



City of Las Vegas
Economic Development Projects

EMPLOYMENT PLAN POLICY

Adopted
April 6, 2011

TABLE OF CONTENTS

Section 1

City of Las Vegas Economic Development Projects

Term Descriptions

Section 2

City of Las Vegas Economic Development Projects

Employment Plan Policy

Section 3

City of Las Vegas Economic Development Projects

Reporting Template

SECTION 1: TERM DESCRIPTIONS

“Build-to-suit Developer” means any private developer who constructs a project in accordance with the customized specifications of a known owner and/or lessee to whom the developer will, upon completion, convey or lease the premises.

“Build-to-suit Owner/Lessee” means the owner or lessee of a project which has been constructed by the developer to the customized specifications of the owner/lessee.

“City of Las Vegas Resident” means an individual whose primary place of residence is within the City of Las Vegas boundaries.

“Developer of Speculative Space” means any private developer who constructs a project for the purpose of conveying or leasing the premises to an unknown owner and/or tenant.

“Disabled” means a physical impairment, with respect to an individual, that substantially limits one or more of the major activities of such individual: A record of such impairment; or Being regarded as having such impairment.

“Disposition and Development Agreement (DDA)” means an agreement that sets forth requirements for the sale, lease, exchange acquisition, or disposal of real property owned by the City, where a specific type of project is developed.

“Economically Disadvantaged” means any individual who meets the present poverty guidelines established by the Federal government as a poverty measure. The guidelines are issued each year in the Federal Register by the Department of Health and Human Services (HHS).

“Members of Racial Minorities” means or describes an individual that is: Black or African-American, Hispanic-American, Native-American, Asian-Pacific American, Subcontinent Asian-American, Native-Hawaiian or other Pacific Islander.

“Owner Participation Agreement (OPA)” means any agreements where the City is participating with a landowner for the development of a site by providing some form of financial concession.

“Participation Agreement (PSA)” means any agreements where the City is involved in the acquisition or sale of real property.

“Private Developer” means any person or entity that is proposing to construct a project and will receive financial assistance from the City and includes developers of either speculative or build-to-suit projects.

“Veteran” means any honorably discharged soldier, sailor, marine, nurse, or army field clerk, as well as reserve components of these services, who have served in military service of the United States.

SECTION 2: CITY OF LAS VEGAS

ECONOMIC DEVELOPMENT PROJECTS EMPLOYMENT PLAN POLICY

POLICY

This employment plan policy is prepared in accordance with the City of Las Vegas Economic Development Projects Resolution dated April 6, 2011, which adopted this City of Las Vegas Economic Development Projects Employment Plan Policy (hereinafter referred to as "Policy"). This Policy only applies to recipients of economic development assistance from the City of Las Vegas (hereinafter referred to as "City") for projects which are in furtherance of economic development in the City. In accordance with the Policy, developers and build-to-suit owners which receive economic development project funds or other forms of assistance from the City are required to hire local residents who live within the city of Las Vegas boundaries and encouraged to hire economically disadvantaged residents, members of racial minorities, women, disabled or veterans (hereinafter collectively referred to as "M/W/D/VBE").

OBJECTIVE

The immediate purpose of this Policy is to provide developers and build-to-suit owners/lessees with the guidance necessary to prepare and implement an employment plan when participating in a private economic development project funded by the City of Las Vegas. The ultimate result of this Policy is to ensure that the persons identified in the resolution have the opportunity to benefit from economic development projects as fully as the community at large.

APPLICABILITY

Related Agreements: The requirements of the Policy shall be included in the Owner Participation Agreement ("OPA"), the Disposition and Development Agreement ("DDA") and/or the Purchase and Sale Agreement ("PSA"), (hereinafter collectively referred to as "Agreements"), between the developer and the City.

Entire Project: Even though portions of a project may not be supported by City funds, private developers and build-to-suit owners/lessees may prepare and implement an employment plan for the entire project. Developers and build-to-suit owners/lessees who submit an employment plan for the entire project and meet the goals of that plan are eligible for an additional incentive to be determined on a pro-rated basis.

Public Agencies: A public agency which is using City funds for the design or construction of a project being built as a public work pursuant to NRS 338 is exempt from this Policy and therefore is not required to submit an employment plan. Instead, such public agency shall adhere to NRS 338 and any state and local law governing public works projects.

Threshold: All projects receiving economic development assistance from the City valued over \$100,000 must submit an employment plan and will be subject to reporting requirements.

RESIDENT PARTICIPATION REQUIREMENT

For new construction jobs and build-to-suit permanent employment jobs resulting from a private economic development project, the private developer is required to give preference to residents living within the City of Las Vegas boundaries.

