



**LAND VALUE INVESTMENT (LVI)
PROGRAM GUIDELINES**
(Version 1.2)



Delray Beach Community Redevelopment Agency
December 20, 2010

Land Value Investment (LVI) Program

A Land Lease Program of CRA Owned Properties

INTRODUCTION

Projects in the City of Delray Beach Community Redevelopment Area (CRA) may be eligible for a real estate development incentive known as the Land Value Investment (LVI) Program. This incentive is instituted to expedite development of CRA Owned parcels in the Delray Beach CRA District. The CRA would invest its land value under a long term land lease in return for fulfilling the following three objectives of the Downtown Master Plan:

- Improving both the perception of the area and the property values/marketability of surrounding properties;
- Creating needed services, jobs and entrepreneurial opportunities for the community;
- Creating and supporting an infrastructure that can host high-wage jobs, in order to build-up Delray Beach's year-round day-time population that in turn will support existing and future businesses.

Targeted projects are commercial multi-story projects that support the Program Objectives of the Economic Development Incentives for Job Creation in the CRA Plan.

The incentive is a CRA low-cost land-lease program in which a private or public entity leases CRA owned land and constructs a targeted project as identified above.

HISTORY

The 2009 amendment to the CRA Plan identified sections of the Downtown Master Plan which emphasized the importance of the creation of new office space and high-paying jobs in the downtown to compliment the service sector jobs. Attracting a year-round day-time population of business people will support the downtown merchants and downtown restaurants. In addition, well paying jobs in the City of Delray Beach will strengthen the economic wellbeing of the local residents, and the local residential real estate markets. However, the absence of Class-A office space in the CRA District makes it very difficult to attract these high-paying jobs. Despite the attractiveness of the downtown as a place to do business, economic hurdles still exist that have deterred investors from creating such projects. The CRA plan recognizes that incentives become necessary to encourage developers to build the office buildings and attract the jobs. Development Finance Programs may involve "Land Assistance Programs" to provide assistance to job creation projects with cheaper land costs through free land and land leases to be used to lessen the cost of a project.

INCENTIVE AND GENERAL TERMS

The incentive which the CRA would provide to a developer would be in the form of a long term land lease of unencumbered CRA owned land for a long term use as described below. A formal Public Private Partnership (PPP) land lease agreement would be negotiated, subject to final approval by the CRA Board of Commissioners. The length of the initial Land Lease shall be up to 40 years, subject to applicant's lending institution's requirements, and the CRA Board's approval.

The Lease terms may be extended an additional 20 years at market rate. The lease payments, as provided in the proposed long term lease, shall be as described herein:

- a) Terms shall be for a triple net lease; lessee shall be responsible for taxes, insurance and any maintenance expense that arises from the use of the property.
- b) During the first 10 years of the lease term, the developer shall submit to the CRA an audited financial statement for the project (including a profit and loss operating statement) every five years. In addition the developer shall submit non-audited financial statements annually.
- c) First five-year Lease term:
The land lease payments for the first five-year term would be \$1.00 per annum triple net. The developer shall submit a projection of the profit and loss statement for the first stabilized year of the project.
- d) Second five-year lease term:
Land lease payments for the second five-year lease term would commence on the first day of the sixth year of the land lease. The land lease payments shall be based upon an analysis of both the market value of the property and the pre-tax profit and loss operating statement of the project, based upon a benchmark agreed to by both the CRA and the project owner as described in the Public Private Partnership Agreement. Notwithstanding the conclusion of the analysis, the annual lease rate for the second five-year term would not exceed 4.0% of the appraised value of the property as established by an appraisal conducted by the CRA (at the building owner's cost) four months prior to the end of the first five-year term. Land lease payments to the CRA shall be made monthly. Lease rate shall be triple net.
- e) Third five-year lease term:
The annual lease rate for the first year of the third five-year term shall be equal to 6.0% of the appraised value of the property as established by an appraisal conducted by the CRA (at the building owner's cost) four months prior to the end of the second five-year term. Land lease payments shall be made monthly. The land lease payments to the CRA would have an annual compounding increase of 2.5% during the third five-year term. Lease rate shall be triple net.
- f) Subsequent lease term:
At the start of the sixteenth year of the lease term, the annual lease rate shall be equal to 8.0% of the appraised value of the property as established by an appraisal conducted by the CRA (at the building owner's cost) four months prior to the end of previous year of the lease term. The land lease payments to the CRA would have an annual compounding increase of 2.5% during the balance of the forty-year term. Lease rate shall be triple net.
- g) Four months prior to the end of each five-year term, an appraisal of the land would be conducted by the CRA, at the Developer's cost, to determine the market value of the land.
- h) Developer must submit to the CRA annually a copy of the real estate taxes paid receipt;
- i) The Developer shall have the option to purchase the property from the CRA at any time during the Lease term.

