



Office of the City Manager

CONSENT CALENDAR  
March 22, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Economic Development Manager

Subject: Amendment to the Berkeley Revolving Loan Fund Administrative Plan to allow management of the COVID-19 Resiliency Loan Program (RLP) by Working Solutions, a certified Community Development Financial Institution; Authorize a \$60,000 contract with Working Solutions to provide technical assistance and small business support to Berkeley's RLP participants

RECOMMENDATION

Adopt two Resolutions:

1. Approving changes to the Administrative Plan of the Berkeley Revolving Loan Fund (RLF) to allow for third party administration of the COVID-19 Resiliency Loan Program (RLP).
2. Authorizing the City Manager to execute a sole source contract and any amendments with Working Solutions, a certified Community Development Financial Institution, not to exceed \$60,000 of ARPA funds to provide additional small business support and technical assistance to Berkeley's RLP participants for the period beginning March 31, 2022 through the five-year term of the RLP loan repayments (anticipated ending date December 31, 2027).

FISCAL IMPACTS OF RECOMMENDATION

There is no immediate fiscal impact in approving the revised RLF Administrative Plan. Over time, staff anticipates that the modification of the RLF Administrative Plan will result in the origination of significantly more loans from the RLP program and an increased economic benefit to the City as a whole due to the potential creation of new Berkeley businesses and business licenses. The RLP program was established in July 2020 with funds from the federal CARES Act Recovery Assistance Grant. The \$60,000 contract for small business support and technical assistance to RLP participants will be underwritten in full by funds from the federal American Rescue Plan Act (ARPA).<sup>1</sup>

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<sup>1</sup> A portion of Berkeley's ARPA funds were identified for small business support and approved by the Berkeley City Council with the FY22 Budget, [June 29, 2021](#).

### CURRENT SITUATION AND ITS EFFECTS

In July of 2020, the City of Berkeley was granted \$814,000 of Economic Development Administration (EDA) Coronavirus Aid, Relief, and Economic Security (CARES) Act recovery assistance funding to administer and provide small business loans to coronavirus-impacted businesses in Berkeley. Berkeley's existing Revolving Loan Fund (RLF) Administrative Plan and program were modified to accept the EDA CARES Act grant, and to establish a second loan fund, the COVID-19 Resiliency Loan Program (RLP).<sup>2</sup>

The COVID-19 Resiliency Loan Program's (RLP) goal is to provide low interest rate loans to Berkeley businesses negatively impacted by the COVID-19 pandemic. To date, 11 RLP loans (totaling \$520,000) have been granted and disbursed to Berkeley businesses in need of support. This task was accomplished with extensive staff time from the Office of Economic Development (OED); and the loan underwriting support services from the Bay Area based non-profit, Working Solutions. Working Solutions is a certified Community Development Financial Institution (CDFI) that specializes in financial services, technical support, lending, and loan servicing for small businesses.

In order to comply with the terms of the EDA CARES Act grant, the City is obligated to disburse the remaining RLP loan fund balance by July 2022, as well as service the existing 11 RLP loans. The executed RLP loans are slated to begin repaying in May of 2022; and staff has identified a critical need to increase loan servicing and lending capacity rapidly. As Working Solutions specifically provided the city (including the Loan Administration Board) with the capacity to complete the RLP loan application reviews and underwriting services for the 11 existing RLP loans, and has proven expertise administering revolving loan funds for other Bay Area cities including San Francisco and Oakland, staff recommends that the remaining balance of the RLP award be transferred to Working Solutions through a sub-grantee award agreement certified by the EDA.

By executing a sub-grantee award agreement, a qualified third party may review, approve, and service the existing and future loans in the RLP program in partnership with the City of Berkeley. The sub-grantee award agreement will not impact costs to Berkeley borrowers (RLP program participants), and additional funding will be provided in a separate contract for Working Solutions to provide enhanced technical assistance for RLP loan recipients. Together these actions will provide for a vastly improved experience for loan applicants, program participants, Loan Administration Board (LAB) advisors, and program staff.

In order to facilitate this process, the RLF Administrative Plan must be amended to allow for a third-party administrator of the RLP loan fund to be approved by the LAB

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<sup>2</sup> [Addendum to the Berkeley Revolving Loan Fund \(RLF\) Administrative Plan to augment the RLF with a COVID-19 Resiliency Loan Program](#), Item 4, Berkeley City Council Meeting, October 17, 2020.

(achieved January 27, 2022), ratified by the City Council, and accepted by the U.S. EDA, the federal governing body for all Revolving Loan Fund programs.

#### *Loan Administration Board (LAB) Action*

On January 27, 2022, the LAB reviewed and approved the proposed amendments to the RLF Administrative Plan to allow a third-party administrator to govern the origination and servicing of the RLP loans.<sup>3</sup> The full text of the revised RLF Administrative Plan is provided (Exhibit A) and the changes to the document are noted on pages 7 and 23-25. The modifications to the RLP lending criteria, borrower description, and loan terms, include removing the cap on number of employees (previously 50) and striking the business tenure requirement (previously 2 years). In addition, the RLP application fee has been adjusted down to \$50 to align with the RLF “legacy” loan program, and the RLP interest rates have been set to be between 1-7% to align with the current interest rate set for legacy RLF loans which is set at the prime interest rate<sup>4</sup> plus 2 points (currently 5.25%).

#### *Next Steps*

The EDA requires that the City of Berkeley, in addition to the Loan Administration Board, adopt the attached resolution presenting the revised RLF Administrative Plan which allows for a third party, Working Solutions, a qualified CDFI lender, to govern the origination and servicing of the *COVID-19 Resiliency Loan Program (RLP)* loans.

In addition, to enhance the Berkeley borrowers lending experience, and to help provide for a successful program transfer, a new separate contract with Working Solutions must be established through the term of the existing RLP loans (5 years). The attached resolution authorizes the City Manager to execute a sole source contract and any amendments with Working Solutions, a certified Community Development Financial Institution, not to exceed \$60,000 of American Rescue Plan Act (ARPA) funds to provide additional small business support and technical assistance to Berkeley’s RLP participants for the period beginning March 31, 2022 through December 31, 2027.

#### BACKGROUND

In 1980, the City of Berkeley received a \$500,000 grant from the EDA, a federal agency operating underneath the auspices of the Department of Commerce. The grant was issued to administer a commercial revolving loan fund to all eligible small businesses in the fund’s Target Area, which at the time of the award was a small geographic area of approximately 35 blocks in South Berkeley. Since then, the program has expanded twice geographically, including the 2010 expansion to the City’s borders, making the loan program available to all business (including non-profits) located in the City of Berkeley.

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<sup>3</sup> Loan Administration Board, [Meeting Minutes](#) (1/27/22), motion by Board Member Illgen (M), Seconded by Board Member Shoaf (S). Vote: 7- Ayes -0 Nays -0 Abstentions.

<sup>4</sup> View current prime rate here: <https://www.bankrate.com/rates/interest-rates/prime-rate.aspx>.

The City of Berkeley RLF program offers loans to businesses with interest rates and terms that are below market. Loans are available for use in funding business expansion, fixed assets, equipment, working capital, and real estate. As loan recipients make payments on an issued loan, these funds are used to provide additional loans to new loan recipients; in that way, the fund ‘revolves’ over time. The principal goals of the RLF are to support the creation and retention of permanent full-time jobs, facilitate investment and commercial growth, and direct economic development efforts at revitalizing commercial corridors and businesses throughout the City of Berkeley.

The LAB, a City of Berkeley Commission appointed by the Mayor and City Council, provides oversight for the RLF program. Office of Economic Development (OED) staff serves as the secretary to the LAB commission, and the LAB meetings are open to the public and subject to the Brown Act. There are special criteria for the LAB members; of the nine seated commissioners, two must have demonstrated business expertise, three must have credit and banking experience, and one must be a lawyer. The LAB outlines policy, guidelines and lending criteria articulated in the Berkeley RLF Administrative Plan based on EDA’s Terms and Conditions. Final approval for all loans, including determination of the loan amount, rests with the LAB, informed by recommendations issued from a contracted third-party underwriter. The maximum allowable size of any one loan can only be 25% of the RLF’s capital base at the time of the loan.

The loan fund is designed as a tool for equitable economic development; ideal borrowers are businesses that provide services or jobs for people in low-income communities, and women- and minority-owned businesses. The fund is primarily intended to provide financing for businesses that are unable to secure traditional private financing. In 2019, the City Council approved an addendum to the RLF Administrative Plan to make the RLF more accessible to worker owned cooperatives seeking to obtain financing.<sup>5</sup> With the outbreak of COVID-19 in early 2020 many Berkeley businesses faced revenue shortfalls that compromised their ability to cover operating expenses like payroll, rent, loan payments, and utilities. To respond, the City of Berkeley applied for a federal EDA CARES Act Recovery Assistance Grant to further capitalize the City’s existing RLF program.