- **30% of all new jobs created as a direct result of the project are required to be filled by bona-fide residents of the City of Las Vegas — REQUIRED**

Verification of residence may be provided by the employee in the form of a drivers' license or by legal address as evidenced by their IRS tax forms. Participation shall be inclusive of subcontractors, sub-tier subcontractors, vendors and suppliers. **Reporting and demonstration of efforts is required.**

RESIDENT PREFERENCE INCENTIVE

Projects receiving City economic development assistance call for specific resident participation requirements which will make the project eligible for an incentive. Accordingly, 10% of the negotiated incentive will be awarded as a bonus, if the resident participation requirement is achieved. A Pass/Fail approach will be used to determine compliance and partial achievement will not be considered.

The City's contract agreement will provide project-specific details regarding the negotiated incentive package and what the developer or build-to-suit owner/lessee must do to comply with the employment plan. The negotiated incentive will vary depending on the type of project being developed. For example, for those projects where non-cash incentives are being provided (i.e. the sale of land below fair market value), the City may require a cash deposit of 10% to be provided by the developer and the deposit will be returned based on successful achievement of participation goals.

Reporting and demonstration of efforts is required. Prior to the start of construction, failure to adhere to all required program elements, as further described below, will constitute grounds for withdrawal of the entire incentive.

MINORITY PARTICIPATION GOAL

The minority participation goal is designed to ensure that all segments of the local business community have a reasonable and significant opportunity to participate in City contracts involving economic development projects.

- **15% participation of "M/W/D/VBEs" — ASPIRATIONAL GOAL**

The minority participation represents the total value of sub-contracts and materials agreements awarded to M/W/D/VBEs. Participation shall be inclusive of Subcontractors, Sub-Tier Subcontractors, Vendors and Suppliers. **Reporting and demonstration of efforts is required.**

An M/W/D/VBE may participate as a prime contractor, sub-contractor, as a joint venture partner with a prime or sub-contractor, or as a vendor of materials and/or supplies. Only those sub-

contractor(s) and suppliers contracting directly with or to be paid by the prime contractor may be credited towards the participation goals.

A sufficient portion of the work must be made available to sub-contractors and suppliers consistent with M/W/D/VBE availability and capacity. If the minority participation goals are not met, information documenting specific actions taken must be submitted prior to the contract award in order to receive credit towards compliance.

PROGRAM ELEMENTS: PRIVATE DEVELOPER

Developers shall submit an employment plan for the construction phase of a project. The developer shall adhere to the employment plan only during the construction phase of the development.

Initial Submittals: The developer shall provide the City with a list of all contracts and dollar amounts let for construction as soon as available. The list must be kept up to date throughout the construction phase. The City recognizes that plans and specifications are often at an early stage of preparation when the Agreement is approved, making it impossible to identify in the employment plan the contracts being let for construction. Consequently, once bids are awarded, the developer shall submit an addendum to the employment plan identifying the construction projects.

Contracting Decisions and Waiver: The developer has the right to make the final decision on contracting, but the City will balance that right against the developer's duty to comply with the employment plan. If, after diligently implementing the employment plan, the developer has not identified enough qualified City residents or M/W/D/VBEs to meet the contracting requirements and goals, the developer may enter into contract for the construction of the project, but only after providing written notice and justification to the City.

Structuring the Bid by Size and Type of Work: Meeting the participation requirements and goals requires a developer to be proactive. Very early in the design process, the developer should work with their construction manager, architects, and engineers to design the project and structure the bid to facilitate bidding by residents and M/W/D/VBEs. Staff members of the City's Equal Opportunity Contracting Section in the Purchasing and Contracts Division are available to assist in this process.

Input from M/W/D/VBE Contractors: After having designed the project from the beginning with a view toward making resident and M/W/D/VBE participation easier, the developer should seek input on the bid from local qualified contractors and subcontractors, including M/W/D/VBEs. This exchange of information often takes place during a pre-bid meeting. The developer can then make any necessary refinements to the project based on that information. A staff member of the City's Equal Opportunity Contracting Section should be a key participant.

Dissemination to M/W/D/VBE Contractors: Once bid documents are complete, the developer shall provide timely notice of bid letting to M/W/D/VBEs using the City's Minority Business Directory. The developer is not limited to the Minority Business Directory but may obtain minority contractors from other sources, provided they are approved in advance by the City's

Equal Opportunity Contracting Section. The developer shall provide a copy of all required notices to the City.

Other Techniques and Procedures: In addition to providing direct notice of bid letting to residents and M/W/D/VBEs the developer will, as appropriate, employ some or all of the following techniques and procedures in an effort to encourage participation. The City makes no guarantee that an employment plan that includes any one of the following techniques and procedures, or any combination thereof, will be approved on that basis alone.