PROGRAM LIMITS

The LVI Program shall be available to business/developer organizations who are awarded development rights on CRA properties through an RFP process.

The LVI Program is contingent on funding availability and CRA Board approval, and is not to be construed as an entitlement or right of a property owner or applicant. Properties in the CRA areas are not eligible for CRA funded programs when such funding conflicts with the goals expressed in the CRA Redevelopment Plan.

ELIGIBILITY REQUIREMENTS

Applicants must meet all of the following requirements in order to be eligible to receive assistance through the LVI Program:

1. Applicant's proposed project shall be consistent with the City of Delray Beach's Land Development Regulations, the CRA Plan, the West Atlantic Avenue Redevelopment Plan (if applicable), the Downtown Master Plan, and the Downtown Cluster Analysis and Retail Strategy. In general, these plans call for development and redevelopment projects to consist of retail, restaurant or service uses on the ground floor, with office components occupying second floors. Copies of the CRA Plan, Downtown Master Plan and the Downtown Cluster Study may be downloaded at www.delraycra.org.
2. All proposals shall be subject to City of Delray Beach approval process.
3. A minimum of 50% of the project's net floor area, exclusive of hotel/conference uses, must be dedicated to Class-A office space.
4. A minimum of 75% of the project's net floor area must be dedicated to non-residential space.
5. The LVI Program is contingent on funding availability, CRA Board approval, and the execution of the PPP Agreement by the CRA and the Applicant, and is not to be construed as an entitlement or right of a property owner or applicant.
6. The Project owner or developer must have a minimum of 20% of project costs (equity) in the financing structure of the construction project.
7. Projects within the West Atlantic Avenue redevelopment area are eligible for the following additional incentive: the project design, at the developer's request, could require that a portion of the required parking is constructed by the CRA as public parking on CRA owned land within 300 feet of the project. However, parking constructed and owned by the CRA would be available to be shared with future uses within the redevelopment area, and would be available as public parking after 5PM on weekdays and on weekends. The Delray Beach CRA would commit to make the required number of spaces available to the project in perpetuity.
8. The project developer agrees that the project shall meet the following criteria in order to qualify as a Class-A Office Building:
 - a) Office space shall have ten feet minimum clear ceiling heights

- b) Office building must be multi-story, and Floor to Floor heights shall not be less than 13 feet
- c) There must be a public entrance lobby at the ground floor, and the entrance Lobby at ground floor shall be large enough to accommodate information desk and to allow occupants and guests to congregate.
- d) Elevator access must be through an interior lobby, and lobbies in all floors shall be air-conditioned
- e) All common exit corridors and public access ways to upper floor tenant occupied spaces shall be air-conditioned space (no exterior walkways)
- f) HVAC system shall be free of HCFC's and Halons
- g) Project must utilize impact resistant glazing and impact resistant entry points
- h) First floor lobby floor finishes shall be a hard surface such as granite or similar (no thin-set tile with grout joints, no carpet)

PROCEDURES FOR IMPLEMENTATION

1. **Application Process** – Funding requests will not be considered until all required documentation is submitted to the CRA office. Application packets must include the following documentation:
 - a. Completed/executed application
 - b. Proposed project site plan, floor plans and building elevation (see Application Form for specific requirements)
 - c. Business Plan, including executive summary, development costs, & fifteen-year operation Pro Forma including financial projections of revenues and expenses
 - d. 3-year historical financials of owner(s) or related entity
 - e. Analysis of potential jobs that the project will generate in the Delray Beach CRA
 - f. Preliminary estimate of Construction Cost prepared by a Florida Licensed General Contractor
 - g. Additional items as required in the attached Application Form
2. Prior to Application submittal, it is strongly suggested that the Applicant meet with City of Delray Beach Planning & Zoning staff for a preliminary review of proposed project plans and construction budget. A Zoning Verification letter prepared by the City's Planning and Zoning Department indicating that the project conceptually meets the requirement of the City of Delray Beach's LDR's shall be included with the application. The CRA Board reserves the right to approve the architectural drawings and site design.
3. **Approval of Land Value Incentive Program** – Once eligibility is verified and all required documentation has been submitted, CRA staff will present the Land Value Incentive request to the CRA Board of Commissioners for consideration. It is strongly suggested that the applicant be present at the CRA Board meeting and be prepared to answer questions by the CRA Board. Staff will notify the applicant of approval, if granted.