On July 29, 2020 the City of Berkeley was granted \$814,000 of EDA CARES Act funding to further capitalize and administer the RLF to provide small business loans to coronavirus-impacted businesses in Berkeley. Subsequently, the RLF Administrative Plan was amended and approved first by the LAB and then by the City Council and on October 17, 2020 a new program, the RLP, was established.<sup>6</sup> The RLP’s goal is to provide low interest rate loans to Berkeley businesses negatively impacted by the

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<sup>5</sup> [Referral Response: Supporting Worker Cooperatives](#), Item 22, Berkeley City Council Meeting, February 19, 2019

<sup>6</sup> [Addendum to the Berkeley Revolving Loan Fund \(RLF\) Administrative Plan to augment the RLF with a COVID-19 Resiliency Loan Program](#), Item 4, Berkeley City Council Meeting, October 17, 2020.

COVID-19 pandemic. To date, 11 RLP loans (totaling \$520,000) have been granted and disbursed to Berkeley businesses in need of support.

Under the RLF's Administrative Plan, up to 50% of interest payments on outstanding loans can be used to pay for program marketing or administrative costs including retaining the services of a professional underwriter. Since 2018, Working Solutions has been under contract to serve in this role. The City of Berkeley performs the loan servicing in house for the RLF loans (in collaboration with the departments of Health Housing and Community Services, Finance, and the Office of Economic Development) using software licensed from Grants Management System (GMS). The RLF Program is subject to the single audit review of the City's federally funded programs performed by outside auditors.

ALTERNATIVE ACTIONS CONSIDERED

In the absence of a servicing provider and assistance through a third party, the City of Berkeley would possibly have to return the full balance of the undeployed RLP funds to the EDA grantor due to lack of capacity.

CONTACT PERSON

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Attachments:

1. Resolution  
Exhibit A: Berkeley RLF Administrative Plan with revised COVID-19 Resiliency Loan Program Addendum, approved by the Loan Administration Board, January 2022.
2. Resolution Authorizing the City Manager to Execute a Contract with Working Solutions using ARPA funds to provide additional small business support and technical assistance to Berkeley's COVID-19 Resiliency Loan Program (RLP) participants.

RESOLUTION NO. ##,###-N.S.

APPROVING AN AMMENDMENT TO THE BERKELEY REVOLVING LOAN FUND  
(RLF) ADMINISTRATIVE PLAN TO ALLOW FOR THE THIRD-PARTY  
ADMINISTRATION OF THE COVID-19 RESILIENCY LOAN PROGRAM (RLP)

WHEREAS, the City of Berkeley received a \$500,000 grant from the federal Economic Development Administration (EDA) in 1980 to administer a commercial Revolving Loan Fund (RLF) for eligible businesses in the South Berkeley Target Area; and

WHEREAS, the City approved revisions to the RLF Administrative Plan in 2005 and 2010, which included two expansions of the original target lending area to the entire City; and

WHEREAS, in the year 2020, the City of Berkeley received an additional \$814,000 grant from the federal Economic Development Administration (EDA) funded by the CARES Act to swiftly provide low interest rate loans to Berkeley businesses negatively impacted by the COVID-19 pandemic; and

WHEREAS, the City of Berkeley approved a revision to the RLF Administrative Plan in 2020, which permitted the City to create and administer the COVID-19 Resiliency Loan Program (RLP) to disburse such funds; and

WHEREAS, in order to comply with the terms of the EDA CARES Act grant which funded the RLP, the City is obligated to disburse the remaining RLP loan fund balance by July of 2022, as well as service the existing 11 RLP loans which are slated to begin repaying in May of 2022; and

WHEREAS, there is critical need to increase loan servicing and lending capacity rapidly, and Working Solutions, a CDFI lender, has proven expertise administering revolving loan and grant funds for other Bay Area cities including San Francisco and Oakland, and has provided underwriting services for the 11 executed RLP loans; and

WHEREAS, the remaining balance of the RLP award can be transferred to a third-party administrator through a sub-grantee award agreement certified by the EDA; and

WHEREAS, on January 27, 2022, the Loan Administration Board approved the recommended amendments to the RLF Administrative Plan to permit third party review, approval and servicing of the COVID-19 resiliency loan program (RLP).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley hereby approves the revised Administrative Plan for the Berkeley Revolving Loan Fund as required by the Economic Development Administration (EDA). A copy of said Plan shall be placed on file with the City Clerk.

Exhibits

A: Berkeley RLF Administrative Plan with revised COVID-19 Resiliency Loan Program (RLP) Addendum, approved by the Loan Administration Board, January 2022

# City of Berkeley Revolving Loan Fund Administrative Plan

OFFICE OF ECONOMIC DEVELOPMENT  
CITY OF BERKELEY, CA

1/27/2022



**CITY OF BERKELEY REVOLVING LOAN FUND  
ADMINISTRATIVE PLAN**

**EDA #07-39-02523**

**Approved by the Loan Administration Board,**

**Adopted by Berkeley City Council Resolution No. \_\_\_\_\_-N.S.,**

**Approved by the Economic Development Administration**

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## **PART 1: THE REVOLVING LOAN FUND (RLF) STRATEGY**

The RLF is designed to address areas of economic distress in the City of Berkeley and help implement the City's economic development strategy for the Target Area as summarized below.

Small businesses and start-ups often are unable to access private capital for financing business expansion and improvements. Those who can meet private capital procurement requirements may do so at higher prices. In order to lessen this burden to local businesses, the RLF is designed to supplement private financing for tenant improvements and fixed assets such as equipment for businesses. Use of RLF funds in tandem with private financing can reduce the cost of private financing, thereby increasing the availability of private capital to businesses that are located in Berkeley.

### **A. TARGET AREA OVERVIEW**

#### **1. The Changing Economic Climate in Berkeley**

At the inception of the RLF in 1980, the Target (lending) Area was exclusively in South Berkeley, where many of the City's lowest income and minority residents were clustered. Though South Berkeley continues to be one of the economically depressed areas in the City, poverty and unemployment are somewhat less geographically concentrated in South Berkeley than they were in the 80s, 90s, and the aughts (00s).

Expansion of the Target Area in 2011 to the full City of Berkeley did not mean that the RLF ceased lending in South Berkeley, or ceased lending to retail businesses. In fact, the opposite occurred. Once the program had a larger target area, it netted more applicants to the loan program, and increased visibility of this viable business assistance resource. In order to promote small business growth and add jobs to the Berkeley employment base, the RLF continues to need the flexibility to consider loan requests from businesses throughout all of Berkeley that have the potential to create more and better-quality jobs.

This RLF Administrative Plan update stems from a regional strategy document, Building on Our Assets<sup>1</sup> that has been reviewed by the Economic Development Administration (EDA) and certified as a Comprehensive Economic Development Strategy (CEDs).<sup>2</sup>

There are also several area plans that dictate the direction of economic development activity in the City of Berkeley. Within the boundaries of the Target Area there are specific area plans in place, including:

- Adeline Corridor Plan (2020)
- Southside Plan (2011)
- Berkeley General Plan (2003)
- South Shattuck Strategic Plan (1997)
- University Avenue Strategic Plan (1996)
- West Berkeley Plan (1993)
- Downtown Plan (1990)
- South Berkeley Area Plan (1990)
- Waterfront Master Plan (1986)

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<sup>1</sup>East Bay Economic Development Alliance, *Building on Our Assets, Economic Development & Job Creation in the East Bay*. A regional economic assessment, October 2011. See: [http://www.eastbayeda.org/ebeda-assets/reports/2013/Econ%20Report\\_Building\\_on\\_Our\\_Assets\\_Report\\_2011.pdf](http://www.eastbayeda.org/ebeda-assets/reports/2013/Econ%20Report_Building_on_Our_Assets_Report_2011.pdf)

<sup>2</sup> For more on the region-wide CEDs update, see: <http://abag.ca.gov/planning/economic.html>, 2017.

All other areas that do not fall within the area plans specified fall within the jurisdiction of the City of Berkeley's General Plan's Economic Development and Employment Element.

## 2. Target Area Resources and Assets

The commercial areas within the Target Area are primarily developed with a mix of residential and business clusters/corridors. The South Berkeley area can be characterized as neighborhood commercial districts on arterial streets: Adeline Avenue, Shattuck Avenue, Sacramento Street/San Pablo Avenue have a mix of smaller retail and service-sector businesses. Additionally, some light industrial and food processing establishments also exist along San Pablo Avenue. Research and Development (R&D) firms are highly concentrated in, but not limited to, the West Berkeley area. In the past decade, West Berkeley has experienced continued growth in biotechnology, pharmaceuticals, environmental services and food processing. While there was a vested effort to attract growth in the previous (pre-2011) Target Area (South Berkeley), there was very little success in doing so. The 2011 Target Area Expansion provided an opportunity to assist these growing sectors in their development, while continuing to assist traditional retail businesses along the south Berkeley commercial corridors.

The expansion of the Target Area continues to possess a number of resources and potential opportunities for synergistic economic development and growth, including:

- Availability of commercial zoned vacant or underutilized parcels along major traffic corridors,
- Numerous commercial districts with unique tenant mixes;
- Organized merchant associations in many districts of the city;
- Recent and planned public improvements along major corridors and BART stations;
- A high degree of community involvement and support for economic development and revitalization efforts;
- Commitment of a significant amount of City and federal resources, including the recent development projects and public improvements around the Downtown Berkeley and Ashby BART stations, transportation enhancements along San Pablo Avenue and University Avenue; and
- Availability of high quality educational and job-training resources through the neighboring University of California, the Berkeley Community College (Peralta District), and the City's First Source employment program and other local employment training programs.
- Unique to the City of Berkeley, the neighboring University of California, Berkeley and the Lawrence Berkeley National Laboratories are major draws for high tech businesses, many of which have ongoing business relationships with both the City and the University.

