

CITY OF PORT WASHINGTON REVOLVING LOAN FUND PROGRAM

POLICIES AND PROCEDURES MANUAL

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## Attachment A: City of Port Washington Revolving Loan Fund Application

## SECTION 1: GENERAL PROVISIONS

### 1.1 PURPOSE

The purpose of the policies and procedures contained within this manual is to present the criteria which govern the economic development activities assisted with funds made available through the City of Port Washington Revolving Loan Fund (RLF) program.

### 1.2 OBJECTIVES

Economic development activities funded through the RLF program are intended to meet the following objectives:

- 1) To encourage the creation and retention of permanent jobs which provide a wage appropriate to the skills and experience of the local labor force.
- 2) To encourage the leveraging of new private investment in the City in the form of fixed asset and working capital investments.
- 3) To perpetuate a positive and proactive business climate that encourages the retention and expansion of existing businesses and helps to attract desirable new businesses.
- 4) To lend monies at interest rates and loan maturities that encourages business development and facilitates reinvestment in the City, while providing for the recapitalization and growth of the RLF.

### 1.3 AMENDMENTS

The City may from time to time amend the policies and procedures contained within this RLF manual.

## SECTION 2: ADMINISTRATION

### 2.1 LOAN REVIEW

- 1) The City of Port Washington Common Council has designated the City of Port Washington Community Development Authority (CDA) as responsible for the review of all RLF requests. Funding decisions relative to RLF loans shall be made by the Common Council upon a recommendation by the CDA.
- 2) The CDA and the Common Council shall have the authority to make policy recommendations for the administration of the RLF program. Periodic activity reports will be provided to the Common Council.

- 3) The Program Administrator shall be responsible for marketing the RLF program to local businesses, explaining the RLF program and providing written information to prospective applicants, and collecting monthly payments from loan recipients. The Program Administrator shall be responsible for the day-to-day administration of the RLF program, including assisting applicants in completing applications, processing requests for financing, and, where necessary and appropriate, counseling and guiding loan applicants to other more appropriate technical and financial resources when the loan applicant has needs that cannot be met through the RLF program.
- 4) SEWRPC staff shall periodically review financial statements and loan amortization schedules for RLF loan recipients, review and approve documentation of business expenditures financed with RLF proceeds, maintain RLF accounting records that are segregated from other City accounts. City staff are responsible for the maintenance of all records for the local RLF.
- 5) The Program Attorney, or designee, shall prepare all loan agreements, review all promissory notes and mortgage or lien instruments, record RLF security instruments, and counsel City and SEWRPC staff on default matters.

## 2.2 MEETINGS

The CDA shall hold meetings to review completed loan applications on an as-needed basis. Recommendations regarding the funding of individual loan requests shall be made and forwarded to the Common Council for approval. Pursuant to Section 19.84, Wisconsin Statutes, all members shall be given prior notice of each CDA meeting. A majority of the CDA in attendance at a meeting constituting a quorum shall be required for official action.

## 2.3 RECORDS

Written records shall be maintained in appropriate files located in a secure place with limited access by authorized personnel. The City Attorney, or designee, shall be consulted with regard to compliance with State and municipal open records laws.

## 2.4 LOAN FEES

On an annual basis, up to 15 percent of the RLF program income will be made available for personnel costs and other RLF administrative expenses incurred in the maintenance of the RLF program. In addition, the following fees shall be assessed to all loan recipients:

- 1) For loans over \$25,000 or those requiring collateral, applicants will be charged a \$2,000\* Administration fee that will be utilized to pay for legal and administration costs.
- 2) For loans under \$25,000 and without collateral requirements, may utilize standardized loan documents. In these situations, the loan fees will be \$250 and will be utilized to pay for the administration costs.

*\*(As of June 7, 2022)*

## SECTION 3: ELIGIBILITY CONSIDERATIONS

### 3.1 ELIGIBLE AREA

The area served by the RLF program shall be within the corporate limits of City of Port Washington.

### 3.2 ELIGIBLE APPLICANTS

- 1) Applications may be submitted by the authorized representatives of any business wishing to establish a new operation or expand an existing operation in the City.
- 2) No member of the Common Council; the CDA; or any other official, employee, or agent of the City who exercises decision-making functions or responsibilities in connection with the implementation of the RLF program is eligible for financial assistance under this program. In addition, no RLF loans shall be made which are in conflict with Section 946.13 of the Wisconsin Statutes (Private Interest in Public Contract Prohibited).
- 3) Applicants shall not be disqualified based on age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.01(5), sexual orientation or national origin.

### 3.3 INELIGIBLE APPLICANTS

RLF loans shall not be available for the following businesses: 1) speculative investment companies; 2) real estate investment companies; 3) lending institutions; 4) gambling operations; and 5) other businesses not serving the interests of the City.

### 3.4 ELIGIBLE ACTIVITIES

RLF loans shall be provided to eligible applicants for the following activities:

- 1) The acquisition of land, buildings, and/or fixed or major movable equipment.
- 2) Site preparation; the construction and/or reconstruction of buildings; the rehabilitation of buildings, including leasehold improvements and facade renovation for commercial and industrial buildings; and/or the installation of fixed equipment.
- 3) Clearance, demolition, and/or the removal of structures.
- 4) Working capital.
- 5) Buyouts by purchase of assets or stock.

### 3.5 INELIGIBLE ACTIVITIES

RLF loans shall not be available for the following activities:

- 1) Refinancing or consolidating existing debt.
- 2) Reimbursement for expenditures prior to loan approval.
- 3) Specialized equipment that is not essential to the business operation.
- 4) Residential building construction and/or reconstruction (unless such reconstruction is intended to convert the building to a business use).
- 5) Routine maintenance.
- 6) Professional services such as feasibility and marketing studies, accounting, management services, and other similar services.
- 7) Other activities that the City may identify as inappropriate for the RLF program.

### 3.6 MINIMUM REQUIREMENTS

To be eligible for funding, a proposed project shall meet all of the following minimum requirements:

- 1) Private Funds Leveraged. One dollar of private sector investment shall be provided for each dollar of RLF investment. Private sector investment is defined as financing from a private lending institution, public sector business loan, or new equity that is injected into the business as a part of the expansion project.
- 2) Cost Per Job. A minimum of one full-time equivalent (FTE) job shall be created and/or retained for each \$35,000 of RLF funds requested.
- 3) Financial Feasibility and Business Viability. The applicant shall demonstrate that the proposed project is viable and that the business has the economic ability to repay the funds.
- 4) Compliance with Applicable Laws. Applicants shall comply with all applicable local, State, and Federal laws and codes.
- 5) Project Completion. All projects shall be completed, all funds expended, and all jobs created and/or retained within 24 months from the date of the RLF loan approval. All jobs shall be maintained for a minimum of 24 months.

## SECTION 4: TERMS AND CONDITIONS

### 4.1 TERMS AND CONDITIONS

Loan terms and conditions shall be structured on the basis of need and ability to repay. Minimum standards include the following:

- 1) Loan Amount. The amount of funds available for any single business enterprise shall range from a minimum of \$10,000 to a maximum of \$100,000. Requests for loan amounts in excess of \$100,000 will be negotiated on a case-by-case basis.
- 2) Interest Rate. The interest rate on each loan shall be set at 50 percent of the prime rate as published in the Midwest Edition of the Wall Street Journal or 4 percent, whichever is less, but not less than 2%\*. The interest rate shall be fixed for the term of the RLF loan. *\*(As of June 7, 2022)*
- 3) Loan Term. Standard terms for RLF loans shall be as follows: a) machinery, equipment, and fixtures—up to 10 years; b) buildings and land— up to 10 years; and c) working capital—up to 5 years. Loans \$25,000 or under would have a maximum term of 5 years. Amortization periods that exceed the loan term may be provided where appropriate.

The specific term and amortization period for an individual borrower shall be based on the useful life of the asset, as well as the terms offered by the private sector financial institution participating in the project. The City retains the right to adjust individual loan terms in order to facilitate a successful RLF project.

- 4) Repayment. Deferral of principal payments may be provided for a maximum period of a year from the date of the first disbursement of RLF funds or one-half of the loan term, whichever is less. Interest-only payments during this period shall be required.
- 5) Prepayment. There are no prepayment penalties.
- 6) Collateral. Collateral requirements shall be determined on an individual basis by the CDA and may include: mortgages on land and buildings; liens on fixed and major movable equipment; liens on accounts receivable and inventory; liens on the corporate assets of affiliated businesses, when appropriate; and key-person life insurance coverage naming the City as a beneficiary, with a declining balance equal to the outstanding loan balance, when appropriate. This collateral may be subordinated to private sector financial institutions participating in the RLF project, if required.

Unlimited personal guarantees from the principals of the business who have 20 percent ownership or more shall be required. Limited personal guarantees for the owners of the business who have less than 20 percent ownership may be required, where appropriate. In addition, junior mortgages on personal property may be required on projects with limited collateral.



- 7) Insurance Requirements. Businesses receiving loans for fixed assets shall be required to obtain property-casualty insurance for the appraised value of the property being financed, businesses receiving construction loans shall be required to have builder's risk insurance for the amount of the debt financing attendant to the project, and businesses purchasing real estate shall be required to have title insurance for the amount of RLF real estate financing attendant to the project. The City shall be listed as an additional insured on all property-casualty and builder's risk insurance policies.
- 8) Equity Requirements. The RLF program may require an equity injection for each RLF loan, when appropriate. Consideration will be given for individuals that have made substantial equity commitments to the applicant business, as well as to individuals who do not have sufficient financial resources to contribute to the RLF project.

## SECTION 5: APPLICATION PROCEDURES- DRAFT

### 5.1 INITIAL CONTACT

Prior to submitting an application, all RLF applicants must discuss the program with the Program Administrator, who will provide assistance, as is reasonably necessary, in completing an RLF application. All financial information shall be kept in a secured place with limited access by authorized personnel only, subject to the State and municipal open records laws.

### 5.2 TIMING

Applications may be submitted at any time during the calendar year.

### 5.3 PRIORITY

Applications shall be reviewed in the order received and based on readiness for the proposed project to proceed. In those instances where the number of requests for RLF funds exceeds available funding, RLF applications shall be prioritized based upon the date of receipt of all requested application materials, the number of jobs to be created and/or retained, and the amount of private sector leverage that is included in the project. When feasible, the amount of funds contributed to each project will be reduced in order to facilitate as many loan requests as possible.

### 5.4 LOAN APPLICATION

Applicants shall submit an application using forms available from City staff or the Program Administrator that includes the following:

- 1) A completed RLF application (see Attachment A).
- 2) A written business plan that includes the following:
  - a) A brief history of the existing or proposed business, including when it started or is to start, type of operation, legal structure, management, markets, and products.
  - b) A marketing plan, including a list of key customers and clients.
  - c) A personal resume for each principal associated with the business, including: number of years of experience in the business; educational background; and role in the proposed or existing business.
  - d) Financial statements for the past three years and a current interim financial statement, including balance sheets and income statements that are compiled by an independent accountant in accordance with generally accepted accounting principles, including all footnote disclosures.
  - e) Aging of accounts receivable and accounts payable corresponding with latest available financial statements.

- 3) A description of how the business plans to use the requested funds.
- 4) Letters of commitment from all financial institutions or other sources of funds for the debt financing that are included in the project. These commitments shall be obtained prior to, or concurrently with, the approval of the RLF loan by the Common Council.
- 5) Financial projections for the first three years of the project, including balance sheets and income statements that are prepared by an independent accountant in accordance with generally accepted accounting principles and include a discussion of all significant assumptions. In addition, start-up businesses shall provide quarterly financial projections for the first two years of the project.
- 6) Personal financial statements for the principals of the business.
- 7) Cost estimates for all capital equipment purchases, land and building acquisition, and building construction and renovation.
- 8) A lease or pre-lease agreement for rental property or an offer to purchase for real estate that is included in the project.
- 9) Documentation that the project is in compliance with local and State building codes and zoning regulations and other applicable local and State ordinances.
- 10) Other documentation that may be required to support the RLF project.

## 5.5 REVIEW PROCESS

Specific steps in the review process include the following:

- 1) Project Application. The Program Administrator shall review the application for completeness and verify that the proposed project meets the minimum requirements provided in Section 3.6. If the application is not complete, the Program Administrator will inform the applicant of the deficiencies.
- 2) Application Review. The CDA shall meet to review an application within 30 days of the receipt of completed application, as documented in Section 5.4. Once the CDA's review of the project is completed, the CDA shall forward the recommendation for funding to the Common Council.
- 3) Negotiation of Terms. Upon acceptance by the Common Council, the Program Administrator shall contact the business to review and explain the loan terms.
- 4) Notice of Award. If the application is approved, a closing shall be scheduled to execute the necessary loan documents.
- 5) Rejection of Award. If the application is not approved, SEWRPC staff shall notify the applicant of the reasons for rejection and offer to meet with the applicant to explore ways to strengthen the loan request or to identify alternative funding sources.

## 6) SECTION 6: DISTRIBUTION OF FUNDS

### 6.1 LOAN PROCEDURES

Prior to releasing funds, the following documentation shall be in place or provided at the appropriate time during the term of the loan.

- 1) Loan Approval. The Common Council shall review and approve a complete application for each eligible applicant.
- 2) Loan Agreement. The Program Attorney, or designee, shall prepare a loan agreement which shall be executed by the Mayor and City Clerk, as well as the authorized representatives of the business.
- 3) Promissory Note. A promissory note shall be prepared by the Program Attorney, or designee, and signed by the authorized representatives of the business at the time of loan closing. The note shall be dated, reference the agreement between the City and the business, and specify the amount and terms of the loan funds to be delivered.
- 4) Security. Mortgage and/or lien instruments and personal guarantees provided as security for all loans shall be prepared by the Program Attorney, or designee, and executed at the time of the loan closing. The Program Attorney, or designee, shall record all security instruments and place copies in the project file, as applicable, to include: a) mortgage and/or security agreement; b) UCC searches and filing; c) guarantee agreement; d) title insurance commitment and policy; e) assignment of life insurance; f) property-casualty insurance binder; g) personal guarantee; and h) other documentation as may be appropriate.
- 5) Amortization Schedule. An amortization schedule shall be prepared by the Program Administrator and forwarded to the loan recipient after all loan proceeds are fully disbursed.
- 6) Evidence of Program Expenditures. Documentation shall be provided by the applicant to evidence RLF program expenditures prior to the release of funds. Documentation includes invoices or receipts for materials and supplies, final bills of sale, letters from lenders, and/or canceled checks. All documentation shall be reviewed and approved by the Program Administrator. The Program Administrator shall also verify the installation of all fixed equipment.
- 7) Other Documentation. Documentation shall be provided by the applicant to evidence that all required permits, licenses, and registrations have been obtained prior to the release of RLF funds. As appropriate or necessary, the borrower may also be asked to provide the following documentation: a) a certificate of good standing from the Secretary of State; b) articles of incorporation and by-laws; c) a resolution or agreement to borrow funds; d) current financial statements; e) evidence of having secured other funds necessary for the project; and f) an environmental analysis for real estate loans, if justified.

## SECTION 7: POST APPROVAL REQUIREMENTS- DRAFT

### 7.1 OBLIGATION OF LOAN RECIPIENT

In addition to the terms and conditions of the loan, all borrowers shall agree to comply with the following:

- 1) The creation and/or retention of the agreed upon number of jobs within 24 months of the date of the execution of the loan agreement with the City. All jobs created and/or retained shall be maintained for a minimum of 12 months.
- 2) Not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.01(5), sexual orientation, or national origin in any employment or construction activity related to the use of RLF monies.
- 3) To use RLF monies only to pay the cost of services and materials necessary to complete the RLF project or activity.
- 4) To permit inspections by persons authorized by the City of all projects and properties assisted with loan funds. Related project materials shall also be open to inspections which include, but may not be limited to, contracts, materials, equipment, payrolls, and conditions of employment. Requests for inspection shall be complied with by the borrower.
- 5) To maintain records on the project that are necessary for the City to determine if the performance of the business complies with the terms of the loan agreement. Files shall be maintained as long as the loan is active or for at least three years after completion of the work for which the loan has been obtained, whichever is longer.
- 6) To submit the following documentation during the outstanding term of the RLF loan:
  - a) quarterly financial statements verified by the borrower within 45 days of the end of each calendar quarter; b) annual financial statements compiled by an independent accountant in accordance with generally accepted accounting principles within 120 days of the end of each fiscal year; c) signed copies of corporate Federal income tax returns within 30 days following their due dates; and d) annual progress reports.
- 7) To maintain property-casualty insurance for the property financed with RLF monies for the term of the RLF loan. The City shall be listed as an additional insured on the policy. In addition, key-person life insurance coverage naming the City as a beneficiary, with a declining balance equal to the outstanding loan balance may be used where appropriate.

## SECTION 8: PERFORMANCE MONITORING

### 8.1 PRIVATE LEVERAGE COMMITMENTS

The Program Administrator shall monitor the use of the funds and expenditure of private leverage commitments. Documentation shall include invoices or receipts for materials and supplies, letters from lenders, final bills of sale, and/or canceled checks.

### 8.2 JOB CREATION AND RETENTION

The Program Administrator shall monitor the borrower's progress in meeting agreed upon job creation and/or retention goals. Job creation shall be documented using before- and after-project payroll records.

For each job that is not created and/or retained during the required time period, the following penalties shall apply: a) for each FTE job that is not created and/or retained for a minimum of 12 months, the loan recipient shall be assessed a penalty of \$1,000 per job; the loan recipient shall be assessed a penalty of \$1,000 per job. Job penalties may be paid in one lump sum or added to the principal of the RLF loan and amortized over the loan term.

### 8.3 DEFAULT

In the event the business is in default on any of the terms and conditions of the loan agreement, the promissory note, or any other loan document, other than the failure to make a payment of principal or interest when due or to create and/or retain the agreed upon number of jobs, all sums due and owing to the City, including the full unpaid principal balance and all unpaid accrued interest, shall, at the option of the City, become immediately due and payable. To exercise this option, the City Attorney shall provide a written notice to the business that specifies the following: a) the default; b) the action required to cure the default; and c) a date, not less than 60 days from the date of the notice, by which the default shall be cured to avoid foreclosure or other collective action.

If the borrower fails to make any payment of principal or interest when due under the promissory note, and the default continues for 30 days, all sums due and owing to the City, including the full unpaid principal balance and all unpaid accrued interest shall, at the option of the City, become immediately due and payable, without notice or demand. The failure to create or retain the agreed upon number of jobs is not a default, but is subject to the provisions of Section 8.2 hereof.

In the event of the occurrence of a default, other than a default under Section 8.2 hereof, and the City exercises its option to accelerate the promissory note, then interest after the date of default shall be computed at a market rate to be established at the time the loan agreement is executed.

## SECTION 9: USE OF LOAN REPAYMENTS AND REPORTING - DRAFT

### 9.1 RLF PROGRAM

Repaid RLF monies shall be deposited in the RLF account and used in a manner consistent with the RLF manual. A separate record for each loan shall be kept to account for all funds loaned. The RLF account shall be audited on an annual.

## SECTION 10: LOAN SERVICING

### 10.1 MONITORING

The Program Administrator shall monitor each loan to ensure compliance with the loan terms and conditions and to monitor the financial health of the business to ensure continued repayment of the loan. The monitoring shall also ensure that all recordkeeping requirements are met particularly with regard to job creation and the expenditure of matching funds.

### 10.2 RECORDKEEPING

A loan servicing file shall be established and maintained for each loan recipient that includes the following:

- 1) Loan Application File. The loan application file shall include a copy of the RLF application, business financial statements, personal financial statements, business plan documents, and other supporting loan information submitted to the City, including all applicable correspondence. In addition, the file shall contain a copy of the loan application summary with recommended actions regarding the application, and a copy of the minutes for the public meetings held to take action on the loan request.
- 2) Loan Closing File. The loan closing file shall include all loan closing documents, including the note and other security instruments; closing statement; title insurance commitment and policy, if applicable; certificates of insurance for builder's risk, property-casualty, and life insurance, as applicable; and documentation for job creation and retention including LMI certifications forms. This file shall be placed in a locked, fireproof vault. SEWRPC staff shall be involved in helping create and complete this file to ensure complete loan documentation. Copies of the loan closing documents and an amortization schedule shall be provided to the loan recipient.
- 3) Financial Management File. RLF financial management records shall be maintained that include the following registers:
  - a) RLF Register: A record of all deposits and disbursements to and from the RLF, including funds used for RLF administration.

- b) RLF Loan Repayment Register: A record of all repayments made by each business that has received a loan from the RLF, as well as the balance of repayments from all RLF loans.
  - c) Collection Register: A register for each loan that contains the business name, loan date, loan amount, terms, and date repayment begins.
- 4) "Tickler File" System. A tickler file system shall be established and maintained to ensure that loan repayments, financial information, the loan agreement, UCC updates, and other documentation requirements are tracked and obtained as required. The system will include the following monthly-coded index files:
- a) Expiration dates for property-casualty and/or life insurance policies;
  - b) Due dates for all financial statements;
  - c) Expiration dates for UCC Financing Statements, the reminder to update being at least 45 days prior to the expiration of the UCC filing on hand;
  - d) Scheduled dates of annual loan performance and covenant reviews;
  - e) Dates for site visits;
  - f) Due dates for property tax payments and dates by which the community expects to hear from the borrower regarding confirmation of payment of taxes;
  - g) Review dates for job monitoring; and
  - h) Dates on which loan recipients will be notified of scheduled changes in the loan amortization scheduled per loan agreements.
- 5) Financial Statement File. The financial statement file shall include the business' periodic financial statements as required by the loan covenants with a statement indicating that SEWRPC staff reviewed the data.
- 6) Progress Report File. During the outstanding term of the RLF loan, loan recipients shall be required to submit annual progress reports, including quarterly and annual financial statements that will be stored in this file.
- 7) Field Visit File. Staff shall make periodic field visits to verify information in the progress report and financial statements. A summary of each site visit will be placed in the permanent file, including any information that can assist in rating the overall condition/risk of the loan.
- 8) Repayment Monitoring File. The repayment monitoring file shall include the loan amortization schedule and status of payments on the RLF loan. Observations regarding concerns or problems shall be reported to the City and notations placed in the tickler file to remind staff of the need to provide continued monitoring.
- 9) Loan Review File. All loans shall be reviewed on an annual basis, and at such other times as may be deemed necessary by the City. The review shall follow receipt of the fiscal year-end financial statements, the year-end progress reports, and site visits. A report on the loan review will be placed in the file and address the following:



timeliness of monthly payments; condition of collateral securing the loan and status of security documents; overall financial condition of the business; the presence of material liens or lawsuits; and violations of loan covenants and suggested corrective actions.

If the business is experiencing problems, City and SEWRPC staff shall work with the loan recipient to identify actions that are needed to correct the identified deficiencies, including possible restructuring of the loan to improve cash flow within the business. Restructuring can include deferring principal and interest payments, adjusting the rate of interest, and/or providing additional working capital. If appropriate, City and SEWRPC staff shall arrange for business assistance, including services available through the University of Wisconsin-Extension, Small Business Development Center (SBDC), the Service Corp of Retired Executives (SCORE), and/or other entities having an interest in serving the needs of businesses.

Attachment A