

14. JOB CREATION AND BUSINESS INCENTIVE PROGRAM

OVERVIEW OF PROGRAM

MISSION STATEMENT

The City of Rosemead Commercial Façade Improvement Program (Program) is designed to promote job creation for low- to moderate-income persons and assist new and existing business expansions through the use of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funded loans. These goals are structured to promote the City as a positive venue for quality business, promote business expansion, and to overall enhance economic growth.

PROGRAM SUMMARY

The Program is designed to assist new and existing businesses through the provision of financial assistance. Financial assistance is in the form of a forgivable no interest loan that is predicated on the creation of new jobs for low- to moderate-income persons. One permanent full-time equivalent position for low- or moderate-income persons is required for each loan amount up to \$25,000. The maximum assistance under the program is \$50,000.

PROGRAM ADMINISTRATION

The Community Development Director will serve as the Program Manager with other City staff and consultants (as necessary) supporting Program implementation. Program staff will review the applications and approve or deny the application based upon requirements within the Program guidelines. Program staff is responsible for compliance with all HUD and CDBG requirements as they relate to implementation of the Program.

SOURCE OF FUNDS

Program activities are funded by CDBG funds. The funding allocation for this Program is based on annual allocations provided by HUD and approval by the City Council.

The City is providing funds for the use of a successful applicant (Participant) within the scope of HUD requirements. In the performance of this Program, the City and Participant shall adhere and comply with all applicable HUD, CDBG, and local requirements. In the event of any conflict between the Program parameters outlined in these Program Guidelines and federal requirements, the provisions of the federal requirements shall prevail.

APPROVAL OF PROGRAM LEGAL DOCUMENTS

All Program legal documents will be approved as to form by the City Attorney prior to their use.

AUTHORITY TO ADMINISTER

The preparation and use of all required Program Guidelines, manuals, forms, documents and agreements shall be administered by the Community Development Director, or designee, in accordance with the Program Guidelines.

PROGRAM GUIDELINES CHANGES AND MODIFICATIONS

Modifications to the Program Guidelines involving administrative procedures or accommodations to adapt to regulatory changes may be performed with the approval of the Community Development Director and City Council.

ELIGIBILITY REQUIREMENTS

ELIGIBLE APPLICANTS

Eligible applicants are either current property owner(s) or current business owner(s) of a commercially zoned property. The business owner must obtain consent from current property owner. Individuals, partnerships, corporations, and other legal entities may apply for assistance. The existing grant deed must list all current owners of the property. Property owner(s) shall be construed to be any person(s) or legal entity that holds title to the subject property. In the case of multiple ownership, the signature of each titleholder is required on all appropriate documents. The City will verify property ownership and require all persons currently on title to give written consent to all work proposed to be performed on the property prior to initiating such work.

The existing or proposed business must be a permitted or conditionally permitted use within the zone. All required entitlements must be approved prior to applying to the Program.

The qualifications and identity of Participants in this program are of particular concern to the City. It is because of those qualifications and identity that the City may enter into a Loan Agreement with Participant. No voluntary or involuntary successor in interest of Participant shall acquire any rights or powers under this Program except as expressly set forth within executed Program documents. A change in ownership shall be subject to the approval of City, but such approval shall not be unreasonably withheld. Participant shall not assign all or any part of any Agreements or Notes under this Program without the prior written approval of City, which approval shall not be unreasonably withheld.

PROGRAM LIMITATIONS

If a building or qualified unit is occupied by one tenant occupant, the maximum number of applications is one per façade. However, corner units with street-facing facades may have multiple facades under one application. If a building has multiple independent units, each unit with a separate entrance, which has a wall that qualifies as an exterior façade, may make a separate application on the basis of one application per façade. For buildings with multiple tenant

spaces and one tenant has applied for grant funds under this program for a portion of the building, the proposed work should be consistent with the historic fabric of the building. If a portion a building has been improved with Program funds, subsequent applications for the remaining portions of the building should be consistent with the prior grant work.

Funding preference will be given to first-time Applicants. After the initial approval and granting of the maximum amount of funds available (\$50,000), a period of five (5) years shall elapse between the date of the Program award and any subsequent application. The interim period shall apply to:

- a. The business owned at the time of the first application, whether the owner is the original owner or a subsequent owner.
- b. Any additional business in which the owner/partner/member/officer of the original business has a proprietary and/or financial interest.

Exceptions to the five-year interim period would include cases of involuntary relocation through no fault of the business, or other emergencies outside the control of the business owner(s).