4. **Public Private Partnership Agreement** – Following authorization by the CRA Board, the CRA and the Applicant shall negotiate and enter into a Public Private Partnership (PPP) Agreement which will clarify the terms and conditions of the land lease, subject to the approval of the CRA Board of Commissioners, and Section 163.380, Florida Statutes, as may be amended from time to time.
5. **Site Plan Approval and Site Plan Certification** –After CRA Board Approval of the PPP Agreement, the applicant shall be obligated to complete the following project milestones within the specified time periods:
 - a. Site Plan Application submittal to City within 60 days
 - b. Site Plan Review and Appearance Board Approval within 180 days
 - c. Site Plan Certification by the Planning and Zoning Department within 270 daysIf these steps are not completed within the specified time frame from the CRA Board approval of the PPP Agreement, both the PPP Agreement and the Land Value Incentive approval will be terminated.
6. **Start of Construction** - Bank Financing, if needed, must be secured before the start of construction. Construction shall start within the time frame specified in the PPP Agreement. If construction does not start within the specified time frame, the PPP Agreement and the Land Value Incentive approval will be terminated
7. If deemed necessary, the Community Redevelopment Agency (CRA) reserves the right to have the application and its contents evaluated and analyzed by an outside third party including but not limited to: the proposed development pro-forma, partnership/ownership information with equity positions, mortgage documents on the property, lease agreements, letter of Intent from lending institution and any other documents provided by the applicant.

PROGRAM INQUIRIES

Please direct inquiries on the Land Value Incentive Program, including obtaining a complete application packet, to the following:

Community Engagement Director

Delray Beach CRA
20 North Swinton Avenue
Delray Beach, FL 33444
561-276-8640

For website information go to www.delraycra.org.

Please note that the Delray Beach CRA is a public agency. As such, the CRA is governed by Section 119.07, et.seq., Florida Statutes, the “Florida Public Records Law.” Any documents provided by the Applicant may be subject to production by the CRA, upon receipt of a public records request, subject to any exemptions provided by Florida Law.

PLEASE READ THE FOLLOWING PRIOR TO APPLICATION SUBMITTAL

- a) The Project owner or developer must have a minimum of 20% of project costs (equity) in the financing structure.
- b) After authorization by the CRA Board, the CRA and the Applicant will negotiate a Public Private Partnership Agreement to govern the long term lease of the Property. The Agreement is subject to the approval of the CRA Board of Commissioners.
- c) If deemed necessary, the CRA reserves the right to have an outside third party analyze the application and its contents, including but not limited to: the proposed development proforma, partnership/ownership information with equity positions, mortgage on the property, tenant lease agreements, letter of Intent from lending institution and any other documents provided by the applicant.
- d) Upon approval of the PPP Agreement, the property must remain free of all municipal and county liens, judgments or encumbrances of any kind under the terms of the agreement.
- e) The Applicant may not employ or retain any company or person, other than a bona fide employee working solely for the applicant, to solicit or secure the grant award, and not pay or agree to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the applicant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the grant award.
- f) Definitions:
 - a. Net Floor Area: The floor area of a building, measured from the finished interior wall surface of the outer building walls, excluding major vertical penetrations of the floor (mechanical shafts, etc.) elevators and elevator shafts, stair wells, mechanical equipment and electrical rooms, parking areas, trash rooms, common restrooms, common lobbies, common hallways, and storage areas.

I have read completely and understand the **Land Value Incentive Program**, including the application guidelines and the lease terms.

_____ **Business/Organization Name**

_____ **Applicant Signature**

Date _____

_____ **Applicant First and Last Name**

_____ **Title (in Business/Organization)**