## 3. Implementation Programs and Activities

The City is implementing the following supportive programs in the Target Area:

- a) Business retention and attraction programs specific to unique commercial districts the Target Area

- b) Proactively engaging with financial institutions to access private capital for business expansion and attraction
- c) Encouraging participating businesses to utilize the RLF in tandem with private financing
- d) Providing a list of additional resources to assist borrowers in applying for financing
- e) Distributing information on local employment and business assistance programs
- f) Informing business owners on upcoming development of key properties, relevant capital improvement programs specific to the commercial area.

## **B. THE BUSINESS DEVELOPMENT STRATEGY**

### **1. Objectives of the Business Development Strategy**

The RLF is designed to assist in achieving the following economic development objectives and benefits for the Target Area:

- Provide financing mechanisms through which public investment will stimulate simultaneous private investment in the revitalization of commercial districts within the Target Area that otherwise would not have occurred;
- Provide a programmatic framework for the effective rehabilitation and conservation of commercial or industrial facilities;
- Provide incentives for the retention, expansion, and location of firms that will promote increased employment opportunities for residents, present a stronger non-residential tax base, and provide more opportunity for local participation in economic activities;
- Increase minority enterprise development;
- Increase women-owned business development;
- Link RLF borrowers with the City's First Source Employment program to increase local hires;
- Increase the growth potential of local businesses;
- Establish linkages with the surrounding commercial area's existing economy to ensure the RLF Funds are not used as a substitute but instead as a supplement for private investment;
- Generate additional tax revenues (from increased sales etc.) for the City of Berkeley;
- Assist firms in meeting local environmental standards; and
- Encourage the development of vacant land and the rehabilitation of dilapidated or vacant buildings for commercial purposes.

### **2. Targeted Sectors**

The City has targeted the following industry clusters in the Target Area for business assistance:

- Healthcare, including pharmaceuticals, medical devices, biotechnology and healthcare services;
- Environmental, including environmental technology and environmental services;
- Business services, including locally serving professional services, business related services, technical services, finance, and real estate services;
- Light manufacturing, including food processing; and
- Retail Trade.

3. Types of Business Assistance

The Office of Economic Development (OED) assists businesses in the Target Area with a full range of local economic development activities, including:

- Attracting new businesses to the City of Berkeley in the targeted sectors by identifying and marketing vacant sites and buildings in close collaboration with the commercial real estate community.
- Assisting new businesses in obtaining permits and financing. Assistance is provided to existing businesses to expand, including assistance with financing through the RLF and other available financing.
- Referral of new and existing businesses interested in business planning to community business counseling resources such as SCORE Easy Bay and the Alameda County Small Business Development Center (SBDC).
- Providing assistance in obtaining qualified employees that are also local residents through the City's First Source Employment Program.
- Providing technical assistance to businesses interested in the worker cooperative model as a succession plan.

**C. FINANCING POLICIES**

RLF loans may be made to qualifying businesses for tenant improvements, fixed assets such as equipment and machinery, working capital, and real estate transactions. Loan funds may also be used to finance the conversion of a qualifying business to worker ownership if the applicant can demonstrate that (1) the business would close, downsize, or be significantly harmed if the business does not convert to a cooperative, and (2) jobs would be retained or gained through the conversion.

1. Loan Size – The standard loan size is \$35,000. The LAB may approve loan amounts larger than the standard maximum on an exception basis. The maximum individual loan size, per Economic Development Administration (EDA) program-wide policy, is to be no more than 25% of the RLF program's capital base at the time of the loan application.

2. Interest Rates - Interest rates on loans will be fixed. The standard RLF interest rate on RLF loans will be equivalent to the prime interest rate quoted in the *Wall Street Journal* plus 2% at the time of loan approval by the LAB. The RLF operator will follow the state's usury law, which determines the maximum legal interest rate. The minimum or floor interest rate for RLF loans is five percent (5 %) or seventy-five (75%) of the prime interest rate listed in the *Wall Street Journal*. According to 13 CFR 307.15, the only exception for the above policy is if the prime interest rate listed in the *Wall Street Journal* exceeds fourteen (14%) percent, the minimum RLF interest rate is not required to be raised above ten (10%) if doing so compromises the ability of the RLF program to implement the financing policy.

3. Application Fee - There will be a \$250 fee for each loan application. The application fee will be credited towards the loan underwriting fee.

4. Payment Terms - Payments will generally be made monthly; however, customized payment structures may be extended to borrowers depending upon their individual cash flow needs. In the case of multiple disbursement loans for equipment or tenant improvements, there may be an interest-only period until the loan is fully disbursed, generally not more than 180 days. Temporarily reduced or deferred payments may be considered as options in structuring a workout plan.

5. Loan Terms - The standard loan terms will be 5-10 years fully amortized, depending on loan amount. In general, loan terms will not exceed the average useful life of the assets being financed. The loan term will be the lesser of the average useful life of the asset being financed or the term based upon the borrower's ability to pay. Smaller loans will generally have shorter terms.

6. Private Leveraging/Participation - RLF recipients are highly encouraged to participate in other financing institutions' loans and/or lines of credit. To provide context for this goal, there is an Economic Development Administration (EDA) portfolio-wide requirement in which the full RLF (all participants collectively) will leverage a minimum of two private dollars for each RLF dollar loaned. That is, the leveraging requirement applies to the portfolio as a whole rather than to the individual loan. Private "leveraging/participation" is defined as capital invested to the business by the borrower, others (partners) or financing from private entities such as banks or crowd-sourced funding.

7. Equity/Borrower Injection General Requirement - The RLF will require all borrowers to inject owner equity as a percentage of the requested loan amount; this may be in form of owner equity and/or private financing. The borrower's equity injection should be as follows: at least 10% of requested loan amount for existing businesses and at least 20% of requested loan amount for startup businesses. In the case of a worker cooperative, the RLF will allow a group of principals to produce 10% of the equity for an existing cooperative or a business converting to a cooperative, or 20% for a startup cooperative. Additionally, startup business will be required to demonstrate significant industry experience or the equivalent. They will also be required to provide a secondary source of repayment and a complete business plan. Exceptions may be made on a case-by-case basis depending upon the particular project. In general, existing equity or existing cash injection into the business indicates a reasonable level of commitment to the business; therefore, consideration will be given to existing equity in determining new equity required as a result of the project being financed.

8. Collateral- Collateral pledged and personal guarantees for each loan will depend upon the loan amount, the overall risk of the credit, and the availability of personal and business assets to be pledged as collateral. Loans will be secured by collateral to the maximum extent possible to ensure an adequate secondary source of repayment. Generally, collateral pledged through UCC-1 filings for RLF loans shall not be pledged to other lenders or for other obligations of a business.

9. Credit Memorandums - Each application will be reviewed for standard underwriting criteria. A credit memorandum summarizing the applicant's satisfaction of the criteria will be presented to the Loan Administration Board (LAB) prior to board consideration of loan approval. Generally, the credit memo will address the following qualities: location in the Target Area, management ability, market feasibility, primary source of repayment, secondary source of repayment, leverage, environmental issues, job creation, worker ownership opportunities, credit history, and the project or applicant's overall economic impact. Credit memorandums will also address other program requirements, such as the ratio of funds loaned to jobs created. Such memorandums may be prepared by consultants under contract to the City and supervised by the OED.

10. Financing Restrictions – RLF Capital may **not** be used to:
- a) Acquire an equity position in a private business;
  - b) Subsidize interest payments on an existing loan;
  - c) Provide the equity contribution required of borrowers under other Federal loan programs;
  - d) Enable a borrower to acquire an interest in a business, either through the purchase of stock or through the acquisition of assets, unless the need for RLF financing is sufficiently justified and documented in the loan write-up/credit memo. Acceptable justification could include acquiring a business to substantially save it from imminent foreclosure, or acquiring it to facilitate a significant expansion or increased investment, or acquiring it by the workers to convert the business to a worker cooperative;
  - e) Provide loans to a borrower for the purpose of investing in interest bearing accounts, certificates of deposit or other investment not related to the objectives of the RLF;
  - f) Refinance debt unless:
    - 1. The loan application is determined “exempt” by EDA.
    - 2. It is sufficiently documented in the attendant credit memo that the RLF loan is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender(s), or
    - 3. An RLF loan is used to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan. This action may be undertaken only if there is a high probability of receiving compensation within 18 months from the sale of assets sufficient to cover the RLF’s expenses plus a reasonable portion of the outstanding loan obligation
  - g) Finance any activity that serves to relocate jobs from one commuting area to another. (A commuting area is that area defined by the distance people travel to work to and from the Berkeley area) unless:
    - 1. The applicant has moved or will move into the Target Area for reasons unrelated to RLF assistance;
    - 2. The applicant has relocated to the Target Area prior to the date of the applicant’s request for RLF assistance;
    - 3. The applicant will expand employment in the Target Area substantially beyond employment in the area where the business was originally located;
    - 4. The applicant is relocating from technologically obsolete facilities to remain competitive;
    - 5. The applicant is expanding into the new area by adding a branch affiliate of subsidiary while maintaining employment levels in the old area(s);

Additionally, all businesses that receive an RLF loan will sign First Source hiring agreements with the City as part of the standard loan contract procedure. The hiring agreement with ensure that businesses utilize the City of Berkeley’s First Source Program for the recruitment, referral, and consideration of Berkeley applicants for new and replacement employment.