- Must place timely advertisements in newspapers of general circulation, trade association publications, and M/W/D/VBE-focused media concerning contracting opportunities; provide publisher's proof to the City.
- Will maintain contact and coordination with the City's Equal Opportunity Contracting Section to obtain directories and other information related to achieving the participation goals of the Policy.
- Will utilize referral agencies such as M/W/D/VBE community organizations, professional associations, small business assistance offices, and similar organizations that provide assistance to M/W/D/VBEs.
- Must ensure access by M/W/D/VBEs to plans and specifications and adequate information about the scope of services and other requirements.
- Must offer information to M/W/D/VBEs about bonding, lines of credit, and insurance.
- Shall advertise, solicit and accept qualified joint venture bids from local M/W/D/VBEs.

PROGRAM ELEMENTS: BUILD-TO-SUIT OWNERS/LESSEES

The owner/lessee of a project constructed by a build-to-suit developer shall also submit an employment plan for a twelve (12) month post-construction phase of the economic development project.

The build-to-suit owner/lessee shall adhere to the employment plan for at least as long as the economic development project remains subject to the Agreement. Each Agreement will include the specific time periods based on the particular relevant aspects of the project.

This Policy applies to new, permanent jobs created as a direct result of the economic development project during the period of contract performance. All subcontractors of permanent operations will be required to adhere to the employment plan through contractual language included in any Agreement with the build-to-suit owner/lessee.

Initial Submittals: The owner/lessee shall provide a description of the existing opportunities for employment. The owner/lessee shall also provide a projection of the effect that the economic development project will have on opportunities for employment within the project area. Lastly, the owner/lessee shall provide a description of the manner in which an employer relocates the business into the area and plans to employ residents and persons living within the area of operation and economically disadvantaged, minority, women, and disabled or veteran-owned business enterprise.

Project Impact: The build-to-suit owner must supply the following information to the City: A projection of the effect the project will have on opportunities for employment within the area. In particular, the number of new jobs created as a result of the economic development project and a description of skills required for filling the positions.

Policy Requirements: The City shall have the authority to modify the requirements and goals of this section after a showing of just cause through a process of appeal. This includes the refilling of those jobs for the duration of the employment plan.

Project Description: The build-to-suit owner/lessee is required to submit an employment plan which describes how the operation will employ City residents and aspire to employ persons who are: Economically Disadvantaged, Members of Racial Minorities, Woman, Disabled and Veterans.

Referral Agencies: The build-to-suit owner/lessee shall, as part of the employment plan, utilize one or more of the referral agencies in the Policy for the purpose of receiving qualified job applicants. Only nominal administrative fees may be charged to the employee by non-profit referral agencies for referral or job placement. The following referral agencies, by virtue of their activities, are recognized as having knowledge of the applicant pool available to assist in the location of and, in some cases, training and upgrading of skills of qualified applicants to fill the unique needs of each business.

Asian Chamber of Commerce 2560 Montessori St. Ste. 205 Las Vegas, NV 89117 (702) 737-4300 lvacc.org	Key Foundation 1001 N. A St. Las Vegas, NV 89106 (702) 384-0202	NAACP, Las Vegas Chapter 3340 S. Topaz St. Ste. 150 Las Vegas, NV 89121 (702) 638-1300 naacplv.org	Nevada Partners, Inc. 710 W. Lake Mead Blvd. Las Vegas, NV 89030 (702) 399-5627 nevadapartners.com
Bureau of Vocational Rehabilitation of Southern Nevada 3016 W. Charleston Las Vegas, NV 89102 (702) 486-5230 http://detr.state.nv.us/	Las Vegas Indian Center 2300 W. Bonanza Rd. Las Vegas, NV 89106 (702) 647-5842 lasvegasindiancenter.org	National Association of Women in Construction (NAWIC) 150 N. Durango Dr., Ste. 100 Las Vegas, NV 89145 (702) 796-9986 nawiclasvegas.org	Urban Chamber of Commerce 1951 Stella Lake St. Ste.26 Las Vegas, NV 89106 (702) 648-6222 urbanchamber.org
College of Southern Nevada 6375 W. Charleston Blvd. Las Vegas, NV 89146 (702) 651-7563 csn.edu	Las Vegas Urban League 1024 W. Owens Ave Las Vegas, NV 89106 (702) 483-4200 lvccul.org	Nevada Job Connect 3405 S. Maryland Parkway Las Vegas, NV 89169 (702) 486-0129 nevadajobconnect.com	Veterans Chamber of Commerce 2691 Industrial Rd. Unit 40 Las Vegas, NV 89109 (702) 791-1791 veteranschamberv.org
Easter Seals of Southern Nevada 6200 West Oakey Blvd. Las Vegas, NV 89146 (702) 870-7050 http://sn.easterseals.com	Latin Chamber of Commerce 300 N. 13 th St. Las Vegas, NV 89101 (702) 385-7367 lvcc.com	Nevada Minority Business Enterprise Center (NMBEC) 626 S. 9 th St. Las Vegas, NV 89101 (702) 382-9522 http://newventurescdc.com/nv_mbec.html	Women's Chamber of Commerce 2300 W. Sahara Ste. 800 Las Vegas, NV 89102 (702) 733-3955 womenschamberofnevada.org
Foundation for an Independent Tomorrow 1931 Stella Lake Drive	National Association of Women Business Owners (NAWBO)	Nevada Office of Veterans Services 950 W. Owens Dr. Room 111	Women's Development Center 4020 Pecos McLeod

