



Community & Economic Development

Advancing the Economy, Image and Quality of Life

CITY OF HAGERSTOWN REVOLVING LOAN PROGRAM

Quick Information Summary

Eligible Applicants : Small business or developer organized as a proprietorship, partnership, limited liability company or a corporation whose business sales are less than five million dollars (\$5,000,000) annually for each of the last two (2) years.

Eligible Activities: Loan funds may be used for activities, including but not limited to:

- Growth and Expansion
- Rehabilitation
- Code Compliance
- Employee Recruitment and Retention
- Façade Enhancement

Eligible Costs: May include the following:

- Land improvements, including but not limited to: grading, new streets or street improvements, parking lots, utilities, and landscaping.
- Purchase or renovation of building.
- Purchase machinery or equipment defined to have a useful life of at least five (5) years.
- Building construction.
- Leasehold improvements provided the lease is equal to or greater than the term of the loan and the City secures a lien on the land or building, and improvements.
- Micro-enterprise activities defined as a commercial enterprise that has five (5) or fewer employees, one or more of whom owns the enterprise.
- Working Capital

Ineligible Costs: Include but are not limited to:

- Management Fees
- Financing Costs
- Franchise Fees
- Debt Repayment or Debt Consolidation
- Moving Costs
- Refinancing

Ineligible Activities: Funds may not be used for:

- Non-profit Institutions
- Gambling Organizations
- Lending or Investment Organizations
- Land Speculation
- Any activity deemed illegal by federal, state or local law or ordinance

Terms and Conditions:

- Maximum loan amount is \$200,000 or 80% of total project cost, whichever is less.
- Maximum loan amount for working capital is \$30,000.
- Minimum loan amount is \$10,000.00.
- Additionally, micro-enterprise loans are available up to 5,000.
- The interest rate shall be a fixed-rate established at LIBOR plus 1%, but shall not be less than 3%.
- Term may not exceed 7 years. Term may not exceed 5 years for working capital loans.
- For each \$35,000 or fraction thereof borrowed, one full-time job must be created or retained within 2 years from the loan closing.

Turn for additional Terms and Conditions

DCED

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QUICK INFORMATION SUMMARY *continued*

- Business must pay each employee total compensation including benefits not mandated by law equal to at least 110% of federal poverty level for a family of four.
- Business must agree to list any vacant positions with Maryland DLLR job services.
- Minimum of 20% cash equity investment of total project costs. For new restaurants or restaurants open 3 years or less, minimum of 40% cash equity investment of total project costs.
- Repayment of loan shall begin within one month of completion of construction or taking possession of machinery or equipment purchased.

Please be advised, a credit check is required along with a non-refundable application fee based on the requested loan amount.

FULL PROGRAM GUIDELINES

Sections I through XII of this document shall govern the use of Hagerstown Revolving Loan funds.

I. Purpose: The purpose of these guidelines is to establish policies and procedures to regulate, coordinate, and facilitate the workflow for underwriting new financing requests, servicing revolving loans, and ensuring borrower compliance with loan terms and conditions of the Hagerstown Revolving Loan Fund program (HRLF).

II. Authorization and Funding Sources: The Hagerstown Revolving Loan Fund is authorized pursuant to action by the Mayor and Council of the City of Hagerstown and capitalized through funds made available by the City of Hagerstown and the Maryland Department of Business and Economic Development.

III. Mission: The mission of the Revolving Loan Fund is to increase the City's tax base, create and retain permanent private sector jobs, improve economic opportunity and living standards for the citizens of Hagerstown by promoting local business development and expansion, attracting out-of-state businesses to locate within the City, leveraging private sector funds, and assisting the development of new technologies.

IV. Program Objective: The objective of the revolving loan fund is to make direct low-interest loans to businesses for certain approved activities within the Hagerstown city limits. These loans may be used to either fill the financing gap between project costs and private equity and private debt financing or to serve as the primary source of capital.

V. Equal Opportunity and Affirmative Action:

Non-discrimination. No one shall be denied assistance based upon race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, familial status or disability.