## **D. PORTFOLIO STANDARDS AND TARGETS**

### **1. Lending Targets**

The goal of the RLF is to target industry clusters to produce the following ranges for allocation of the portfolio:

- Healthcare, environmental services, business services: 50-65%
- Light industry: 10-35%
- Retail: 15-25%

An additional goal of the RLF is to allocate a minimum of 10% of the portfolio to worker cooperatives or businesses converting to democratic worker ownership.

A *maximum* of 25% of the portfolio shall be loaned to start-up businesses. Exceptions made to exceed this target shall be made only in situations where repayment is guaranteed through a very strong collateral position. Worker cooperatives shall not be considered start-ups for purposes of this section.

### **2. Private Investment Leveraging Ratio**

As specified in the EDA Terms and Conditions, the portfolio shall maintain a private leverage ratio of 2:1, or \$2 of private dollars or funds to every \$1 in EDA funding.

### **3. Cost per Job**

- a. Every project shall have a new job creation or jobs saved component.
- b. The portfolio shall target a cost per job ratio of \$20,000 or less.
- c. The maximum cost per job for any single loan will generally not exceed \$30,000.

## **E. LOAN SELECTION CRITERIA**

Priority in processing loan applications will be given to applications that further the targeting of RLF funds as outlined above. Loan applications will be considered for processing, if:

1. Staff can demonstrate credit worthiness based upon the financing policies of this plan;
2. The project is consistent with the business development strategy;
3. The loan will meet program goals to facilitate in the creation of higher paying, higher skilled, private sector jobs, diversify and strengthen the economy, and stimulate private investment. Priority will be given to those projects that provide the highest economic benefit, which may be evidenced by creation of worker-owned jobs; and
4. The loan is consistent with the goal of maintaining a diversified portfolio.

## **F. PERFORMANCE ASSESSMENT PROCESS**

The portfolio goals will be monitored at the time of the semi-annual report to EDA. If targets are out of line or a trend is noticed in this direction, these trends will be analyzed to determine if any modifications to the Plan and/or portfolio are required. This will be accomplished by utilizing the current database software that is utilized to generate the EDA report.

The EDA Administrative Plan will be reviewed annually as part of the annual certification. Changes will be made to the plan as deemed appropriate to ensure the plan is consistent with the area's current economic development strategy and that the RLF is being operated in accordance with policies and procedures contained in the approved plan. (13 CFR 308.14).

## **PART 2: REVOLVING LOAN FUND ORGANIZATIONAL STRUCTURE AND OPERATIONAL PROCEDURES**

### **A. ORGANIZATIONAL STRUCTURE**

#### **1. Overview**

The City's Office of Economic Development Department (OED) is responsible for the implementation of the program and administration of the RLF. An RLF Program Manager, under the general direction of the Economic Development Manager, is responsible for developing, completing, coordinating, and servicing the loans generated by the RLF. OED staff works closely with private lenders to secure financing for businesses in coordination with City financing mechanisms. The City of Berkeley will provide referral assistance to RLF clients for services, including loan packaging and business counseling, and to coordinate technical assistance resources including assistance from banks, colleges, minority business development assistance centers, business development organizations and trade associations. The OED is responsible for receiving payments of all RLF loans using standard loan servicing software. The Program Manager provides monthly reports, upon request, on the status of all outstanding loans to OED Manager and the EDA for monitoring purposes.

#### **2. Loan Administration Board (LAB)**

The Loan Administration Board will generally schedule meetings "as needed", and will agree to review transactions requiring quick action on an "as needed" basis. Organizational and operational matters, including loan decisions, will be made by a majority vote of the appointed members of the Board. A quorum will exist whenever at least half of appointed members are in attendance. However, at least one LAB member with financing experience (similar to the type of loans to be made) must be present for each loan decision. No loan will be committed, no major loan modification or waiver agreed to, no loan foreclosure action initiated without formal prior review and comment (in the form of LAB minutes) of the Loan Board. Staff will recommend on interest rates, terms and conditions for all loans. The LAB will make the final determination on the pricing and other terms of all loans from the RLF.

#### **3. Conflict of Interest**

No officer, employee, or member of the City Council, LAB or other City board or commission that advises, approves, recommends or otherwise participates in decisions concerning loans or the use of RLF funds, or person related to the officer, another employee, or any member of the City Council, LAB or other City board or commission by immediate family, law, or business arrangement, may receive any benefits resulting from the use of RLF loan or grant funds.

In addition, the City may not lend RLF funds to an employee of the City or any member of the City Council, or the LAB. Former board members and members of his or her immediate family shall not receive a loan from the RLF for a period of two (2) years from the date that board member last served on the board. Immediate family is defined as domestic partner or significant other, parents, grandparents, siblings, children and

grandchildren, but does not include more distant relatives, including cousins, unless they live in the same household.

Exception: A benefit or loan may be conferred if the officer, employee, LAB member, City Council member or other board or commission member affected first discloses to the City on the public record the proposed or potential benefit and receives the City Attorney's written determination that the benefit involved is not so substantial as to reflect adversely upon or affect the integrity of the RLF's decision process or of the services of the officer, employee, or member of the City Council, LAB or other City board or commission. LAB members are responsible for disclosing any possible conflict of interest that may exist with respect to a particular action of the LAB, and recusing themselves from all relevant votes on said loan as appropriate.

An officer, employee, or member of the City Council, LAB or other board or commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment or any other thing of monetary value, for him or herself or for another person, from any person or organization seeking to obtain a loan or any portion of the RLF funds. Former LAB members and/or officers are ineligible to apply for or receive loan or grant funds for a period of one year from the date of termination of his/her services.

Loan board members that have other professional relationships (i.e., a banker with loan to borrower) with a prospective borrower cannot be present for deliberations, but may respond to questions from other members of the LAB, to avoid the appearance of a conflict of interest. All LAB members will be required to comply with local and state conflict of interest policies and filing requirements (see: 13 CFR 300.3).

## **B. LOAN PROCESSING PROCEDURES**

### **1. Standard Application Requirements**

Each potential borrower will be required to initially complete the City's standard loan application. Staff will review the application to determine if it meets the general intent and purpose of the RLF. In evaluation of applicants, staff will consider whether the project/loan:

- Meets the targeting criteria and is in one of the targeted clusters
- Demonstrates a reasonable assurance of repayment
- Is consistent with the portfolio job/cost ratio established for the RLF

*Potential borrowers are required to submit the following documents (as applicable) with their loan application:*

Financial Statement – Prior 3 years and current within 90 days, including:

- Balance Sheets
- Income/Expense Statement
- Articles of Incorporation/By Laws or Partnership Agreement (If Applicable)
- Resume(s) of Principal(s) (normally those with 20% ownership or more; worker cooperatives with no 20% or more owner shall submit resumes for all members)
- Certificate of Good Standing (corporations only)

Pro Forma Financial Projections - including:

- 1-year Income/Cash Flow Statement (Month to Month)
- Additional 2 years Cash Flow Projections

- Explanation of the underlying assumption supporting the cashflow projections

Aging of Accounts Receivable and Payable- including:

- Accounts aging within 90 days and list of vendors and addresses and account numbers for any accounts over 30 days.

Schedule of Business Debts- including:

- original amount of debt,
- current balance outstanding,
- payment amount(s),
- interest rate,
- collateral,
- status (current/delinquent)

Individual Federal Income Tax Return – (if proprietorship or partnership)

Business Federal Income Tax Return – Prior year.

IRS Form 4506 (Request for Copy of Tax Return)

Verification of business space- including:

- (i.e. Deed of Trust, Lease/Rental Agreement, Purchase Agreement as applicable)

Agreement of Landlord (for tenant improvement loans)

Proof of Hazard and Liability Insurance

Appraisals or independent evaluations on assets offered as collateral

Evidence of Private Lender Commitment or Denial of funds letter(s)

Proof of Berkeley Business License

Borrowers shall be approved based upon a reasonable assurance and determination of repayment ability and potential economic benefits to the community, i.e., number and quality of jobs they will create, worker ownership opportunities created, amount of taxes generated, extent to which they expand a targeted industry cluster and relation to other businesses and services.

## 2. Credit Reports

Standard commercial and personal credit reports on all principals owning 20% or more of a business under consideration for a loan and the business will be ordered and reviewed by the contracted underwriting party. In the case of a worker cooperative with no members owning more than 20%, a credit report on multiple designated members, whose interests together equal 50% or more, shall be ordered and reviewed. Adverse credit deficiencies that would cause the underwriter to question the ability and or willingness of the potential borrower to repay the loan will be deemed a valid reason for declining the request. A summary review of the results of the credit reports shall be a part of the loan write-up.