ELIGIBLE COMMERCIAL PROPERTIES

To be eligible for the Program assistance, the property to be rehabilitated must be located in the City of Rosemead and meet the following requirements:

- a. Must be a commercial property, properly zoned
- b. Property must be current with property taxes and have no liens with the City
- c. No outstanding code violations
- d. Project must meet all State and local building and zoning codes
- e. Building must directly front a public right-of-way

ELIGIBLE PROPERTY IMPROVEMENTS

Program assistance may only be used for exterior rehabilitation items. Such exterior improvements may include, but are not limited to:

- Storefront restoration or renovation
- Professional cleaning or repairing of exterior surfaces
- Exterior painting of buildings visible from public right-of-way
- Stucco re-facing
- Exterior façade treatments (stucco, brick veneer, awnings, paint removal, etc.)
- Permanent Signage

- Signage repair or replacement
- Exterior door and window repair or replacement
- Exterior lighting to enhance building appearance and/or safety
- Mechanical equipment screening visible from public right-of-way

Note: The City may consider additional improvements not listed as “eligible improvements” that contribute to the overall character of the commercial corridor on a case-by- case basis.

The following improvements are ineligible under this program:

- Any improvements not visible from the public right-of-way or publicly owned space
- Parking lot resurfacing
- Nonvisible mechanical equipment screening
- Interior improvements/remodeling
- Temporary, portable, or non-permanent improvements
- New construction and additions
- Property acquisition, debt refinancing, expansion of building area, or conversion of building use
- Routine maintenance and repair
- HVAC repair/improvements
- Plumbing repairs/improvements
- Site and landscape improvements

ADDITIONAL REQUIREMENTS

Recipients must abide by the requirements detailed in the Federal Register Part II; Code of Federal Regulations Title 24, Housing and Urban Development and Title 42, Public Health, and OMB Regulations (cost principles and audits of non-profit organizations); regulations related to lead-based paint hazards, and other applicable federal and state regulations. Additional requirements, including reporting requirements, may be communicated prior to executing a loan agreement.

Asbestos Compliance

Per NESHAP (40 CFR Part 61), Cal OSHA Rule 1529, and South Coast AQMD Rule 1403, the Operating Agency is required to test the work area for Asbestos-Containing Materials (ACM) where necessary. If ACM is identified, then removal, disposal, and/or handling of the materials shall be conducted by a certified asbestos contractor in accordance with applicable regulations. Suspect ACM areas include flooring, wall, ceiling, and roofing materials and can be found in either the exterior or exterior of the structure. All staff, contractors, or subcontractors must have proper training and certification to address asbestos hazards.

Lead-based Paint Compliance

Per 24 CFR 35, Cal OSHA Rule 1532.1, and 40 CFR Part 745, the Operating Agency is required to evaluate, complete testing for, and reduce lead-based paint hazards, when necessary, in structures proposed for rehabilitation activities. Notification of hazard(s) must be provided to owners, occupants, and workers, as necessary. Appropriate records to indicate compliance with these regulations on a property-by property basis must be maintained. Projects subject to Part 35, Lead-Based Paint Poisoning Prevention in Certain Residential Structures, must comply with the regulation and follow procedures based on the funding amount for each project. All staff, contractors, or sub-contractors must have proper training and certification to address Lead-Based Paint hazards.

Review and clearance of proposed actions through this process must be granted prior to incurring any costs or starting any rehabilitation activities.

Construction Contracts

The City shall:

1. Submit Bid Specifications for City review and acceptance prior to advertising the Notice Inviting Bids;
2. Verify bidder's eligibility to receive federal funds through the Federal online system prior to awarding a contract; and
3. Send a Notice of Contract Award letter to the U.S. Department of Labor (DOL) Office of Federal Contract Compliance Programs (OFCCP) within 10 workdays of the contract award date.

Prevailing Wage Labor Compliance

Federal Prevailing Wage requirements of the Davis-Bacon and Related Acts (DBRA) and the Federal Labor Standards Provisions (FLSP) apply to construction projects.

JOB CREATION REQUIREMENT

NUMBER OF JOBS TO BE CREATED

Participants in this program agree to create one permanent full-time equivalent job for low- to moderate-income persons per \$25,000 loaned. Participants who are awarded these funds that have been loaned will be forgiven after one year of participation and compliance with the program, as outlined in Subsection D. In meeting this requirement, the program will be in-line with HUD requirements.

CREATED JOBS DEFINED

If a CDBG loan is awarded, it will be based on job creation for low- to moderate-income persons.

For purposes of being considered a created job, a job must be a new job (full-time equivalent) for the person. To qualify, the person hired must be from a low- to moderate-income household. To qualify as low- to moderate-income, information must be obtained on family size and income so it is evident that family income does not exceed the low- to moderate-income limit. The following additional policies apply for new employment positions:

- a. Multiple part-time positions may be converted to full-time equivalents (i.e., two new part-time positions each working 20 hours per week would be considered 1 full-time equivalent).
- b. Only permanent positions count - temporary jobs may not be included.
- c. Seasonal jobs may be counted only if the season is long enough for the job to be considered as the employee's principal occupation.
- d. All permanent jobs created by the activity must be counted even if the activity has multiple sources of funding.
- e. Jobs indirectly created by an assisted activity (i.e., trickle-down jobs) may not be counted.

PROGRAM PARTICIPATION PERIOD AND EMPLOYMENT START DATE

The required period of time for program compliance and loan forgiveness is one year (Participation Period), as determined by the following:

- a. In cases where the business is a new business, the Participation period will begin on the business opening date or the date of the first Program eligible job created, whichever is later.
- b. If Program funds are used for the rehabilitation of an existing business, the notice of completion date will begin the Participation Period, or the date of the first Program eligible job created, whichever is later.

FULL-TIME EQUIVALENT (FTE) DEFINED

For the purposes of this program, Full-Time Equivalent (FTE) is defined as forty (40) hours of paid full-time work in a seven-day period. In the medical and dental fields, the industry practice defines full-time positions as 32 to 36 hours of work in a seven-day period. Therefore, the only exception to the forty-hour definition of FTE position requirement will be for positions created in the medical and dental fields, when the written personnel policy of the participating business states clearly the number of hours that constitutes full-time positions as 32 hours or more.

51% REQUIREMENT

Fifty-one percent of all jobs created must be held by low- to moderate-income persons, as defined by HUD.

PROGRAM FUNDING TERMS AND CONDITIONS

FUNDING AVAILABILITY

Program is funded on a fiscal year basis. City of Rosemead fiscal year begins on July 1st and ends on June 30th of the following year. Limited funds are available in each fiscal year when the program is funded.

FUNDING LEVELS

Standard funding assistance is \$25,000 with up to \$50,000 being awarded per Applicant. Those requesting over \$25,000 must provide documentation as to the necessity of the additional funds.

LOAN CONDITIONS, RATES AND TERMS

The maximum loan amount obtainable under the Program is \$50,000, which shall be used in accordance with the provisions of a signed Program Loan Agreement between the City and the Participants in conformance with Program requirements. The Program loan shall be evidenced by a promissory note, signed by all business and/or property owners.

Program Participants shall agree to create one permanent full-time equivalent job for moderate- or low-income persons per \$25,000 loaned.

The City will generally follow the rules of the Small Business Administration as to qualification of guarantors:

- a. Active Management with any ownership equity in borrower must guaranty
- b. Shareholders/owners of 20% or more equity in borrower must guaranty regardless of active involvement in management

Guarantees may be secured or unsecured as determined by the Community Development Director. Collateral is a mandatory requirement. Collateral required for loan approval will be 10% of the total amount loaned.

In all cases, a UCC-1 and security agreement will be taken against all business assets acquired with Program funding.

The Program loan, accrued interest, and any other amounts due under the Program Loan Agreement is due upon the earlier of:

- a. The Participant should cease business at the site. The term "cease business" shall mean

when the site is no longer used as the principal place of business for Participant's business. Participant shall give City written notice not less than thirty (30) days prior to cessation of business. If Participant should cease business at the site, Participant shall pay to the City, in cash, within fifteen (15) days of the Participant's receipt of written notification from the City of the balance due on the Note; or

- b. The sale, conveyance, transfer, hypothecation of the security, or any part thereof, or any interest therein, or divestment of title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the prior written consent of the City being first had and obtained; or
- c. Failure to adhere to the provisions of the Program Loan Agreement or Program requirements; or
- d. Failure to perform any obligation under the Deed of Trust securing the Note, or any other Deed of Trust encumbering the security.

The Program Loan is not assumable except under the limited circumstances listed below, which are subject to Community Development Director review and approval. The following allowable assumptions shall not be construed as a transfer under the provisions of this Program, provided that all obligations of the Loan Agreement and promissory note are assumed in writing by the transferee and approval is received from the Community Development Director prior to any proposed changes:

- a. The transfer of the business or business property to the surviving spouse by devise, descent or operation of the law, on the death of an owner;
- b. A transfer where the spouse becomes an owner of the business or business property;
- c. A transfer resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the business or business property;
- d. A transfer of a business owner's interest to an existing co-owner

Sale of Business During Program Term

Any business receiving Program funding shall disclose the information and details of the loan upon sale or transfer of the business to any subsequent owner.

In the case of sale of a participating business during the one-year Program term, the new buyer must provide a complete application and written agreement to the City affirming assumption of all conditions of the grant for the remainder of the term.

LOAN SUBORDINATION

If an existing loan is being refinanced and Program loan subordination is requested, then the refinance cannot increase the amount of the then outstanding debt against the property except to cover the usual and customary fees related to the refinance. All subordination requests are subject to City Manager's review and approval.

LOAN DEFAULT

Should the Participant not meet the obligations as required in the Loan Agreement, loaned funds will be due to the City. The City will pursue any and all remedies allowed by regulation or law until a resolution is attained.

The following occurrences shall warrant the Community Development Director's investigation and potential follow up action:

- a. Delinquent payment- whenever the terms of the Promissory Note are not being met in a timely manner (delinquent by more than 30 days);
- b. Violation of the Program Loan Agreement;
- c. Receipt of a bankruptcy notice;
- d. Filing of a "Notice of Default" by another lienholder on real property;
- e. Legal Service, such as Writs of Attachment, Tax Liens, Subpoenas for records;
- f. Death of a debtor or guarantor;
- g. Notice of significant legal action against borrower/guarantor;
- h. Returned mail from borrower's address by Post Office;
- i. A "Skip Trace" inquiry from another creditor.

Unpaid loan demands will be moved to a non-accrual status at the 90-day delinquency point unless otherwise directed by the Community Development Director, or designee. Rewriting the entire Note in an effort to provide relief to the borrower should be considered after a detailed analysis of the financial condition of the borrower and their prospects for timely payment. The Program Manger will review and provide a determination regarding the acceptability of any re-structured Program Loan.

PRO-RATED CREDIT FOR PARTIAL COMPLIANCE

If a participating business fails to meet the one-year employment requirement a pro-rated credit may be applied for those quarters which were completed and in full compliance with the

Agreement. Credit will give for completed three-month terms at a rate of 25% of the program amount. Quarters (three-month periods) with only partial compliance will not receive credit.

TERMINATION OF AGREEMENT DUE TO LACK OF EMPLOYMENT

If the required employment position has not been created within six months of funding, or if for three consecutive months the required position has remained vacant, the Loan Agreement will be terminated, and the loan balance and any accumulated interest will be due and payable.

REPORTING REQUIREMENT

During the Participation Period, the Participant is responsible for providing a quarterly report to the Community Development Director, or designee, to determine compliance with Program requirements. The documentation shall include the following for each required employment position: employee name, job title, hours worked per week, the hourly rate for participating employees, plus any other documentation as determined by the Community Development Director, or designee, to ensure employment requirements are met. The Quarterly Report shall be filed within two weeks of the last day of the quarter. The Community Development Director, or designee, will provide a calendar for reference of reporting due dates. In addition, the Participant is required to submit the state quarterly DE-6 filing.

PROGRAM PROCEDURES

APPLICATION

Applications for participation in the Program may be obtained from Rosemead City Hall (Planning and Economic Development Division) or online at www.cityofrosemead.org. Each application must be completed in its entirety, signed and submitted with all required documents as listed in the application, including a grant deed, signed proof of ownership or lease agreement. Applications will be reviewed in the order in which they were received. The City will maintain a waiting list for all prospective participants. Incomplete applications will not be processed. An appointment is required with Program staff to submit the application. To request an appointment, contact the Planning & Economic Development Division at (626) 569-2140.

All of the following documentation must be submitted at time of application:

- a. Completed Application Form
- b. Internal Revenue Service Tax Return Verification Form
- c. Copy of Applicant(s) valid government-issued photo identification
- d. Listing of available collateral, including any to be purchased with loan proceeds
- e. Month-to-month projections covering any interim period until year end plus one full

fiscal year including the assumptions that the projections were based upon

- f. Resume for each business owner/manager
- g. Current personal financial statement for each business owner
- h. Fiscal year end business financial statements for prior three years (if available)
- i. Interim business financial statement within 60 days of application date
- j. Business federal tax returns for the prior three years to include all supporting schedules and statements (if available)
- k. Copy of current/proposed lease on business premises (including assessor's parcel number) indicating a minimum lease agreement term of five (5) years; or in the case of an agreement with term set to end within the subsequent year, written commitment to extend said agreement
- l. Personal federal tax returns for the prior three years to include all supporting schedules and statements, for each business owner

Participant may be required to submit additional documentation, as requested by Program staff, in instances where additional application clarification is required.

Application approval is subject to funding availability. Program staff's eligibility determination is not a commitment of funds. Funds shall only be committed upon the full execution of the Loan Agreement, signing of the promissory note, and the recordation of the Deed of Trust,.

APPLICATION REVIEW PROCESS

1. Application Pre-qualification and Evaluation - Each application filed will be dated and processed in the order received. Program staff will review applications for completeness and verify Applicant eligibility. Program staff will advise Applicants of any deficiencies within incomplete applications, and indicate corrective measures required. Program staff shall notify all ineligible Applicants of their status by written correspondence.
2. Applicant Evaluation and Program Staff Review - Upon completion of an application review, Program staff shall schedule an appointment with each qualified Applicant to review program requirements, hiring goals, loan security requirements, procurement requirements, loan conditions, and reporting and documentation requirements. Based on the Applicant's concurrence with Program requirements, Program staff shall prepare a Funding Request Summary that will summarize critical Applicant, business, and program information.

3. Program staff shall convene and provide a determination regarding the eligibility of the Applicant to the Community Development Director, or designee.
4. Award Disbursement - Participants will receive awarded loan funds in the form of reimbursement check(s) from the City within 30 days of receipt of invoices or quotes for approved project expenditures.

LOAN ANALYSIS AND REVIEW

APPLICATION CRITERIA

Applications will be analyzed based upon the following criteria, specified by HUD, Office of Community Planning and Development, and the Small Business Administration:

- a. Ability to maintain employee(s) for at least one (1) year.
- b. Balance Sheet Analysis - Balance sheet must be sound before the loan/grant is made.
- c. Historical earnings and cash flow records, from verifiable sources as determined by the loan committee, to ensure sufficient repayment of all requested credit, and to provide the owner(s) with a reasonable level of personal income to satisfy personal obligations. Typically, a borrower will have been profitable during the most recently completed year and will maintain a cash flow coverage ratio of 1:1 (defined as earnings before debt service, interest and taxes divided by debt service), with sufficient collateral. The ratio would be 2:1 without collateral. If partial collateral is pledged, the ratio may be prorated downward.
- d. Collateral is mandatory at 10% of amount loaned.
- e. Commitment - Personal and corporate guarantees may be required. The borrower should sign personally for the loan/grant and should be prepared to take out a minimum salary until the business is established.
- f. Management experience - The management team must have experience in all areas of running the business: sales, finance, operations, personnel, etc. The management team includes the principals, directors, senior management and consultants. The management team should have direct experience in these areas or have comparable business skills which can be transferred.
- g. Business Plan - The business plan will help identify worthy ventures. The monthly cash flow statement for the first year is especially important.
- h. Character - The owners and management should have favorable credit histories, a reputation for treating customers fairly, no bankruptcy in the past five years, and a clean criminal record. Good character will be determined by credit reports, payment

history with verified vendors, personal interview, or other means as determined. The entrepreneur must be someone who learns quickly, is results-oriented and who will not accept failure.

- i. Niche - It is difficult for a small firm to compete with much larger companies on price. The entrepreneur must be committed to customer service; or the business must serve a market niche or offer a unique product or service.

All of the above criteria are important, and the absence of any one may be sufficient to deny a loan/grant request.

UNDESIRABLE CONDITIONS

Utilizing the guidelines for the Small Business Administration and HUD, the following are undesirable without mitigating circumstances acceptable to Program staff:

- a. Applications for funding that would substantially reduce the amount of non-Federal support for the activity available in other recognized, reasonable loan programs available in the target areas;
- b. Requests for credit to repay existing creditors
- c. Funds used to repay debt to applicant owner(s), partners, stockholders
- d. Requests for funding from new start-up businesses not associated with a franchise chain.
- e. Requests for funding for businesses which do not meet the criteria specified in Section IV A through E.
- f. Non-profit organizations, as designated by Charter/Bylaws, unless designated as approved Community Based Development Organizations (CBDO)
- g. Lack of profitable operations, as demonstrated by sources acceptable to Program staff
- h. Loan/grants to restricted membership or discriminatory groups/organizations
- i. Loan/grants to uses with complete access restrictions based on age
- j. Lack of sufficient equity/highly leveraged situations as determined by Program staff
- k. Personal or business bankruptcy, or prior business failure without sufficient, documented information to mitigate, as determined by Program staff
- l. Poor personal or business credit as evidenced by many derogatory items including public record items, tax liens, judgments, or excessive existing credit as determined by Program staff

- m. Felony convictions, dishonorable discharge or “Bad Conduct” discharge from military service (each situation will be independently evaluated)
- n. A business engaged in any unlawful activity