F of the application to request the ownership history of the property to the best knowledge of the Applicant, including when along the chain of ownership

contamination occurred or continued, and any due diligence activities (ie. site investigation) on the part of the current or previous owners.

- Delete “Phase I Environmental Site Assessment” from Section V E, recognizing that the City would be interested in any site assessments that have been completed to date.
- Add “or equivalent” to Section V F of the application.
- Note that VPLE is not a requirement of the Applicant under Section V J of the application.
- Other similar minor text and grammar modifications may be made to the BREWD Guidelines prior to final approval.