All loan recipients, developers, contractors, and subcontractors must agree:

- A.** Not to discriminate in any manner against an employee or applicants because of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, familial status or disability.
- B.** To post and to cause subcontractors to post in conspicuous places available to employee and applicants for employment, notices setting forth the substance of this clause.

FULL PROGRAM GUIDELINES *continued*

VI. Eligible Activities: Certain projects, applicants, activities and costs are eligible for revolving loan funds.

A. Eligible Applicants: Applicants shall be a small business or developer who is organized as a proprietorship, partnership, a limited liability company, or a corporation whose business sales are less than five million dollars (\$5,000,000) annually for each of the last two (2) years. The City of Hagerstown may make exceptions to this rule on a case by case basis. Moreover, the successful applicant must also demonstrate proof of the following:

1. Ownership or lease agreements of the subject property;
2. Property insurance;
3. Property taxes paid and current;
4. Not being delinquent on any financial obligation to the City;
5. Freedom from all judgments, liens, agreements, consent decrees, stipulations for settlements, or other such actions which would prevent the applicant from participating in any program administered by the City of Hagerstown; and
6. Compliance with all applicable federal and state laws and City of Hagerstown ordinances and plans.

B. Eligible Activities: Loan funds may be used to assist small businesses primarily by providing financial assistance for the following types of activities, including but not limited to: growth and expansion, rehabilitation, code compliance, employee recruitment and retention through housing initiatives, and façade enhancement.

C. Eligible Costs: Eligible costs may include the following:

1. Land improvements. Improvements to the land which are a portion of the project cost, including but not limited to: grading, new streets or street improvements, parking lots, utilities, and landscaping.
2. Purchase or renovation of building. Purchase and, if necessary, renovation of an existing industrial or commercial facility is permitted.
3. Purchase machinery or equipment. Purchase of major items of machinery and equipment independent of land and buildings. These items must be defined to have a useful life of at least five (5) years.
4. Building construction. Construction of a new building and/or a major addition to an existing building.
5. Leasehold improvements. Revolving loan funds may be used for certain leasehold improvements provided the lease is equal to or greater than the term of the loan and the City secures a lien on the land or building, and improvements.
6. Micro-enterprise. Micro-enterprise activities are eligible for revolving loan funds.
 - a. Definition. A micro-enterprise is defined as a commercial enterprise that has five (5) or fewer employees, one or more of whom owns the enterprise.

FULL PROGRAM GUIDELINES *continued*

b. Exemption. Micro-enterprise loan applicants may be exempt from certain requirements of these guidelines on a case-by-case basis.

7. Working Capital

8. Infrastructure Improvements. In order to promote job creation/retention for low and moderate income persons and/or to prevent or eliminate slum and blight the City may apply proceeds from the revolving loan fund to develop public infrastructure. Such infrastructure may include utilities, streets, walkways and/or parking facilities. The use of funds for these purposes must be appropriately documented as meeting economic development and redevelopment objectives.

VII. Ineligible Activities: Certain applicants, projects, activities, and cost are ineligible for revolving loan funds

A. Ineligible Applicants: Any applicants not meeting the eligibility requirements outlined in Section VI, subsection A shall be ineligible to receive revolving loan funds.

B. Ineligible Activities: Funds may not be used for non-profit institutions, gambling organizations, lending or investment organizations, land speculation, or any activity deemed illegal by federal, state or local law or ordinance.

C. Ineligible Costs: Ineligible costs include but are not limited to: management fees, financing costs, franchise fees, debt repayment or consolidation, moving costs and refinancing.

VIII. Loan Terms and Conditions: The City shall make available to eligible applicants direct low-interest loans for the purpose of encouraging economic development, city center development, job creation and job retention, and preservation of business districts in the City of Hagerstown.

A. Loan Amount:

1. Maximum loan amount. The maximum loan available from the revolving loan fund for each eligible project is limited to two hundred thousand dollars (\$200,000) or 80% of total project cost, whichever is less. Loans for working capital are limited to a maximum of thirty thousand dollars (\$30,000).
2. Minimum loan amount. The minimum loan amount available from the revolving loan fund for each eligible project is ten thousand dollars (\$10,000).
3. Micro-enterprise loan. The maximum amount of a micro-enterprise loan shall be five thousand dollars (\$5,000.00).