Las Vegas, NV 89106 (702) 367-4348 lasvegasfit.com	PO Box 96355 Las Vegas, NV 89193 (702) 571-0462 nawbosnv.org	Las Vegas, NV 89106 (702) 636-3070 veterans.nv.gov	Las Vegas, NV 89121 (702) 796-7770 wdclv.org
---	---	---	---

Training: Build-to-suit owner/lessee shall establish an in-house training program for promoting employees, provided the business employs more than total of twenty-five (25) employees. The training program shall be included as part of the employment plan.

Procedural Guidelines for Outreach/Hiring: The build-to-suit owner/lessee agrees to submit written notification to the referral agency of job positions available for hire at least thirty (30) working days prior to the employer's anticipated hiring date.

- Such written notification shall include a description of the required job qualifications, the rate of pay, the anticipated hiring date, and the date by which the referral agency must refer qualified applicants to the build-to-suit owner/lessee in order to be considered for hiring to the vacant position including management, technical, and professional positions.
- The build-to-suit owner/lessee need not notify the referral agency of any vacancy to be filled by an internal promotion from the existing work force.
- In the event the referral agency fails to refer qualified individuals within thirty (30) working days for consideration of the vacant job openings of which the build-to-suit owner/lessee has notified the referral agency, the build-to-suit owner/lessee will be free to directly fill any remaining positions after so notifying the referral agency in writing.
- The build-to-suit owner/lessee shall make the final decision on hiring new employees but shall be encouraged to select employees from among qualified persons referred by the referral agencies. This does not release the build-to-suit owner/lessee from the requirements of this Policy.
- The build-to-suit owner/lessee will not discriminate against any applicant for employment because of race, religion, age, handicap, color, sex or national origin.
- The City shall be copied on all written correspondence between the build-to-suit owner/lessee and the referral agency.

Owners/Lessees: An owner/lessee of speculative space is under no obligation to submit an employment plan for tenants or lessee of speculative space, but may do so on a voluntary basis. The initial owners/lessees of speculative space who submit an employment plan and meet the resident and minority participation goals of that plan are eligible for an incentive in the same manner as a build-to-suit owner/lessee.

REPORTING REQUIREMENTS

When the Agreement for the economic development project is executed, the developer/build-to-suit lessee will be required to submit an employment plan in accordance with the City's Economic Development Projects Resolution and Employment Plan Policy. The submittal of the reporting templates is a demonstration of a good faith effort. **Failure to report is grounds for denial of the resident preference incentive.**

A report to the City is due within thirty (30) calendar days after the end of each calendar quarter. In an effort to provide accountability, accuracy and consistency, a standard City reporting template has been developed, a copy of which is found in Section 3 of the Policy. All exhibits must be complete and copies of correspondence and advertisements must be attached to the report. The templates may be modified at any time by the City to ensure uniform and accurate reporting.

The City shall use this information for the sole purpose of determining compliance of the developer or build-to-suit owner/lessee with the submitted employment plan. Furthermore, affected employees shall be notified this information will be reported to the City. This information shall not be submitted to any other person or organization, for any other purpose.

APPEALS

If after diligently implementing the employment plan, a developer or build-to-suit owner/lessee fails to achieve contractually agreed upon participation goals, an appeal may be submitted. The developer or build-to-suit owner/lessee must be prepared to present the following analysis for consideration:

- A demonstration of specific actions taken in the pursuit of fulfilling the resident participation requirements and minority participation goals.
- Must be able to show there are no significant opportunities for subcontractors to perform a commercially useful function in the contract.
- Subcontract opportunities will significantly and adversely affect the overall cost of the project.

The procedure for submission and hearing of appeals is as follows:

- Contact the City's Equal Opportunity Contracting Section for an appointment to present analysis and to discuss obstacles for meeting the resident participation requirements or minority participation goals. A staff recommendation will be made and forwarded to the City Manager's Office, Attention: Community Services Chief.
- The City Manager's Office will review the analysis and staff recommendation and make a decision on whether a project-specific employment plan modification is warranted. If the decision is in favor of no modification, the developer/client may appeal to the City Council.
- Final decisions regarding ability to meet the Policy requirements in the agreement shall be determined by the City Council.