## 3. Uniform Commercial Code (UCC) Lien Search and/or Title Report

A UCC search may be completed to determine any existing liens, where personal property is being taken as security (i.e. equipment, or business assets). A real estate title report may be required in those instances where real property is being taken as collateral.

#### 4. Appraisal Reports

Appraisal reports or other valuation determinations may be obtained, where existing fixed assets and/or real properties are being used as primary collateral. If completed appraisals will utilize qualified appraisers having expertise appropriate to the assets being pledged.

#### 5. Environmental Reviews

The RLF Administrator with the assistance of appropriate staff, shall assess the significance of all environmental impacts of activities to be financed in compliance with the National Environmental Policy Act of 1969 and other Federal environmental mandates, as per the Assurances (SF 424D as revised) executed with the Economic Development Administration (EDA). No activity shall be financed which would result in a significant adverse environmental impact unless the impact is to be mitigated to the point of insignificance. When necessary to ensure compliance, any required mitigation shall be made part of the loan conditions.

No project shall be approved which would result in the alteration of or have an adverse impact on any wetland without prior consultation with the U.S. Department of the Interior, Fish and Wildlife Service, and, if applicable, obtaining a section 404 permit from the Army Corps of Engineers.

Consistent with E.O. 11988, no project shall be approved which would result in new above ground development in a 100-year flood plain. This determination will be made by reviewing the proposed development against FEMA Flood Insurance Rate Maps.

The State Historic Preservation Officer, (SHPO) shall be notified of each loan proposal that involves significant new construction or expansion and asked to submit comments on the effect of the proposed activity on historic and archaeological resources. The RLF Administrator shall work with the SHPO and EDA in cases where the SHPO has recommended actions or has been determined an adverse impact.

All loan applicants shall be requested to provide information indicating whether or not there was hazardous materials such as EPA listed (see 40 CFR 300), hazard substances, leaking underground storage tanks, asbestos, polychlorinated biphenyls (PCB), or other hazardous materials on site that have been improperly handled and have the potential of endangering public health. If deemed necessary, loan applicants may be required to perform or provide evidence of a Phase I site assessment to identify possible sources of contamination, a Phase II site assessment to test soil and/or groundwater samples, and a Phase III site remediation involving mitigation of applicable contaminants. In cases where there are unresolved site contamination issues, the RLF Administrator shall work with the loan applicant and the appropriate state environmental agency office to resolve these outstanding issues.

#### 6. Standard Collateral Requirements

Loans will be secured to the fullest extent possible to protect the interests of the RLF as a secondary source of repayment. Loans may be secured with the following types of assets:

- Real property
- Machinery & equipment
- Inventory
- Accounts Receivable
- Stock pledges
- Patents and other intellectual properties
- Securities
- Intangibles
- Personal and/or corporate guarantees

A personal guarantee will be required of any principal having a 20% or more ownership in the company being considered; it shall also be required of the principal(s) trust(s) deemed to be controlled by him or her. In the case of worker cooperatives in which no single member has a 20% or more ownership interest, the cooperative shall designate multiple members, whose interests together equal 50% or more, to provide a limited (several) personal guarantee. This ownership panel shall be submitted to the LAB as an Exhibit. The panel may be amended over time, allowing for release of liability if a member leaves the cooperative, so long as the cooperative substitutes the personal guarantee of another member. The cooperative shall update the LAB on any amendment to the ownership panel, but no amendment to the Loan Agreement will be required. Personal guarantees may be collateralized with liens or property. Appropriate hazard and liability insurance shall be required, and key man life insurance shall be considered depending on the size and nature of the transaction and the health and ages of the principals. The City of Berkeley shall be named as a Loss Payee on the appropriate insurance policies. Trust deeds may be obtained and supported by lenders title policies in those cases where real property is pledged as collateral. Liens on all personal property will be perfected by UCC-1 filings. UCC searches will be conducted to determine encumbrances and to ensure the RLF obtains desired lien position. All RLF program funding is subject to the Davis-Bacon Act and Related Acts, which establishes a requirement for paying the local prevailing wages on public works projects for laborers, unless the EDA determines that loan amounts are so de minimis that property cannot be purchased or renovated with the loan.

#### 7. Standard Equity Requirements

Existing businesses may be required to inject at least 20% of the requested loan amount; start-up businesses are required to inject at least 20% of the requested loan amount. Assets (e.g. equipment), which are added to a project from outside sources, may be considered part of the equity investment, provided they are lien free.

#### 8. Loan Write-Up/Credit Memos

Written loan presentations (“credit memos”) to the Loan Administration Board will contain at a minimum the following information:

1. Evidence that the Borrower is in the Target Area approved by EDA.
2. Recommendation: Support funding recommendation based on analysis of the business' industry, its place in that industry, financial analysis, and ability to repay.
3. Findings: Indicate if borrower is eligible, under criteria established in the RLF Plan and EDA Grant Agreement.
4. Description of Business

5. Background and History of Business Operation: Describe the history and background of the business, including a brief industry analysis.
6. Detailed description of the borrower; i.e., is it a corporation, partnership, sole proprietorship, list owners and their percentage of the business.
7. List of names and relationships of the guarantors to the owners of the business as appropriate.
8. Provide loan details:
  - (a) Loan Request: State the amount of the request and state the recommended monthly amortization and term.
  - (b) Interest: Indicate the rate, specifying a fixed rate.
  - (c) Use of Funds by category.
  - (d)
9. Purpose: Describe in detail the purpose of the loan by category, i.e., fixed asset financing, tenant improvements, etc. Be specific about sources and uses of proceeds to complete the project. Any proposed exceptions to loan policies need to be explained.
10. Credit Report: Indicate the results of the credit reports obtained on the principals, guarantors, and company.
11. Financial Analysis: Indicate the source of information for the analysis. Describe the company's financial performance as reflected by its financial statements, with special emphasis on revenues and operating income, leverage, cash flow, and debt capacity. Projection should be consistent with historical performance unless there is an extraordinary event such as a new contract. Any significant changes in financial positions or performance of the company must be explained.
12. Personal Financial Analysis: Write an analysis of the principal's and guarantor(s) personal financial statements. Any significant changes in financial position or performance must be explained.
13. Collateral: Describe the collateral pledged for this loan, and indicate the secured position of the RLF. If property is being pledged, show the present market value and the net equity available for all properties pledged. Date of appraisal, name of appraiser and loan to value must also be included.
14. Job/Cost Ratio: Divide the total loan amount by the number of jobs saved and/or created as a result of this loan. Recall, that the RLF program is subject to the Davis-Bacon Act and Related Acts, applying to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public work.
15. Public Benefit: Describe the benefit of this loan in terms of jobs retained and/or created. Indicate the value of this borrower to the community. Specify whether this loan would create or preserve worker-owned jobs. Jobs saved are defined as jobs that would be imminently lost without RLF assistance.
16. Environmental Problems: Discuss any environmental review in connection with the loan, including, any City environmental review and the results of any required Phase I or Phase II environmental study. Attach an environmental checklist or other review that is relevant to consideration of the loan. Indicate what actions the borrower must take to comply with any environmental findings or requirements.

9. Procedure for Loan Approvals

When a loan is approved, staff will draft a memo stipulating the terms of approval and obtain the signature of the chairperson of the Loan Administration Board. The minutes of the LAB meeting shall reflect this approval and be circulated to all members of the Loan Board. RLF staff shall be directed to prepare and send a commitment letter with a time expiration date signed by the Manager of Economic Development to the prospective borrower, stating the terms and conditions of the committed loan consistent with the written credit memo to the LAB, and any provisions or changes recommended by the LAB. It shall also state *"this commitment is based on the fact that there have been no material adverse changes in the credit condition of the borrower since statements and information has been submitted to the RLF. If any such material adverse changes have taken place, this commitment is void and not in effect."*

10. Loan Decline – Appeal Process

The LAB will act upon recommendations for loan approval with the knowledge that the due diligence and underwriting on each loan has been completed, and upon reliance that the financial exhibits provided in the application are correct. Where a loan is denied by the LAB, an applicant may request further review by the LAB if the applicant can provide additional information that addresses the concerns of the LAB about the proposed loan. However, LAB decisions on loans are final and binding and cannot be appealed to the City Council.

**C. LOAN CLOSING AND DISBURSEMENT PROCEDURES**

1. General Closing Requirements

- a. Proof of equity, such as current bank account statements showing the needed funds on deposit, will be required for all loans requiring an equity injection;
- b. If existing debt is being converted to equity, or subordinated, evidence such as a subordination agreement, the original note, the conversion agreement, corporate resolutions and copies of shares issued will be required.  
Where another lender is involved in the financing of a business an inter-creditor agreement setting forth the respective rights of the parties shall be required where appropriate for the protection for the RLF.

