

**Preamble**

*In 2004, the City of Avon received an Economic Recovery Grant from the State of Minnesota in the principal amount of \$500,000, which was loaned to Columbia Gear. The City has retained the principal and accumulated interest payments made on this loan. One of the special conditions of this grant from the State to the City of Avon, is "Principal and interest payments from the loan to the company must be used to establish and maintain a Revolving Loan Fund (RLF), provided that the purpose of that loan fund is to further future economic development in the City of Avon, thereby creating or maintaining employment opportunities in the community". The following represents the policies and procedures for the establishment and administration of the RLF.*

**PURPOSE**

The Economic Development Revolving Fund (RLF) Development Account is a revolving fund maintained by the City of Avon's ECONOMIC DEVELOPMENT AUTHORITY (hereafter referred to as EDA) for the purpose of financing development costs as part of its economic development efforts. This account provides an on-going source of funding that can be used to assist economic development by stimulating private investment in order to improve, expand, maintain or start a business within the City of Avon. There shall be three loan categories:

1. LARGE LOANS (\$50,000 - \$150,000) The emphasis is to create new permanent jobs or retain endangered jobs within the City of Avon that pay a livable wage, as defined by DEED (currently \$11.82/hour and is adjusted annually), encourage private investment within the City, and/or help to leverage conventional business financing.
2. SMALL LOANS (\$5,000 to \$50,000) The emphasis is to finance small business start-ups or expansions.
3. COMMERCIAL REHABILITATION Deferred Loans (\$10,000 or less) The emphasis is to promote commercial building improvements addressing rehabilitation/renovation issues contributing to slum/blight and/or urgent community needs that are consistent with the adopted comprehensive plan of the City.

**A. Goals & Objectives**

The purpose of the revolving loan fund is to create new employment or to maintain existing employment and for business start-up, expansions, and retention. Requests for loans from the RLF are expected to be many and diverse. The use of the fund should therefore be directed to those businesses that will do the most to solidify and strengthen the economic base of the area, provide permanent full-time employment to persons who are unemployed/underemployed. In its marketing and review process, the RLF will target the following and give funding priority to them.

1. LARGE LOANS of \$50,000 - \$150,000 from the revolving fund can be used to make business loans for start-up or expansion purposes:
  - a. Manufacturing and distribution projects which serve to diversify the local economy or add value to agricultural products grown in the region. These businesses tend to build on existing resources (agriculture) or diversify and strengthen the economy (manufacturing and distribution). These businesses can also serve as magnets for other businesses especially in the service sector.

- b. Commercial projects will only be considered for large loans when the project results in a fifty percent increase in the total market value
  - c. Projects with a high number of full-time permanent jobs at good wages. This meets with the goal of increasing employment for underemployed and unemployed persons and raising the average income.
  - d. Projects that provide jobs to persons who are currently unemployed or underemployed. Applicants will be urged to work with Job Training Programs to help persons qualify for available jobs. Again, the goal is full-time employment.
  - e. Projects that increase/preserve the tax base;
  - f. Projects that leverage the use of private funds;
  - g. Projects with infrastructure or improvements that cannot be completed due to prohibitive costs without the use of public funds;
  - h. Projects that retain an existing business; and
  - i. Projects where assistance is necessary to attract an out-of-state business
  - j. Eligible improvements shall include:
    - Acquisition of land
    - Construction or rehabilitation of buildings
    - Site improvements
    - Utilities or infrastructure
    - Machinery and Equipment
2. SMALL LOANS of \$5,000 - \$50,000 finance small business start ups or expansion for:
- a. Projects that attract, retain or help to expand an existing business; and/or
  - b. Projects that address an unmet need in the community.
  - c. Eligible improvements shall include:
    - Acquisition
    - Rehabilitation of buildings
    - Site improvements
    - Interior/Exterior Improvements
    - Machinery and Equipment
3. COMMERCIAL REHABILITATION DEFERRED (CRD) Loans (\$10,000 maximum). The CRD Loans are a deferred loan that will be forgiven after seven years if the applicant maintains ownership of the building. If the applicant sells the building within four years of the date of the loan, the loan will be repayable in full. Thereafter, 25% of the loan will be forgiven each year until the full loan is forgiven at the end of year seven (7). No payments are required on this loan. The CRD loan will cover 75% of approved project costs not to exceed \$10,000. CRD loans may be used for commercial rehabilitation projects that meet one or more of the following criteria:
- a. Projects must be zoned commercial;
  - b. Projects that contribute to the preservation of tax base
  - c. Projects that improve the economic viability of commercial business in the City of Avon;
  - d. Eligible improvements shall include:
    - Façade improvements
    - Energy efficiency improvements
    - Code improvements
    - Site improvements
    - Signage
  - e. In instances where a renter is making the improvements, the renter must have the approval of the owner of the building and the loan agreement must be signed by the owner of the building.

- f. Upon receipt of an application, Staff will provide a project summary and proposal for funding to Economic Development Authority and Loan Committee for approval. Applicants should attend the meeting when their application is considered.
- g. The EDA reserves the discretion in funding applications based on the visual impact of the proposed project.
- h. The EDA will provide final approval and authorize execution of a Deferred Payment Loan (DPL) Agreement.
- i. Upon final execution of the DPL by both the EDA and Applicant, Staff will provide the Applicant with a Notice to Proceed. Project costs incurred prior to the Notice to Proceed will not be eligible for reimbursement.
- j. Funds will be released to escrow with the primary lender (preferred) or when invoices for project costs are provided. No more than two checks will be issued per project. Applicant will make these arrangements with staff prior to the issuance of the Notice to Proceed.
- k. Commercial Rehabilitation Loans Small Loans will not have job creation/retention requirements.

Applications shall be limited to one application (of any kind) per business per year. This will be reviewed annually and conditioned upon the amount of funds available in the Revolving Loan Fund.

## **B. Types of Assistance**

Funds from the Revolving Loan Fund may be used for:

- 1. Infrastructure (if appropriate)
- 2. Loans
- 3. Loan guarantees
- 4. Interest buy-downs; and,
- 5. Other forms of participation with private sources of financing.

## **C. Ineligible Activities**

Revolving Loan Fund assistance will not fund the following activities:

- 1. Inventory
- 2. Fixtures, furniture and office equipment (FF&E)
- 3. Working capital
- 4. Professional fees
- 5. Refinancing existing debt or equity position
- 6. New Housing
- 7. Labor for work completed by owners

## **D. STANDARDS FOR THE RLF PORTFOLIO**

The RLF portfolio taken as a whole will meet the following standards. At times individual loans may vary from these standards due to highly unusual circumstances or overriding factors which may make deviation a necessity.

Following are the minimum standards for the RLF portfolio:

- 1. A minimum ratio of \$15,000 in RLF proceeds per job created (or retained).

2. Job creation with the RLF will be directed toward skilled craft-persons and technicians; semi-skilled workers; and, service trade industry workers, rather than part-time or minimum wage jobs.
3. The requirement that \$1 of private sector funding be contributed for every dollar of RLF funds. The private funding is defined as financing from banks, investment companies or private investment on the part of the borrower for other firms as a result of the RLF loan. Private funding does not include city, state, or other public funding.
4. It is not the intent of the RLF to replace conventional/bank financing but rather to fill the gap between bank financing, equity and the funds needed to accomplish the project. Only under rare and special circumstances with the EDA consider participation in a project where there is not a lead private lender.
5. Eligible businesses must be a “for profit” business.
6. The RLF will strive to encourage the development of the following types of enterprises:
  - Minority owned businesses
  - Women owned businesses
  - Businesses owned by veterans
  - Businesses owned by physically handicapped persons
  - Businesses which propose to use loan proceeds for pollution abatement and energy conservation
7. Loan terms for fixed assets shall not exceed 10 years for land and building and 7 years for machinery and equipment. Loans may be amortized over a longer period to enhance to affordability of payment in the early years with a balloon payment required at end of approved or maximum term as stated herein.
8. Interest rates are to be negotiated and should be commensurate with the security, but not less than 2.5% or more than the maximum interest rate allowed under state law.
9. Assets securing EDA Loans must be insured for no less than the amount of the total outstanding loans.
10. The RLF Board may provide deferments on principal repayments in extraordinary circumstances and upon written request from the borrower. Subordination of loans may also be provided to meet the credit needs of the borrowers. Interest payments will not be deferred.
11. The minimum equity requirement for participation on an RLF loan is equal to 5% of project costs.
12. It is the intention of the RLF Board to secure each loan with a first or second mortgage on real estate or a UCC filing on equipment, inventory and/or receivables.
13. A personal guarantee from all owners with 10% or greater ownership will be required for all loans made.
14. RLF loans will only be restructured if the restructuring improves the borrower’s repayment ability.

15. Interest earnings or other profits earned from the sale of loans will be returned to the RLF fund for re-lending.
16. The RLF Board will require that proposed borrowers provide bank commitment letters evidencing the limitation of private capital to their project and the need for RLF funding.

#### **E. ADMINISTRATION OF THE FUND**

1. The RLF Board will consist of the seven members of the Avon Economic Development Authority (EDA) and will make the final decision on loan requests. A Loan review Committee shall be appointed by the Board of Directors annually and consists of three members of the EDA. The duties of the RLF Board shall be:
  - a) Review of all final applications and Loan Committee recommendations for loans under the terms of this program.
  - b) Oversee the preparation and review of loan documents.
  - c) Oversee compliance, repayment and collection of loans.
  - d) From time to time, amend the RLF program rules.

The duties of the Loan Committee shall be:

- a) Review of all preliminary applications for loans under the terms of this program.
- b) Meet with applicants, when appropriate, and resolve any questions or issues prior to recommendation to the Board.
- c) Recommend terms and final structure to the RLF Board
- d) From time to time, make recommendations to the RLF Board to amend the RLF program rules as required.

In determining the desirability of the project, the EDA and Loan Committee will consider the following:

- i. whether the loan is sufficiently secure
  - ii. whether the project generally enhances the quality of life within the City
  - iii. whether the project removes slum or blight conditions
  - iv. whether the project would generate significant environmental problems
  - v. whether the project is in compliance with City ordinances/administrative code
  - vi. whether the project is consistent with the approved comprehensive plan and zoning ordinances of the City; and
  - vii. whether the project meets good public policy criteria.
2. The EDA reserves the right to consider each request on a case by case basis and deviate from this Loan Policy if the situation merits. The EDA will hold a public hearing when it deviates from the policy and document the reasons for the deviation in the meeting minutes.
3. Staff - Staffing for the RLF will be provided by the City of Avon and the Economic Development Staff or consulting staff as hired from time to time to complete the necessary work. Staff duties for the fund include the following:
  - a. Program Marketing - The goal is to have every eligible business aware of the program.
  - b. Loan Structuring and Packaging - Staff may assist applicants in structuring the financial package to coordinate with loans from other programs, bank involvement, equity, and other

necessary components. Staff will also assist applicants in completing the necessary forms and documentation for the loan.

- c. Management Assistance - Staff may assist applicants in locating additional business, financial and management training as may be needed by the business.
- d. Linking jobs to long term unemployed - in order to insure that long term unemployed and low and moderate income persons have maximum opportunity to be considered for jobs, staff will encourage all applicants to work with the Minnesota Department of Employment Services and Local Employment and Training providers.
- e. Financial Management - Staff will work with the City's Accounting Department to provide all financial management of the RLF including, loan disbursements, loan servicing and record keeping.

## **F. Loan Selection and Approval Process**

The selection and approval processes will be as follows:

### **1. Pre-Application – For ALL Loan Applicants**

- a. A brief 3-page pre-application will be required of all potential applicants in order to determine the proposed structure and eligibility of the project.
- b. All pre-applications will be screened by the RLF staff for eligibility and written invitations for full applications or denials will be provided within 30 days of receipt. If denied, the applicant may appeal to the Loan Review Committee.
- c. Project bids, drawings for exterior and sign improvements, personal financial statement of all owners and last two years of business and personal income tax returns (CRD & Small Loans may be approved without the full application materials listed below).
- d. Large Loan applicants invited to submit a full application.

### **2. Full Application**

- a. No form is provided. Applicants must submit the following prior to Loan Committee and EDA consideration:
  - i. Financial references of the developer
  - ii. A Business Plan including the developer's principals, history and past projects. The developer should be able to demonstrate a past successful general development capability, as well as a specific capability in the type and size of the proposed development project.
  - iii. Current plus two year sales projections and cash flow after the project is completed
  - iv. The names and addresses of all persons and banks providing financial assistance
  - v. A letter of commitment from a bank or financing company confirming that it will provide a specified amount of financial assistance to the developer's project.
- b. When a full application is invited, a RLF staff site visit and discussion with the business about full application details will take place.
- c. When completed applications are received, RLF Staff will conduct a thorough review including:
  - eligibility with RLF polity
  - economic benefits of the proposed project

- review of historical & project financial information
  - repayment ability
  - management skills
  - collateral and lien position
  - credit risk of applicant
  - need for special requirements, i.e. insurance, personal guarantee
  - environmental review
- d. RLF staff will prepare recommendation to be presented to the Loan Review Committee based on its review.
  - e. The Loan Review Committee reviews full application, staff recommendations and makes recommendation to EDA for final approval of application.
  - f. RLF staff informs applicant in writing of the Board decision and directs legal counsel to prepare loan/security documents
  - g. Closing on loans should occur in conjunction with the closing on conventional loan sources.

### **G. Requirement for Business Subsidy Agreements**

1. According to Minnesota Statutes 116J.993 to 116J.996, assistance of \$150,000 or greater will require the authority to enter into a business subsidy agreement. A subsidy agreement must include the following information and requirements:
  - a. A description of the subsidy.
  - b. A statement of the public purpose and goals of the subsidy.
  - c. Wage and job creation goals (or job retention goals, if job loss is imminent and demonstrable) to be achieved within 2 years of receiving the subsidy;
  - d. A description of the recipient's financial obligation if the goals are not met. The recipient must pay back the assistance with interest if goals are not met, although pro-rata to reflect partial fulfillment of goals is permitted.
  - e. A statement of why the subsidy is needed.
  - f. A commitment from the recipient to continue operations at the site for at least 5 years;
  - g. The name and address of the parent company of the recipient; and
  - h. A list of all other financial assistance to the project;
  - i. A requirement for the recipient to provide the Authority and the Department of Employment and Economic Development with annual information regarding goals for two years after receiving the subsidy or until the goals are achieved. The reports must be filed by March 1 for the prior year.
  - j. If the business subsidy is \$150,000 or greater, the Authority must conduct a public hearing on the subsidy, after providing at least 10 days published notice in the local newspaper.
2. Further requirements of the business subsidy agreement include:
  - a. Business subsidies in the form of grants must be structured as forgivable loans.
  - b. If a business subsidy benefits more than one recipient, the grantor must assign a proportion of the business subsidy to each recipient that signs a subsidy agreement.

- c. The recipient and the authority must sign the agreement upon approval by the local elected governing body.
- d. Failure to meet job and wage goals, required to be established in the agreement, will cause the recipient to repay the subsidy, plus interest. Terms of repayment must be established in the agreement. The interest rate for repayment of the subsidy must be set at the implicit price deflator defined under section 275.70, subdivision 2. However, the guarantor, after a public hearing, may extend for up to one year the period for meeting the goals provided in a subsidy agreement.
- e. A recipient that fails to meet the terms of a subsidy agreement may not receive a business subsidy from any grantor for a period of five years from the date of failure or until a recipient satisfies its repayment obligation, whichever occurs first.

## **H. Loan Servicing**

Loan closings will be handled by RLF staff and the City Attorney in conjunction with the attorney of the borrower and the primary lender.

Loan servicing will be handled by RLF staff in conjunction with the City's Accounting Department. A separate accounting system within the City's general ledger will be established. Banking services will be provided through the City of Avon with separate accounts established for the RLF funds. RLF staff will monitor and keep records of all accounts in terms of repayments and special provisions. Monthly reports should be generated for all individual loans including principal, interest, fee payments, etc. in an effort to track delinquencies and overall loan status.

A late fee/penalty of \$50 will be assessed for any payments not received within 10 days of the due date. Payments that are not received within 30 days will be considered in default the City may pursue full collection.

Delinquency will be handled in a firm yet flexible way with provisions for modifying or restructuring consistent with program objectives and responsible money management. Any modifications of loan terms and conditions must be requested in writing by the applicant and approved by the EDA Board upon recommendation of the Loan Committee.

In general, defaults will be handled on a case by case basis. Specific action, beyond the above referenced procedure, will depend on the nature and circumstances, amount and availability of collateral and costs versus benefit of liquidating assets or other collateral. Any action taken will be handled by RLF staff and at the direction of the Loan Review Board.

## **I. Sources of Funding To Cover Administrative Costs**

Administrative costs will be financed through application/deposit fees charged to the borrower at the time of application.

The RLF Board will charge a \$500 minimum Application Review fee due at the time of application for a LARGE or SMALL loan and \$300 minimum fee for a CRD Loan. The use of these funds will be to pay the costs associated with the preparation and structuring of applications and costs related to conducting an appropriate review of such applications by staff and/or its consultants. Applicants will also be charged for the EDA's legal fees associated with the review and preparation of loan documents. The City will bill the applicant for all fees incurred over and above the minimum Application Review Fee at the loan closing.



**J. Other**

Policy Amendment - the EDA may amend, modify change, and/or vary the RLF Policies from time to time as necessary and appropriate.

Amendment Adopted: \_\_\_\_\_/