B. Interest Rate: The interest rate shall be a fixed-rate established at LIBOR plus one percent (1%) as published in the *Wall Street Journal* on the date of application but shall not be less than three percent (3%).

C. Term: The term of the loan will be tied to the useful life of the assets being financed. No loan term may exceed seven (7) years. The following general terms apply:

1. Machinery/equipment. The term of loans for machinery or equipment shall not exceed seven (7) years.

FULL PROGRAM GUIDELINES *continued*

2. Land/building acquisition. The term of loans for land and/or buildings shall not exceed seven (7) years, but may be amortized over a period of up to thirty (30) years.
3. New construction/renovation. The term of loans for new construction or renovation shall not exceed seven (7) years, but may be amortized over a period of up to thirty (30) years.
4. Working Capital. The term of loans for working capital shall not exceed five (5) years.
5. Balance due. All balances will be due and payable if and when the loan recipient sells or otherwise transfers any part of his/her interest in the property, fails to comply with the provisions contained in the loan documents, fails to meet any of the guidelines established within this document before the maturity date of the loan or relocates any part or all of the business outside the City of Hagerstown, or any other action which in the opinion of the Director of the Department of Community and Economic Development would put the collectability of the loan at risk.

D. Job Creation: In order to maximize the effectiveness of loans made under this program, the creation or retention of jobs is vital. The following shall apply:

1. One (1) permanent full-time job must be created or retained within two years of the loan closing for each thirty-five thousand dollars (\$35,000) or fraction thereof borrowed from the revolving loan fund. Retained jobs shall be those that but for assistance from the HRLF, would be eliminated. The owner(s), if actively working in the business, may be included in the job creation calculation.
2. Businesses receiving revolving loan funds must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least one hundred ten percent (110%) of the federal poverty level for a family of four; and,
3. A business that receives revolving loan funds must agree to list any vacant or new position with the job services of the Maryland DLLR.

E. Equity Participation: There shall be a minimum twenty percent (20%) cash equity investment of total project costs required of all applicants. On applications for new or recently opened restaurants (open three years or less) the minimum equity requirement shall be forty percent (40%).

F. Collateral Requirements: All loan agreements will be secured by one or more of the following: promissory note, mortgage, financing statement or security agreement as determined by the City. If necessary, the City may accept a subordinate position in favor of the primary lender on the assets financed.

G. Letters of Commitment: Letters of commitment from all funding sources must be submitted for the application to be deemed complete.

H. Personal Guaranty: Personal guarantees of persons with 5% or greater ownership in the borrowing entity shall be required.

I. Loan Repayments: Repayment of the loan shall begin within one (1) month of completion of construction or taking possession of machinery and equipment purchased with loan funds. The City of Hagerstown may make exceptions to this rule on a case by case basis. If construction halts for a period of sixty (60) days or longer, at the City's sole discretion, the loan may be cancelled and repayment of any funds already drawn, plus interest are due and payable at that time.

FULL PROGRAM GUIDELINES *continued*

J. Loan Prepayment: Prepayments are permitted without penalty provided the Borrower makes the City whole for any losses or costs associated with the prepayment.

K. Notice of Award or Denial: Applicants will be notified in writing not more than fourteen (14) days after final action has been taken on their revolving loan fund application by the Senior Staff Committee or Hagerstown Redevelopment Authority (HRA).

L. Loan Closing Documents: The City will close the loan within ninety (90) days of final approval of the loan application. At that time, the City will deliver to the Borrower all closing documents and a final debt service schedule. In exchange, the Borrower will deliver to the City its loan obligation which is defined as a bond, note, or other evidence of obligation issued by the Borrower to evidence its indebtedness under the loan agreement.

M. Post-closing amendments and modifications: Requests for amendments and modifications following award, closing or disbursement of funds to the underwriting of the original request shall require HRA approval and shall be presented at the next scheduled meeting of the Board.

N. Loan Declination: The City of Hagerstown will not make a loan if it is determined that the loan amount would place an undue burden on the financial resources of the Borrower or the Borrower cannot demonstrate adequate financial capacity to repay the loan, the application does not meet the provisions of these guidelines, or it is otherwise determined that making the loan is not in the best interest of the City.

O. Appeal of Denial:

1. Written notice. Applicants will receive written notice of the denial of the loan and the reason(s) for the determination within fourteen (14) days of the determination.
2. Petition for reconsideration. The aggrieved applicant may petition the HRA in writing for reconsideration within fourteen (14) days from the date of the written notice of denial. The letter must state the reason(s) why the request for reconsideration is being made and provide detailed information that the reason(s) for the denial have been adequately addressed. If the applicant wishes to appear in person before the Board, the request must be in writing and be submitted at least seven (7) days prior to the Board's scheduled meeting. Upon receipt of the written petition for reconsideration, the HRA shall consider the petition at its next scheduled meeting and advise the petitioner in writing of its decision within fourteen (14) days of that meeting.
3. Petition to Mayor and Council. In those cases in which the HRA, upon consideration, reaffirms its decision to deny a loan request, the applicant may petition the Mayor and Council to review the decision. The review by Mayor and Council shall not make a determination as to the merits of the application, but shall be a review of the record only and shall be limited to determining if the decision of the HRA was arbitrary and capricious.
4. Reapplication. Applicants may re-apply for revolving loan funds after ninety (90) days if the concerns in the preceding application are adequately and appropriately addressed.

IX. Administration:

A. Application Process: All parties seeking revolving loan funds must file an application. Application forms may be obtained from the Department of Community & Economic Development (DCED).

1. Components of application. Only completed applications will be reviewed for consideration by DCED staff. A completed application is one that satisfies the checklist provided below:

- a. Business plan describing the scope of the project, including site plans, building plans, renderings, or blueprints;
- b. Project budget;
- c. Private financing commitment;
- d. Equity investment commitment;
- e. Proposed security;
- f. Company financial statements (3 years);
- g. Personal financial statements (2 years);
- h. Release for credit check;
- i. Mortgage or lease of property to be improved;
- j. Proof of insurance of property to be improved;
- k. Number of jobs to be created or retained;
- l. Wage information;
- m. Amount of loan request; and
- n. Other documentation as requested.

2. Incomplete applications. DCED staff, in its sole discretion, will determine if the application is complete and actionable. Incomplete applications will be assigned *pending* status and the applicant will be informed in writing of the missing documentation.

3. Transmittal. Applications transmitted by oral, telegraphic, facsimile, or e-mail will not be accepted.

4. Determination of eligibility. Applicant eligibility will be determined by DCED staff using criteria enumerated in subsection A of this section.

5. Site inspection. As part of the eligibility determination process, the City will inspect the property or building designated for improvements for compliance with City ordinances and zoning codes.

6. Credit check. A credit check for the company and each of its principals shall be conducted by DCED staff.

7. Loan Fee. The following schedule of fees shall apply:

Loan Request	Fee
5,000-50,000	\$100
50,001-100,000	\$150
100,001-150,000	\$200
150,001-200,000	\$250

FULL PROGRAM GUIDELINES *continued*

B. Staff Responsibility. DCED staff shall have the general responsibility for coordinating the application process, reviewing loan application, preparing applications and recommendations for review by the Senior Staff Committee and the HRA, and coordinating the loan approval and service process as set forth in subsections D – F of this section.

C. Loan Approval Process. DCED staff will process loan applications and make recommendations to Senior Staff Committee.

1. Upon determining the eligibility of the completed application and reviewing for credit worthiness and soundness of plan, DCED staff will forward all applications in excess of ten thousand (\$10,000) to the Senior DCED staff for action in accordance with these guidelines.
2. Criteria. Each application shall be reviewed to determine the economic benefit to the City of Hagerstown, credit worthiness typical to the lending community including the borrower's ability to repay the loan and the collateral offered to secure the loan, the number of jobs to be created or retained, wage rates of jobs created or retained, and anticipated increase in the local tax base.
3. For loan requests of ten thousand (\$10,000) or less, the Director of the Department of Community & Economic Development shall have the authority to approve or deny the application following these guidelines.
4. Loan requests greater than ten thousand (\$10,000) shall undergo a review by a committee of senior staff made up of three (3) persons appointed by the City Administrator. They will review applications to assure they comply with programmatic. Senior Staff Committee shall be the authority to approve requests up to fifty thousand (\$50,000) In the case of requests in excess of fifty thousand (\$50,000), the Senior Staff Committee will forward the request to the Hagerstown Redevelopment Authority with a recommendation of approval, or they may deny requests based upon failure to meet programmatic requirements. If necessary, the committee may seek clarification or additional information before rendering a decision.
5. The Hagerstown Redevelopment Authority will serve as the loan review committee for all loans exceeding fifty thousand (\$50,000). They will also hear appeals of decision to deny requests made by Director of the Department of Community and Economic Development. Final determination on all revolving loan applications rests with the HRA.
6. Notification of action. The applicant shall be notified in writing within fourteen (14) days of the decision in accordance with the requirements set forth in Section VIII, Subsection M of these guidelines.
7. Approval. If approved, the applicant will be provided a written commitment letter that will outline the terms and conditions of the loan approval. A copy of the commitment letter will be signed by the Borrowers and Guarantors signifying acceptance of the terms and conditions of the loan proposal and the conditions for funding. Upon the return of the executed commitment letter, Community Resources staff will begin the loan closing process with the City Attorney.

FULL PROGRAM GUIDELINES *continued*

8. Closing. The borrower may choose the settlement attorney. It shall be the responsibility of the borrower or borrower's attorney to coordinate review of the closing documents with the City Attorney. All costs of settlement including, but not limited to, document preparation and review, title examination and title insurance, and recordation fees shall be payable by the borrower.

D. Conflict of Interest: All city officials and employees shall comply with the applicable regulations set forth in Section 33-3 of the City Code.

E. Loan Servicing: Community Resources staff will coordinate loan servicing activities.

1. Monitoring. Community Resources staff will monitor loans for compliance with the accepted terms and conditions including job creation statistics and wage and benefit levels.
2. Reports. Community Resources staff is responsible for ensuring that all required reports are filed in a timely manner.
3. Records. Computer files and conventional paper files will be maintained for the purpose of documenting, tracking, and monitoring program and project activities. Program records will be maintained primarily by the Community Resources Department. Where applicable, the following records will be maintained:
 - a. Program records. The following program information will be maintained in the program project file, including but not limited to:
 - i. Eligibility determination records as set forth in Section IX, Subsection E (1) (a-n); report;
 - ii. Progress reports;
 - iii. Property inspection report;
 - iv. HRA Resolutions;
 - v. Correspondence;
 - vi. Loan documents; and
 - vii. Executed loan agreement.
 - b. Financial records. The following financial information will be maintained in the financial project file, including but not limited to:
 - i. Copy of the executed loan agreement;
 - ii. Disbursement data;
 - iii. Progress reports;
 - iv. Repayment data; and
 - v. Amortization tables.
4. Record retention. All program and financial records, supporting documents, statistical records, environmental review records and other records pertinent to the revolving loan program shall be maintained for a period of at least three (3) years from the final project report and project closeout date.

X. Default: If the HRA determines a loan to be in default it will convey the matter to the City Attorney for disposition.

FULL PROGRAM GUIDELINES *continued*

XI. Funding acknowledgement: For projects financially supported by revolving loan funds the Borrower shall:

- A.** Acknowledge revolving loan fund support in certain written materials including company brochures, reports, newsletters, and press releases; and
- B.** Post a City approved temporary sign on the building or expansion construction site that acknowledges financial support from the City of Hagerstown.

XII. Reporting Mayor and Council: At least bi-annually, staff shall report to the Mayor and Council the status of the program, including a summary of the loan portfolio. Additionally, staff shall report on the number of applications received, the number and dollar amount approved and the number denied.

Adopted by Mayor and Council: November 23, 2010.