2. Loan Closing Documentation Requirements

- a. All loans will require a promissory note and a loan agreement.
- b. All loan documents will be reviewed and approved by the Office of the City Attorney prior to loan closing.
- c. Sole proprietorships using a “doing business as/dba” will be required to provide copies of fictitious name filings.
- d. Partnerships will be required to provide copies of the partnership agreements and buyout agreements if applicable.
- e. Corporations will normally be required to provide copies of the Articles of Incorporation, By Laws, certificates of good standing, and corporate resolution to borrow.
- f. All loans will require a security agreement where personal property secures a loan.



- g. Perfection of collateral will require UCC-1 filings on equipment and fixtures, inventory and receivables, recording deeds of trust on real property, and certificates of title or stock registration, as appropriate.
- h. UCC searches will be performed before loan board review to determine position. UCC searches may also be performed after loan closing and UCC filings to confirm that the desired lien position was actually obtained.
- i. Borrower will be advised if Lenders Title insurance will be required for all financed real property.
- j. Borrower will be advised if vehicle titles will be required to show the City of Berkeley as lien holder. If a third party owns the collateral, hypothecation and assignment agreements shall be required.
- k. All principals with 20% or more ownership (or multiple worker cooperative members who together own 50% or more) will normally be required to provide continuing guarantees, and subordination agreements, as appropriate.
- l. Inter-creditor Agreement, if necessary, to preclude prior lien holder from increasing debt, and/or to delineate collateral and responsibilities of lenders.
- m. Prior to closing, the borrower will present the required hazard and liability insurance policies, and any other insurance coverage such as key life insurance, as required
- n. Lease assignments will be taken as appropriate.

The Loan Agreement shall contain covenants that shall require the borrower to comply with Federal statutory and regulatory requirements that apply to activities carried out with RLF loans. The Loan Agreement shall contain a provision to protect and hold the Federal government harmless from and against all liabilities that the Government may incur as a result of providing an award to assist (directly or indirectly) in site preparation or construction as well as the renovation or repair of any facility or site. This applies to the extent that such liabilities are incurred because of ground water, surface, soil or other conditions caused by operations of the RLF Recipient or any of its predecessors on the property. The Loan Agreement shall also include a list of the Federal requirements that apply to RLF Borrowers as provided in the U.S. Department of Commerce Economic Development Administration Revolving Loan Fund Standard Terms and Conditions.

### 3. Loan Disbursement Requirements

- a. The borrower will certify in the loan agreement that the funds are to be used for the purposes intended as specified in the loan application. A positive covenant shall be included in the loan agreement stating the purpose of the loan. A breach of this covenant shall be deemed an event of default and the loan may be called.
- b. In instances where construction is in progress, a building control account may be established as necessary to avoid mechanics liens.

## **D. LOAN SERVICING PROCEDURES**

### 1. Loan Payment and Collection Procedures

The Office of Economic Development (OED) staff, including the RLF program manager, will provide borrowers with payment coupons annually and upon request, receive and deposit loan and interest payments into an interest bearing RLF bank account, and, upon

request, advise OED Department Manager when funds are received. Additionally, upon request, the RLF Program Manager will provide monthly reports of disbursements, receipts of interest and principal and any past due accounts. Timely notification of any payment due and not paid will be provided to borrowers.

Late fees (which will be incorporated in the body of the Promissory note) shall be 5% of the payment outstanding and begin accruing on the next calendar day after the payment is due. If the loan is past due more than 15 business days, late fees shall commence.

## 2. Loan Monitoring Procedures

- a. Annual financial statements (defined to include a balance sheet and profit and loss statement, compiled by an independent accountant or certified by the chief financial officer and president) may be required on all loans. RLF staff shall monitor these and other dated requirements such as insurance renewals, and UCC renewals. If documents are not received on a timely basis as stipulated by the Loan Agreement, designated staff will be responsible for correcting the deficiency. Provisions will be made in the Loan Agreement that audited statements may be required.
- b. OED staff may visit each borrower on an as needed basis to determine whether the business is in line with its stated business plan. Each visit will be documented by memorandum, and will contain a summary of the progress the business is making (or not making) from a marketing and financial perspective, as well as an assessment of the business' future. This report shall be provided to the LAB.
- c. As part of the required semi-annual reports, jobs saved/created data will be compiled by OED staff and supplied to the EDA. All jobs will be reported in full time equivalents.
- d. All other required loan documentation and special provisions will be monitored by OED staff.

## 3. Late Payment Follow-up Procedures

- a. Upon being advised that a payment due was not made, RLF staff will contact the borrower promptly to determine the problem, if any exists.
- b. The loan servicer will send a written notice of delinquent payment 5 working days after due date with notification of late penalty, and will notify the RLF staff in writing.
- c. RLF staff will send a second written notice 30 days after the due date.
- d. RLF staff will send a third written notice 60 days after the due date.
- e. RLF staff will send a fourth written notice 90 days after the due date.
- f. During the first 30 days of delinquency, written and oral communication, as well as site visits by RLF staff will be utilized to resolve the delinquency.
- g. If, after 90 days a delinquency still exists and the loan has not been renegotiated or brought current, the loan will generally be determined to be in default and recovery of the security will commence.
- h. Any renegotiation of loan terms to remedy a default must be approved the LAB.
- i. If at any time during this 90-day period, the Economic Development Manager believes that the borrower cannot or will not bring the loan current, with Loan Administrative Board approval, RLF staff can declare the loan in default and begin recovery against collateral, if deemed appropriate.

## 4. Collection Procedures

The RLF staff will work to exercise all rights and privileges of a lender in order to collect the proceeds on delinquent loans. To ensure that the delinquent loan is collected in an appropriate, efficient, and timely manner, staff will:

- a. Prepare a plan of action with guidance by the Loan Administrative Board for collecting the loan and taking action against the collateral.
- b. Make sure all required loan documentation is in order.
- c. Consult with the City Attorney on all default notices and collection efforts and to insure that no laws or regulations will be violated by the collection effort and that all legally required actions are taken.
- d. Contact all other co-lenders as appropriate.
- e. List defaulted or chronically delinquent loans with credit bureaus.
- f. Notify the guarantors of the default and put them on notice that they are expected to make payment, in full, upon demand.
- g. Begin collection procedures and/or asset liquidation process.

#### 5. Write-off Policy and Procedures

Loans with an outstanding balance that have been placed in default and remain outstanding after 180 days will generally be written off. However, collection efforts will continue until determined not to be cost effective or prospects for recovery no longer exist. A reasonable loss through defaults will be considered without establishing a loan loss reserve. All write-offs must be directed to the City's Finance Department for approval by the City Council.

### **E. ADMINISTRATIVE PROCEDURES**

#### 1. Procedures for Loan Files and Record Retention

All original primary loan documents will be maintained in the Loan/Collateral file, which will be stored in a secure location by the City Clerk. This file will contain the original note(s), loan agreement, collateral perfection documents (UCC-1 filings, deeds of trust, etc.), and all other original legal documents. All files will be filed and recorded as specified by the EDA Terms and Conditions. Each individual borrower will have a loan file consisting of two items: i) a credit file and ii) an application file.

The Credit File will contain copies of the appropriate legal documents needed to monitor the loan, as well as the original credit memo to the LAB, financial statements and tax returns, credit reports, personal financial statements, a copy of the commitment letter, copies of proof of insurance, site visit memorandum, job reports, and any other correspondence relating to the relationship between the borrower and the RLF. A chronological record shall be maintained recording all significant events by date with a brief description.

The Application File shall be established to contain the original application, business plan, financials, business plan evaluation, and any other documentation provided to evaluate the application. Every effort will be made to maintain confidentiality of applicant records/applications. There will be a public file which will can be reviewed by the public with all personal information (eg. Social Security numbers, loan and credit card numbers redacted). A private file that will include all documentation including, but not limited to, application, credit memorandum, third party evaluations and non-confidential reports and

UCC-1 filings.

Record Retention Loan files and related documents and records must be retained for the life of the loan and for a seven-year period from the date of final disposition of the loan. The City will maintain four different kinds of file records: 1) an application file, 2) a loan file, 3) a decline file and 4) a closed loan file. This will ensure that we have records of all decisions made by the LAB for public review. The date of final disposition of the loan is defined as the date of: (a) Full payment of the principal, interest, fees, penalties, and other costs associated with the loan; or (b) Final settlement or write-off of any unpaid amounts associated with the loan

Administrative records The OED staff or loan servicer must maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF income expended for eligible RLF administrative costs and retain records of administrative costs incurred for activities and equipment relating to the operation of the RLF for five years from the date the costs were claimed.

The loan servicers must also make any retained records, even those retained for longer than the period described, available for inspection. The record retention periods, described above, are minimum periods and such prescription is not intended to limit any other record retention requirement of law or agreement.

## 2. Procedures for Complying with EDA Reporting Requirements

The RLF program will follow the EDA guidelines articulated in the Revolving Loan Funds Capital Utilization Standard Program. During the ‘revolving phase’, the City of Berkeley must manage their repayment and lending schedules to provide that at all times at least seventy-five (75%) percent of their RLF capital is loaned or committed.

When the percentage of loaned RLF capital falls below the application capital utilization percentage, the dollar amount of the RLF funds equivalent to the difference between the actual percentage of RLF capital loaned and the applicable capital utilization percentage is referred to as “excess funds.”

Sequestration of excess funds If the City of Berkeley fails to satisfy the applicable utilization percentage requirements for two (2) consecutive reporting periods, EDA may require the City to deposit excess funds in an interest-bearing account. The portion of interest earned on the account holding excess funds attributable to the Federal Share of the RLF Grant shall be remitted to the U.S. Treasury. The City must obtain EDA’s written authorization to withdraw any sequestered funds.

Persistent non-compliance The City, as a long standing RLF program administrator, will generally be allowed a reasonable period of time (as determined by EDA) to lend excess funds and achieve the applicable capital utilization percentage. However, if the City fails to achieve the applicable capital utilization percentage after a reasonable period of time, as determined by EDA, it may be subject to sanctions such as suspension or termination.

Loan Default Rates The EDA shall monitor the City’s loan default rate to ensure proper

protection of the Federal Share of the RLF property, and request information from the City as necessary to determine whether it is collecting loan repayments and complying with the financial obligations under the RLF Grant.

Such information may include:

- A written analysis of the City's portfolio, which shall consider the Recipient's business plan, loan and collateral policies, loan services and collection policies and procedures, the rate of growth of the RLF Capital Base, and detailed information on any loan in default; and
- A corrective action plan subject to EDA's approval, which shall include specific actions the RLF recipient must take to reduce the loan default rate; and
- A quarterly status report indicating the City's progress on achieving the milestones outlined in the corrective action plan.

Failure to provide the information requested and to take steps to protect the Federal Share may subject the City to enforcement action under §307.21 and the terms and conditions of this grant. A collection account has been established and maintained in coordination with the City Attorney and the City's Finance Department in accordance with City regulations governing collections.

### 3. Grantee Control Procedures

RLF staff shall, periodically review the loan files to determine if they are consistent, complete and correct. All accounts, books, records and loan files shall be reviewed and audited in accordance with City Auditor standards, and Federal Administrative and Audit Standards.

### 4. Plan Amendment Procedures

Any changes to this Administrative Plan must be approved by the LAB and City Council and shall be submitted to the EDA in writing for approval consistent with requirements of the EDA.

### PART 3: COVID-19 RESILIENCY LOAN PROGRAM (RLP) ADDENDUM TO CURRENT ADMINISTRATIVE PLAN

#### *COVID-19 Resiliency Loan Program Borrower Description:*

Small businesses, non-profits, cooperatives, and other business firms located in Berkeley, CA that are suffering substantial economic injury as a result of the COVID-19 pandemic are now eligible for low-interest “COVID-19 Resiliency Loans” for working capital. Berkeley business, including current RLF borrowers that have been financially impacted as a direct result of the COVID-19 pandemic may qualify for a *COVID-19 Resiliency Loan* to help meet financial obligations and operating expenses which could have otherwise been met by the enterprise had the disaster not occurred.

The COVID-19 Resiliency Loan Program will supplement the existing RLF Program subject to the following guidelines, criteria, and terms:

#### *COVID-19 Resiliency Loan Program Guidelines:*

- Allocated \$814,000 of available EDA funds to the COVID-19 Resiliency Loan Program which will be part of the City of Berkeley’s existing RLF program.
- The maximum loan amount from COVID-19 Resiliency Loan Program seed funds will be set at 25% of the RLP capital base.
- The remaining funding for this loan program shall be transferred to a third-party organization selected by the City Manager and/or his/her designee for the purpose of making loans to qualified businesses and organizations in Berkeley.
- Loans shall be reviewed and approved by a third-party organization selected by the City Manager and/or his/her designee.
- Loans shall be serviced by a third-party organization selected by the City Manager and/or his/her designee.
- ~~The City Manager and/or his/her designee is empowered to administratively approve loans of \$25,000 and below (i.e. A loan of this size or under would not require a full Loan Administration Board (LAB) approval).~~
- The requirement for loan applicants to leverage additional capital is removed for loans funded with COVID-19 Resiliency Loan Program dollars. (Currently, loans in the traditional RLF portfolio are required to leverage a minimum of two private dollars for every RLF dollar loaned).

#### *COVID-19 Resiliency Loan Program Criteria:*

- Loan Applicants are to demonstrate that the applying entity (business or nonprofit) is has been in operation in good standing in the City of Berkeley, in good standing for at least two years.
- ~~Loan Applicants are to have 50 or fewer full time employees (or full-time equivalents).~~
- Loan Applicants are to provide a completed California 2019 Tax Return and/or Certified Public Accountant prepared financials and/or an IRS Form 990 showing positive earnings (Profit).
- Loan Applicants are to demonstrate that receipt of a City of Berkeley COVID-19 Resiliency Loan has the potential to create or save existing jobs.

- For City of Berkeley COVID-19 Resiliency Loan applicants, the existing RLF requirement to demonstrate a declination from a traditional lender is waived.

*COVID-19 Resiliency Loan Program Terms:*

- ~~Payments and interest accruals are deferred for six (6) months from the date the loan is issued.~~
- Payments shall be made to a third-party organization selected by the City Manager and/or his/her designee.

- The loan interest rate for COVID-19 Resiliency Loans shall be between ~~0 and~~ 1% and 7% depending on loan amount and risk level as determined by a third party loan reviewer (*the current rate for “standard” RLF loans is the prime interest rate + 2 points*).
  - ~~Existing standard RLF loan recipients may submit a request to the Loan Administration Board for review and approval of a rate reduction or a pause in payments.~~
- Five (5) Year Repayment Period.
- Additional deferrals and payment term modifications may be granted by approval on a loan by loan basis, subject to the approval of the LAB third-party organization selected by the City Manager and/or his/her designee.

**List of Exhibits:**

Exhibit A:	Organizational Chart	Page 31
Exhibit B:	Loan Application	Page 32
Exhibit C:	Credit Authorization	Page 42
Exhibit D:	Application Checklist	Page 44
Exhibit E:	Sample Loan Administration Board (LAB) Resolution	Page 45
Exhibit F:	Sample Commitment Letter	Page 46
Exhibit G:	Sample Closing Checklist	Page 51
Exhibit H:	Sample Loan File Checklist	Page 54
Exhibit I:	Sample Servicing Report	Page 56
Exhibit J:	Sample Default Notification	Page 58
Exhibit K:	Map of target Area	Page 59



Exhibit A

### Organizational Chart

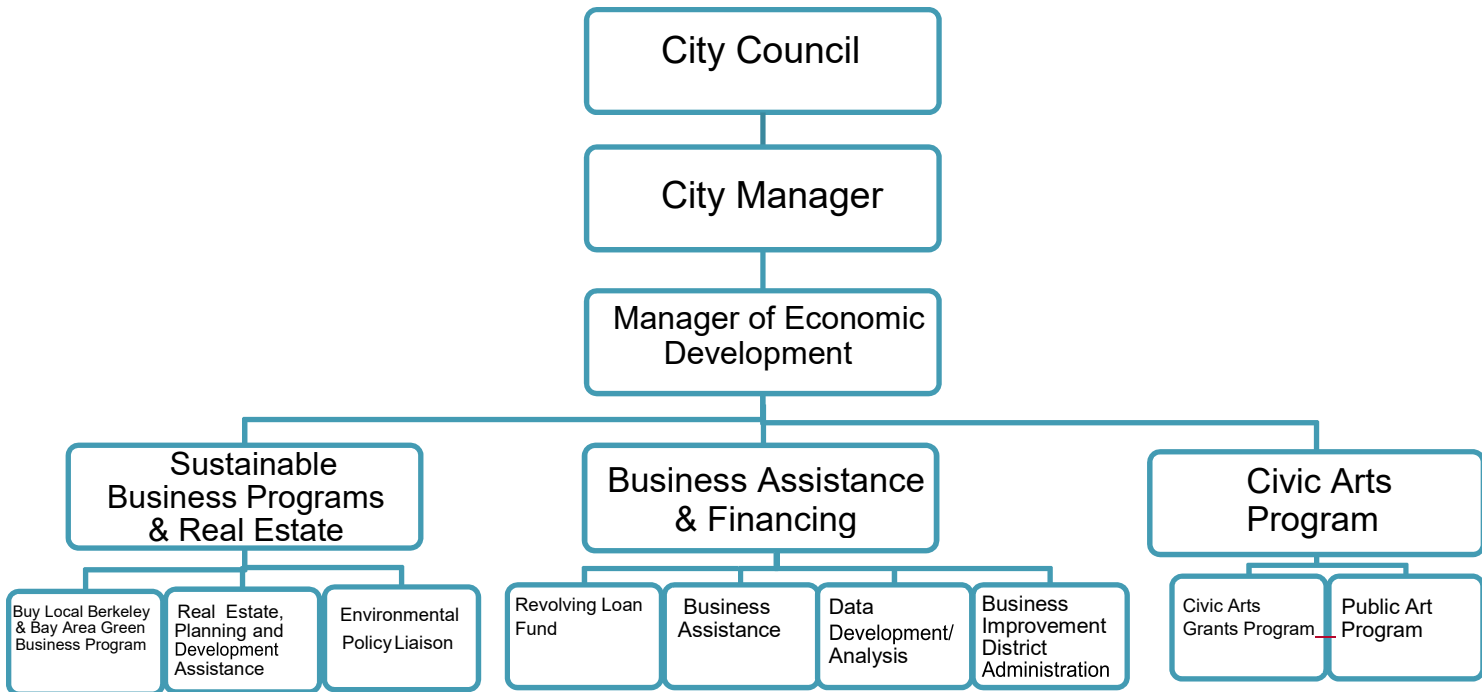


Exhibit B

City of Berkeley Revolving Loan Fund  
Loan Application

CITY OF BERKELEY REVOLVING LOAN FUND (RLF)  
1. RLF LOAN APPLICATION

Amount of City RLF loan request: \$ \_\_\_\_\_

I. APPLICANT INFORMATION

Applicant's Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Business: \_\_\_\_\_

Ownership (Check one):  
Proprietorship \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Non-Profit \_\_\_\_\_

Business Address: \_\_\_\_\_

Phone: \_\_\_\_\_ SS# \_\_\_\_\_

Co-applicant: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

- Business New to Berkeley
- OR
- Existing Berkeley Business - Date Established \_\_\_\_\_

Business License # \_\_\_\_\_ Federal Tax I.D. # \_\_\_\_\_

Landlord: \_\_\_\_\_ Phone: \_\_\_\_\_

Landlord Address: \_\_\_\_\_

Terms of Lease: \_\_\_\_\_

II. PROJECT FINANCING:

A. Amount of City Loan Request: \$ \_\_\_\_\_  
 B. Applicant Equity Contribution\*: \$ \_\_\_\_\_

Purpose of Loan:

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Source of Loan Repayment:

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\*Equity contribution: Value of money and other assets the Applicant invested in the business during the past 12 months or will invest in the business. Please submit evidence of all private funds (bank statements, letter of commitment, etc).

**III. USE OF FUNDS:**

	Amount of City Loan Request (listed on line A above)	(Plus)	Applicant's Equity Contribution (listed on line "B" above)*	(Equals)	TOTAL PROJECT COST
Inventory	\$	+	\$	=	\$
Equipment & Machinery	\$	+	\$	=	\$
Leasehold Improvements	\$	+	\$	=	\$
Other	\$	+	\$	=	\$
<b>TOTAL</b>	\$		\$	=	\$

\*Plus any additional Funds to be used for this project- including additional loans/ private funds.

**IV. BUSINESS INFORMATION:**

Briefly describe your business, the distinct function of your product / service, your intended customers, your marketing strategy, and how the RLF loan will assist your business development. Please submit a prepared business plan with this application. If no business plan available, please provide explanation

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**V. COLLATERAL OFFERED:**

Collateral	Name(s) of Owner(s)	Present Market Value
Real Estate		\$
Equipment & Machinery		\$
Inventory		\$
Other Assets		\$
<b>TOTAL</b>		\$

Other Collateral (Please Explain): \_\_\_\_\_

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**VI. BUSINESS DEBT SCHEDULE:** This list should contain all long term loans for contracts and notes payable for the business, including credit cards. Please list EVERYTHING the business owes. If you need more room, please attach a separate sheet.

CREDITOR	Account Number		Original Amount (\$)	Maturity Date	Collateral Held
	Date of Loan	Interest Rate %	Current Balance (\$)	Monthly Payment (\$)	
1.			\$		
		%	\$	\$	
2.			\$		
		%	\$	\$	

3.			\$	
		%	\$	\$
4.			\$	
		%	\$	\$
5.			\$	
		%	\$	\$
6.			\$	
		%	\$	\$
7.			\$	
		%	\$	\$
8.			\$	
		%	\$	\$

**VII. PUBLIC BENEFIT:** As a result of the loan, will your business:

a. Create jobs?  YES  NO

Estimate how many jobs the business will create in the next two years: \_\_\_\_\_

b. Retain existing jobs?  YES  NO

c. Create worker ownership opportunities?  YES  NO

d. Expand a manufacturing enterprise?  YES  NO

e. Have a positive environmental impact?  YES  NO

f. Strengthen a key commercial corridor or  
Re-use a long vacant property?  YES  NO

g. Provide goods/ services presently not available?  YES  NO

h. Substantially increase tax revenues?  YES  NO

Please describe the public benefits and quantify, where possible.

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**VIII. EMPLOYMENT**

	TOTAL		WHITE		BLACK		ASAN		HISPANIC		AM. IND		OTHER	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Current Employees														
Management														
Professional														
Office/Clerical														
Skilled Workers														
Service / Maintenance														
Other														

**New Job Creation** :

Job Title and brief description	Full - Time	Part - Time	\$ / Hour	Proj. Hire Date

How did you hear about the City's Revolving Loan program?

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Are you familiar with the City's First Source Employment Program?  YES  NO

After this application is reviewed by City staff and determined to meet all appropriate lending criteria, additional supplemental material and a credit check may be requested.

We appreciate your interest in the economic revitalization of Berkeley.

I hereby certify that the information provided, contained herein and attached hereto is accurate and correct to the best of my knowledge.

_____	_____	_____	_____
APPLICANT	Date	CO-APPLICANT	Date
_____		_____	
(Print Name)		(Print Name)	

**SUPPLEMENTAL MATERIAL CHECKLIST (please complete)**

**Please submit the following information with your application:**

- ┆ A detailed list of exactly what the requested RLF loan would be used for.
- ┆ Most recent year-end financial statement, including income and expenses and balance sheet along with this pre-application form.
- ┆ Sources of funds need to be documented, including denial of bank for additional funds.
- ┆ Financial statement- prior 3 years and current within 90 days.
  - ┆ a. Balance sheets
  - ┆ b. Income/expense statement
  - ┆ c. Articles of incorporation/ by-law or partnership agreement (if applicable)
  - ┆ d. Resume(s) of principal(s) (normally those with 20% ownership or more; worker cooperatives should submit resumes of all members)
  - ┆ e. Certificate of good standing (corporations only)
- ┆ Pro forma financial statements/ projections (including notes and schedules).
  - ┆ a. One (1) year income/cash flow statement (month to month)
  - ┆ b. Additional 2 years cash flow projections
  - ┆ c. Explanation of the underlying assumptions supporting cash flow assumptions
- ┆ Individual Federal Income Tax Return – (if proprietorship or partnership) - prior 3 years.
- ┆ Business Federal Income Tax Return – prior 3 years.
- ┆ Plans, cost estimates/bids for construction or equipment.
- ┆ Appraisals or independent evaluations on assets offered as collateral.
- ┆ Aging of accounts receivable and payable within 90s days and list of vendors and addresses and account numbers for any accounts over 30 days.
- ┆ Schedule of Business Debts (including the following: original amount of debt, current balance outstanding, payment amount(s), payment amount, interest rate, collateral, status (current/delinquent).
- ┆ Private lender commitment or denial of funds letter(s).
- ┆ Verification of business space (i.e. deed of trust, lease/rental agreement,

- purchase agreement as applicable).
- ┆ Agreement of Landlord (for tenant improvement loans).
- ┆ Copy of business license.
- ┆ Copy of Hazard and Liability Insurance.
- ┆ Business Plan for expansion or start-up loans.

**Loan Fee:**

If approved, the following will be required:

- ┆ **Application fee for RLF loan in the amount of \$250.00 made payable to the City of Berkeley or to a third-party organization selected by the City Manager and/or his/her designee.**

The loan fee will be credited towards the 1% loan fee and will be refunded, if not approved.

Please send the above information to the following address:

Revolving Loan Fund Program – Application  
City of Berkeley c/o Office of Economic Development  
2180 Milvia Street, Fifth Floor  
Berkeley, CA 94704



Exhibit C

**Credit Authorization**

**CREDIT AUTHORIZATION FOR THE CITY OF BERKELEY  
REVOLVING LOAN FUND**

The following information is required to complete a credit investigation with respect to your loan fund application. This form is to be completed by every applicant, and each partner or shareholder holding a 20% or more interest in the business concern. In the case of a worker cooperative where no member holds a 20% or more interest, two or more members whose interests total at least 50% should each complete this form.

Legal Name: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Birth Date: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

Occupation: \_\_\_\_\_

“With my signature below, I hereby authorize the City of Berkeley’s contracted loan underwriters to contact and obtain credit reports from credit reporting agencies (Equifax, Dun and Bradstreet, etc.) And creditors with regard to the status of any past, outstanding or current indebtedness for the life of the loan.”

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Date: \_\_\_\_\_

## Exhibit D

## Applicant Checklist

### CITY OF BERKELEY REVOLVING LOAN FUND APPLICATION SUPPLEMENTAL INFORMATION

Applicant should submit the following items as applicable.

- Financial Statement – Prior 3 years and current within 90 days
  - a. Balance Sheets
  - b. Income/Expense Statement
  - c. Articles of Incorporation/By Laws or Partnership Agreement (If Applicable)
  - d. Resume(s) of Principal(s) (normally those with 20% ownership or more)
  - e. Certificate of Good Standing (corporations only)
- Pro Forma Financial Projections (Including Notes & Schedules)
  - a. 1 year Income/Cash Flow Statement (Month to Month)
  - b. Additional 2 years Cash Flow Projections
  - c. