

ECONOMIC POLICY MANUAL

CITY OF MANITOWOC

COMMERCIAL REVOLVING LOAN PROGRAM MANUAL OF POLICIES AND LOAN SERVICING PROCEDURES

**ADOPTED BY CITY OF MANITOWOC ON APRIL 13, 2005
APPROVED BY WISCONSIN DEPARTMENT OF COMMERCE
ON OCTOBER 10, 2005**

I. GENERAL PROVISIONS

A. PURPOSE.

The purpose of the Manitowoc Commercial Revolving Loan Program (hereinafter referred to as the "Program") is to promote local economic development in downtown Manitowoc through the expansion and retention of employment, and to expand business opportunities in the City of Manitowoc (hereinafter referred to as the "City"). Such purposes are declared to be a public purpose for which public funds may be expended. Through the Program and priorities described in this manual, the Community Development Authority of the City of Manitowoc (hereinafter referred to as the "CDA") is authorized to administer the Program and to provide loans on terms tailored to meet the needs of qualified borrowers for eligible projects. The guidelines provided in this manual are intended to be used in the general structuring of economic development projects. The CDA reserves the right to modify Program requirements it deems necessary in order to develop successful projects, and to accept or reject any application for project funding. The CDA will not allow any modifications to Program requirements related to the creation or retention of Low and Moderate Income (LMI) jobs, and leveraging of private funds. The objectives of the program are:

- 1) Encourage the creation and retention of permanent jobs in downtown Manitowoc, which provide a wage, appropriate to the skills and experience of the local labor force and that is competitive. A minimum of 51 per cent of the jobs created shall be made available to LMI persons.
- 2) Encourage the leveraging of private investment into downtown Manitowoc in the form of fixed asset investment, particularly in land and buildings.
- 3) Perpetuate a positive and proactive business climate in downtown Manitowoc which

encourages the retention and expansion of existing businesses and helps to attract desirable new businesses.

- 4) Implement the City's Comprehensive Plan and other economic development goals and objectives related to downtown Manitowoc.
- 5) Maintain and promote a diverse mix of employment opportunities and to minimize seasonal or cyclical employment fluctuations in downtown Manitowoc.
- 6) Encourage the development and use of modern technology and create safe work environments in downtown Manitowoc.

B. DEFINITIONS

- 1) Renovation - Renovation is defined herein as a general upgrading of a building's external appearance. Renovation can consist of accentuating the existing features of the building through painting, replacement, or other treatment; the addition of design elements which may or may not have appeared on the original building but which are in keeping with the building's character; a general revamping of signage, replacing large overhanging signs with smaller signs which either lie flush against the building facade or hang from small brackets; and cleaning, restoration, and sometimes, repainting of brick.
- 2) Rehabilitation - Rehabilitation is defined herein as equipping a deteriorated or economically-outmoded building to make it useful and useable to its occupants. It involves modernization of electrical, mechanical, and structural elements to extend the building's useful life.
- 3) Facade - Facade is defined herein as the entire building front including the storefront with an entrance and display windows, the upper facade usually with regularly spaced windows and the cornice that caps the building.
- 4) Downtown Area - Downtown Area is the area depicted on the map attached as Exhibit "A".

C. AMENDMENTS AND MODIFICATIONS

The CDA may, from time to time, amend the policies and procedures contained herein. Such amendments and modifications are subject to prior written approval by the Wisconsin Department of Commerce (hereinafter referred to as the "DOC"), administrator of the Community Development Block Grant (CDBG) program.

II. ADMINISTRATION

A. LOAN REVIEW COMMITTEE

The CDA may establish a Loan Review Committee (hereinafter referred to as the "LRC") which shall consist of individual representatives having special expertise and knowledge of commercial lending and economic development processes.

The LRC shall have the authority to review, select and recommend loan applications to the CDA for final approval. The LRC shall also have the authority to make policy and procedural recommendations for the administration of the Program.

B. PROGRAM ADMINISTRATOR

The Program Administrator (hereinafter referred to as the "PA") shall explain the Program to prospective applicants, provide written information, assist applicants in completing applications, and process requests for financing. The PA, where necessary and appropriate, shall counsel or guide loan applicants to other more appropriate technical and financial resources when the loan applicant has needs beyond those available from the Program.

The PA shall periodically review all financial statements and loan amortization schedules of Program loan recipients, review and approve documentation of business expenditures financed with Program proceeds, record or file Program security instruments, maintain the Program accounting records which shall be segregated from other community accounts, and shall report to the DOC regarding the use of the Program funds.

The PA shall oversee the preparation of all loan agreements, review all notes, mortgages and other security instruments, and shall oversee matters related to defaults and workout strategies.

The PA shall be responsible for the maintenance of all records for the Program, particularly those related to the expenditure of Program monies for administration purposes.

C. MEETINGS

Loan review meetings shall be held on an as-needed basis. Pursuant to §19.84 Wis. Stats., all CDA members shall be given prior notice of each meeting. A majority of CDA members in attendance at a meeting constituting a quorum shall be required for official CDA action.

D. RECORDS

Written records of all Program activities, including Program meetings, loan applications, and related documents, shall be maintained in appropriate files. All files shall be maintained in a secure place with limited access by authorized personnel. The City's Attorney or other counsel shall be consulted in regard to compliance with local, state and federal open records requirements.

The following files shall be established and maintained for each loan recipient:

- 1) Loan Application File: All applications, business financial statements, personal financial statements, credit reports, business plan documents, and other supporting loan information submitted to the PA, including all applicable correspondence, shall be placed in a permanent file.
- 2) Loan Recommendation File: This file shall contain a summary of the analysis, recommended action for the application, and a copy of the minutes for the CDA meeting summarizing the action taken on the loan request.
- 3) Loan Closing File: This file contains copies of all loan closing documents, all Program legal documents from the loan closing, including security instruments, notes, amortization schedule, and other applicable correspondence. This file shall be placed in a locked, fireproof safe.
- 4) "Tickler" File: A tickler file system shall be established and maintained to ensure the loan repayments, financial information, loan agreement, UCC updates, and other

time sensitive documentation requirements are tracked and obtained as required. The system should include the following monthly coded index files:

- a) Expiration dates for 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 review.
 - e) Dates for site visits.
 - f) Due dates for property tax payments.
 - g) Review dates for job monitoring.
 - h) Dates on which loan recipients will be notified of scheduled changes in the loan amortization schedule as per the loan agreement.
- 5) Financial Statement File: This file shall contain the business' periodic financial statements as required by the loan agreement.
- 6) Progress Report File: This file shall contain periodic progress reports during the outstanding term of the loan.
- 7) Site Visit File: This file shall contain a summary of periodic site visits made during the outstanding term of the loan.
- 8) Repayment Monitoring File: This file shall contain the loan amortization schedule, information regarding the status and documentation of payments, and the outstanding balance of the loan. This file shall also contain observations regarding the frequency of late payments as well as other repayment concerns.
- 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 PA. The review shall follow receipt of the fiscal year end financial statements, year end progress report and site visits. A report of the loan review shall be placed in this file and address 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 violation of loan covenants and suggested corrective actions.

The PA shall work with the loan recipient to resolve problems and identify actions that are needed to correct the identified deficiencies, including possible restructuring of the loan to protect the Program's interest and meet the needs of the business. If the event the loan becomes problematic, the account may be turned over to the City's attorney or alternative counsel for legal action in order to initiate steps necessary to protect the loan, and to insure the maximum repayment of the balance due.

E. ADMINISTRATIVE COSTS

Reasonable administrative funds may be withdrawn from the Program to cover personnel costs and other administrative expenses. Local funds may be used in situations when loan repayments are insufficient to cover administrative costs. Administrative expenses of 15 per cent of program income may be used for direct loan administrative costs. In addition to paying costs for a PA, these funds may be used for, but not limited to, the following:

- 1) Legal costs.
- 2) Consulting fees for credit analysis, business plan reviews and technical assistance.
- 3) Office supplies, copying, typing, mailing and related expenditures.
- 4) Training costs.
- 5) Compliance with local, state and federal requirements.

To generate additional revenue to cover administrative costs, the CDA may also establish loan origination fees, closing fees, servicing fees, and other fees to cover charges directly related to processing an application, and reviewing or servicing a loan. All fees collected go to the Program. The accounting of the fee revenue shall include separate line items to track administrative expenses recovered.

III. ELIGIBILITY CONSIDERATIONS

A. PROGRAM FUNDING

The Program will be funded by the repayment of economic development loans funded with CDBG monies from the DOC, and any other available public and/or private sources of capitalization to further the objectives of the Program. CDBG monies shall be segregated to meet all applicable state and federal reporting and accounting requirements. The Program will provide loan funds for economic development activities in the Downtown Area of the City. The funds may be used for loans, equity participation, and necessary administrative expense.

B. ELIGIBLE AREA

The activity financed and its benefit must be within the Downtown Area of the City (see attached map).

C. ELIGIBLE APPLICANTS

Eligible applicants are owners and renters of commercial, industrial, service or mixed use properties or businesses in the Downtown Area, who will locate or expand in the Downtown Area by creating new jobs, of which a minimum of 51 per cent of the jobs created shall be made available to people who are LMI at the time they are considered for employment by the borrower. Businesses that will retain jobs that would otherwise move out of the City are also eligible.

Renters must provide evidence of the property owner's consent to improve the property, either in the form of an applicable lease covenant (term of the lease cannot be less than the term of the Program loan) indicating improvement of the structure is the responsibility of the renter, or a written statement declaring the property owner's agreement to the improvement.

D. INELIGIBLE APPLICANTS

Program loans shall not be available for speculative investment companies, real estate investment companies, lending institutions, gambling operations, non-public recreation facilities, and other businesses not serving the interests of the Downtown Area and the City.

E. ELIGIBLE ACTIVITIES

Program funds shall be used to assist a business to finance exterior renovation, interior rehabilitation, (including improvements to upper floor non-residential units), purchase of land and building, new construction, purchase of machinery and equipment, land improvements, leasehold improvements, architectural design services for approved projects, working capital for marketing and promotion (eligible expenses must be paid or incurred within 12 months from the date of loan closing, and only when in conjunction with a building improvement project) and any other items viewed as necessary or complementary to improvement of the property as determined by CDA.

CDA reserves the right to lend up to 100% of exterior facade (front) improvement costs in calculating the total amount of the Program loan, when the facade restoration is in accordance with Planning Department design recommendations. This guideline is limited only to building facades, and does not include improvements to roofing, rear entrances, or other related exterior costs.

Projects involving the purchase of land and building, and/or machinery and equipment, must be directly related to building improvements representing at least 25% of total project cost. At least 25% of the minimum building improvement requirement must be in exterior renovation activities.

Purchase of vacant land is eligible only if directly related to planned building improvements, new construction, or an addition to an existing building.

In cases where the applicant can demonstrate that the minimum exterior renovation requirement cannot be met, CDA reserves the right to waive this requirement.

F. INELIGIBLE ACTIVITIES

Program funds shall not be used for working capital (other than uses described in Section E. above); debt refinancing; speculative activities; residential building construction or rehabilitation (unless such activity is part of a mixed use project or intended to convert a building to a business or industrial operation); routine maintenance of plant or shop facility; specialized equipment that is not essential to business operation; activities completed, begun or contracted for prior to receiving final approval of an application for funding under this Program (excluding architectural fees); professional services such as feasibility and marketing studies, accounting, management and similar services; other activities that the CDA may identify during the administration of the Program; and costs other than those specified under "ELIGIBLE ACTIVITIES" above.

G. COLLATERAL

Any available business, personal or other assets considered adequate and satisfactory to the CDA.

H. REPAYMENT

Based upon borrower's credit needs and ability to repay, the Program may provide for flexibility in loan repayment to include:

- 1) Delay first payment.
- 2) Monthly, level debt installments.
- 3) Deferrals of principal, or interest and principal repayments for a limited period

of time.

- 4) Extended amortization schedule with balloon payment.

Payment of interest and/or principal may be deferred during the implementation period of the assisted activity if merited in the loan application. Interest shall accrue during the deferment period, and may be paid in full, or added to the principal amount of the loan. Following the deferral period, interest and principal shall be paid for the remaining term of the loan, unless the CDA and the business mutually agree upon alternative terms for repayment.

I. MINIMUM REQUIREMENTS

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

- 1) Ratio of Program dollars to the number of full-time equivalent (FTE) jobs created or retained, not to exceed \$20,000 per job. For FTE calculations, a full-time equivalent position is defined as a person employed at least 35 hours per week.
- 2) At least 51 per cent of the jobs created or retained must be made available to LMI persons (as defined by household incomes published by the U.S. Department of Housing and Urban Development).
- 3) Ratio of Program dollars to private dollars in a project, not less than two private dollars for each Program dollar.
- 4) Only those expenditures made within 18 months after approval of the Program loan shall be counted in the public/private dollar match.
- 5) Applicant to contribute at least 10 per cent equity into the project.
- 6) Applicant must demonstrate that the proposed project is viable, and the business will have the economic ability to repay the Program loan.
- 7) Applicant shall comply with all applicable local, state and federal requirements.
- 8) Projects shall be completed within 24 months from the date of the Program loan approval. Applicants shall provide the CDA with a project implementation schedule not exceeding 24 months for project completion and job creation, and maintain the employment positions created for 24 months.

IV. TERMS AND CONDITIONS

The CDA will provide long-term, fixed rate, reasonably priced financing, based upon need and ability to repay, according to the following guidelines:

Loan Amount:	Up to 30% of total project cost.
Interest Rate:	4.0%.
Repayment:	Maximum of 15 years - land and building. Maximum of 10 years - machinery and equipment.

CDA may increase their financial participation in a project to 40% when at least two of the following criteria are met:

- A. Exterior building improvements - projects which allocate more than 60% of their building improvements (defined as total expenditures for renovation, rehabilitation, land improvements) for exterior renovation.
- B. Job creation/retention - projects which create a minimum of one full-time equivalent job for every \$20,000 of business improvement loan funds, or retain existing jobs which would have been lost to the City.
- C. Expansion - projects which increase their existing floor space an additional 25 per cent.
- D. Secondary impacts - projects which have a high potential for generating spin off development.
- E. Private investment - projects in which the ratio of private dollars to CDA dollars is at least 2.0:1.

The Program loan shall not have a term longer than the term of the primary private financing in the project.

There shall be no prepayment penalties.

V. APPLICATION PROCEDURE

A. INITIAL INQUIRY

An application form will be provided by the PA to any person interested in applying for a loan under this Program. Information packets containing the terms and conditions of the Program are available at 900 Quay Street, Manitowoc, Wisconsin 54220-4543 (920)/686-6930 (telephone) or (920)686-6939 (fax), and at the City's website (www.manitowoc.org). The PA will inform applicants that they will be required to obtain competitive bids when available, for Program activities.

B. PROJECT REVIEW AND DEVELOPMENT

After the initial inquiry, the prospective borrower will complete the Program application. Applications shall be reviewed in the order received by the PA, and based upon readiness for the proposed project. A completed application may be submitted at any time during the calendar year, and shall include submittal of the following information:

- i. **Letter of commitment from each participating employer**, written on the employer's letterhead stationary, and which describes the project and its schedule for completion; a list of jobs or positions, skill levels, wages and number of positions to be created or retained; number of LMI jobs to be created or retained; when job hiring will occur; amount, source and lending terms of private financing in the project; amount of Program funds needed for successful completion of the project; and a statement that no contingencies exist for the successful completion of the project other than the receipt of a loan from the Program. Note that this letter shall not be required if the information above is provided in the application.
- ii. **Letter of commitment from participating private sector lender(s)**, written on the

lender's letterhead stationary, and which describes the terms of the loan including the exact amount of dollars being committed, interest rate and term, the security to be taken, the period that the commitment is in effect; and a statement that no contingencies exist for the successful completion of the project other than the receipt of a loan from the Program.

- iii. **Current business plan**, which describes the firm by its type, legal organization, ownership, management, stage of development, place in the market, objectives, marketing strategy, place in the industry, agreements with other businesses, financing and capital requirements. The business plan should include a four-digit SIC code or NAICS code, discussion of the management team and its experience, a discussion of the market and identification of major competitors, a discussion of sales growth and composition of the customer base, a discussion of accounting methods applied to inventory and the aging of inventory, a discussion of terms offered to customers, and the aging of accounts receivables, a discussion of agreements with suppliers and other trade accounts and the aging of accounts payable, a description of the debt structure and the status of outstanding debts and a schedule of debt repayments.
- iv. **Financial statements.** *For start-up businesses* (less than 1 fiscal year in operation), provide a current personal financial statement not older than 90 days for each party having 20% or greater ownership interest; and 3-year projected annual balance sheet and profit/loss statement (quarterly projections).

For existing businesses, provide a current personal financial statement not older than 90 days for each party having 20% or greater ownership interest; current balance sheet, profit/loss statement, and statement of change in cash position not older than 90 days; historic annual business balance sheet and annual profit/loss statement for each of last 3 fiscal years; and 3-year projected annual balance sheet and profit/loss statement. Participating lenders will be required to provide a written analysis summarizing the credit including balance sheet and profit/loss analysis, and repayment analysis.

After receipt of a completed application, the PA will evaluate the proposal and review the project with regard to historic preservation, provision of access to the handicapped, and compliance with all applicable local, state and federal codes and requirements. The PA will work with participating lenders and the business in preparing the financial package, and developing a funding recommendation for the CDA.

C. FINAL LOAN DECISION AND AVAILABILITY OF FUNDS

Each application will be reviewed by the PA and then forwarded to the CDA, when it has been determined by the PA to be complete. The CDA will make a decision to approve, not approve or to defer action, within 30 days after receipt of a completed application. A rejected application may be resubmitted, provided it is revised in accordance with the CDA's recommendation and Program funds are still available. Decisions of the CDA shall be final.

Upon approval of a Program loan by the CDA, the PA will contact the business to review, explain and finalize the terms, conditions and requirements of the loan, shall prepare all required agreements and documents, and shall schedule a closing to execute the necessary documents.

If the funding application is not approved, the PA will provide the applicant with a written explanation stating the reasons for denial of the loan, and shall offer to meet with the applicant to explore ways to strengthen the loan request or to identify alternative funding sources.

In the event that Program loan funds requested exceed available funds, the following criteria will be used to determine which business(es) will be awarded the loan(s):

- 1) Eligibility of the application.
- 2) Eligibility of the project to be undertaken.
- 3) The extent to which private funds are to be leveraged.
- 4) The extent to which jobs are to be created, and the type of jobs and wages.
- 5) The extent to which the loan will be secured.
- 6) Evidence of ability to repay the loan.
- 7) Size of the loan requested.
- 8) Timing of the proposed expenditures.
- 9) Completeness of the application.
- 10) Other factors as deemed appropriate by the CDA.

D. LOAN CLOSING

The lender(s) and Program loans shall, whenever feasible, be closed concurrently. Closings will take place as soon as possible following CDA approval, and the fulfillment of all contingencies related to the project. If the Program loan can not be closed within 180 days from the date of the CDA's

approval, the CDA's commitment of funding shall automatically be revoked, and the borrower must reapply for funding. At the closing, the borrower will execute a Revolving Loan Agreement and fulfill any and all collateral requirements.

E. CLOSING COSTS

The CDA shall charge actual closing costs associated with the Program loan. This amount shall be payable in full at or after closing, or deducted from the proceeds of the Program loan. The CDA will provide the borrower with a written statement itemizing these costs prior to the closing.

F. ADDITIONAL CONSIDERATIONS

After the initial inquiry, the prospective borrower will complete the application form contained in the information packet. Upon completion, the applicant will assemble a project proposal containing a short description of the project and the proposed work to be done, preliminary architectural plans, estimated project costs, and contractors to perform the work. Upon receipt of this information, the PA will evaluate the proposal and review the project with regard to:

- 1) Historic Preservation. Some structures may have attractive and historical architectural styles. Modernized facades could eradicate this asset. Exterior renovation should

attempt to preserve the style of these structures. Structures located in the Eighth Street Historic District and identified as potentially eligible for National Register for Historic Places status must follow the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

- 2) Removal of Protruding Signs. Signs included as building improvements must comply with provisions included in the Commercial Revolving Loan Program Design Guidelines.
- 3) Provision of Access to the Handicapped. Any modification of entryways or exits must comply with the Wisconsin Administrative Code.
- 4) Compliance with all Applicable Local, State and Federal Building Codes. All work must comply with all applicable codes. All applicants/contractors are responsible for securing building permits prior to undertaking any work.

Upon determination of the eligibility and feasibility of the project, the PA will work with the applicant to finalize project costs, and tentatively structure the financing of the project.

G. LOAN SERVICING AND MONITORING

All loan payments shall be delivered to the "Manitowoc Commercial Revolving Loan Program" c/o City of Manitowoc, 900 Quay Street, Manitowoc, Wisconsin 54220-4543.

VI. DISTRIBUTION OF FUNDS

Proceeds of the Program loan shall be disbursed to the borrower based on the ratio of CDA dollars to private dollars in the project, for the amount of expenses paid or incurred for project work or expenditures approved by the CDA. The borrower shall submit written evidence of any and all expenses paid or incurred for project work to the PA. The PA will inspect all project work before the payment is issued.

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

- 1) Notice of Award - the CDA must have reviewed and approved a complete application for an eligible business.
- 2) Loan Agreement - execution of a loan agreement executed by the CDA and borrower.
- 3) Promissory Note - execution of a promissory note specifying the amount and repayment obligations of the loan.
- 4) Security - execution of all security agreements related to the transaction including, but not limited to mortgages, UCC searches and filings, guarantees, title insurance, assignment of life insurance and the like.
- 5) Repayment Schedule - a loan repayment or amortization schedule shall be prepared by the PA on or after the date of closing, and shall be attached to the loan agreement and promissory note.
- 6) Evidence of Permits - documentation must be in place that the applicant has secured all

necessary permits, licenses and any other registrations or requirements.

- 7) Evidence of Program Expenditures - documentation must be provided to evidence project expenditures.
- 8) Fixed Equipment - fixed equipment financed with Program loan proceeds must have been ordered, purchased, delivered or installed.
- 9) Other Documents - organizational documents for the borrowing entity such as certificate of status, articles of incorporation, borrowing resolution, current financial statements, and environmental assessments, if applicable.

With the above documentation in place to the satisfaction of the PA, the PA shall schedule a loan closing. All documents will be executed before funds are disbursed, including the recording of all applicable documents.

VII. POST APPROVAL REQUIREMENTS

A. OBLIGATION OF LOAN RECIPIENT

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

- 1) The creation or retention of the agreed upon number of jobs within 24 months of the date of the execution of the Program loan agreement.
- 2) Not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, development disability as defined in §51.01(5) Wis. Stats., sexual orientation or national origin in any employment or construction activity related to the use of the business loan funds.
- 3) To use Program loan monies only to pay the cost of services and materials necessary to complete the project or activity for which the loan funds were awarded.
- 4) To permit inspections by persons authorized by the City of all projects and properties assisted with loan funds.
- 5) To maintain records on the project for the greater of the term of the Program loan, or at least 3 years after completion of the project, or as may be requested by the CDA.
- 6) To submit periodic progress reports to the PA in accordance with the schedule in the loan agreement.
- 7) To maintain all necessary levels and types of liability and property insurance required under the loan agreement, and to identify the CDA as a loss payee, mortgagee or additional insured on the policy.
- 8) To abide by all federal requirements, when applicable, including, but not limited to the following:
 - a) Federal Labor Standards Provisions contained in the documents identified as

- HUD-4010.
- b) Equal Opportunity as provided under Title VI of the Civil Rights Act of 1964, as amended, and regulations issued pursuant thereto.
 - c) Title VIII of the Civil Rights Act of 1968, as amended, and regulations issued pursuant thereto.
 - d) Section 109 of the Housing and Community Development Act of 1964, as amended, and the regulations issued pursuant thereto.
 - e) The Age Discrimination in Employment Act of 1967, as amended, and regulations issued pursuant thereto.
 - f) Section 504 of the Rehabilitation Act of 1973, as amended, and the regulations issued pursuant thereto.
 - g) Executive Order 11063, Executive Order 11246 and regulations issued pursuant to both.
 - h) Section 3 of the Housing and Urban Development Act of 1968, as amended, and regulations issued pursuant thereto.
 - i) Wage rates not less than those prevailing on similar construction projects in the locality as determined by the United States Department of Labor in accordance with Davis-Bacon Act, as amended, and regulations issued pursuant thereto.
 - j) Overtime compensation in accordance with the Contract Work Hours and Safety Standards Act, as amended, and regulations pursuant thereto.
 - k) Other applicable federal laws or regulations pertaining to labor standards or procedures.

VIII. PERFORMANCE MONITORING

A. PRIVATE LEVERAGE COMMITMENTS

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

B. HIRING OF NEW EMPLOYEES

The PA shall monitor the borrower's progress in meeting agreed upon job creation or retention goals. Job creation must be documented using payroll records or comparable information acceptable to the PA. Failure of the business to provide the targeted number of LMI jobs may be a condition for default unless the business can show it made a good faith effort to create the targeted number of LMI jobs, but did not succeed due to reasons beyond its control.

C. DEFAULT

In the event the business is in default on any of the terms and conditions of the loan agreement, all sums due and owing, including late fees and penalties, may, at the CDA's option, become immediately due and payable. This option shall be exercised in writing and shall be implemented according to the protocol detailed in the loan agreement.

IX. USE OF LOAN REPAYMENTS AND REPORTING

A. RLF PROGRAM

Repaid loans shall be re-deposited into the Program account and used in a manner consistent with this manual. A separate accounting record for each loan shall be kept to account for all funds loaned. The Program account shall be audited on an annual basis and the PA shall provide reports to DOC, as requested, regarding the use of Program income. Reports shall be submitted on forms prescribed by the DOC.

X. LOAN SERVICING

A. INTRODUCTION

The purpose of this loan servicing manual is to re-state policies and procedures for the monitoring and review of loans made by the CDA.

Through this loan servicing activity, the PA and CDA will obtain information on the continuing operations of borrowers to ensure compliance with the terms and conditions of these loans, and to adequately protect the City's security interest in all loans granted. The servicing will also ensure that all requirements are met regarding the ongoing filing and recording of documents needed to perpetuate the secured position of the City.

B. ADMINISTRATION OF PROGRAM

The City has designated the City Planner as the PA and the party responsible for the day-to-day administration of the Program, including establishment and maintenance of record keeping and tickler file systems, preparing and submitting progress reports, collecting and analyzing financial statements, conducting field visits, monitoring loan repayments, and working with problem loans.

C. RECORD KEEPING

The following information will be maintained for each loan recipient:

- 1) Loan Package. All credit and loan information as submitted to the PA, including all applicable correspondence will be placed in a permanent file.
- 2) Loan Closing. All Program loans will be closed as soon as possible following the approval of financing from all relevant funding sources, and the fulfillment of all contingencies related to the project. If the loan is not closed within 180 days from the date of loan approval, the funding commitment shall automatically be revoked.

The PA in conjunction with the City Attorney or alternative legal counsel, will be responsible for all loan closings. The PA will assist counsel in assembling the legal documentation for the loan closings, as well as recording all relevant loan closing documents. All original legal documents from the loan closing will be placed in a locked file cabinet, located in a fireproof vault in the City's Planning Department.

All loan recipients will be required to enter into a loan agreement and fulfill any and all collateral requirements with the CDA at the loan closing. The loan agreement includes a variety of conditions and covenants including repayment terms, description of

collateral to be provided, conditions of closing, closing costs, record keeping requirements, employment commitments, and loan amortization schedule.

The collateral requirements will be determined on an individual project basis by the PA and the CDA, and may include mortgages on land and buildings, liens on machinery and equipment, liens on accounts receivables and other assets, personal and corporate guarantees, assignment of life insurance proceeds, intercreditor agreements, and profit share agreements, as well as any other security arrangements required by the PA and the CDA at or before closing. Collateral may be subordinated to private sector financial institutions participating in the project, if required. Finally, businesses receiving loans from the CDA will be required to provide and maintain liability, fire and extended coverage and other insurance coverages as detailed in the loan agreement. The CDA shall be listed as an insured party on the insurance policies.

Copies of the loan closing documents will be provided to the loan recipient and to any other parties deemed appropriate by the PA.

- 3) Record Keeping. The PA will establish and maintain the following loan records:
 - a) All Program project loan project files and amortization schedules.
 - b) Loan Fund Journals which detail all deposits and loan repayments and disbursements for all Program loans.
 - c) Collection Register for each loan containing the name of the business, loan date, loan amount, other terms, the date repayment begins, and records repayments made by the business.

- 4) Project Files. All information related to the Program projects will be maintained in the City's Planning Department. In addition, project files will include information regarding field visits, all written correspondences, records of important telephone conversations, financial statements as required under the loan agreement, insurance certificates, loan disbursement documentation, and other information necessary to assure compliance with the loan agreement.

Project files will also contain information necessary to ensure that financial information, loan agreement and collateral requirements are tracked and obtained as required. This information will include expiration dates for all required insurances, due dates for financial statements, dates of field visits, review dates for job monitoring, and dates on which loan recipients will be notified of changes in repayment amounts.

- 5) Financial Statements. All loan recipients will be required to submit either quarterly, semi-annual or annual financial statements to the PA. The PA will review these statements and compare them with appropriate historical financial information, if available. Financial statements must be prepared by an independent accountant unless otherwise specified in the loan agreement.

The financial analysis may include a review of tax returns, balance sheet and profit/loss statement, substantial changes in assets or liabilities, review of collateral securing the Program loan, available working capital, review of loan covenants, and contact with the participating lender(s) to review the status of all outstanding loans.

- 6) Field Visits. Field visits will be conducted on an "as needed" basis by the PA. The field

visit will include a discussion of the current financial health of the business, and assisting the business with any problems that have been identified.

- 7) Repayment Monitoring. All loan payments must be made within 30 calendar days of the due date as specified in the loan agreement. If any payment is not made on or before the 10th day after its due date, the Program may collect a delinquency charge not to exceed 12 per cent of the unpaid amount. At the time a payment is 15 days late, the PA will notify the loan recipient of the pending default and the action that will be taken should the payment not be made. All payments shall be applied first to late payment fees, then to interest accrued, and then to principal.
- 8) Loan Assessments. All loans will be reviewed on an annual basis, and at any such time as may be deemed necessary by the PA. The evaluation of loan status will include timeliness of required loan repayments, maintenance of collateral securing the Program loans, overall financial condition of the business, presence of material liens or lawsuits, and violation of any loan covenants. If the business is experiencing problems with any of the above, the PA will work with the loan recipient to determine the actions necessary to correct the identified deficiencies, including possible restructuring of the loan. If appropriate, the PA will arrange for business counseling assistance through the Service Corps of Retired Executives (SCORE) or other appropriate resources.

Should the loan recipient default on a Program loan, the account will be turned over to counsel for legal action in order to recover the loan proceeds through the liquidation of collateral and the exercising of personal guarantees.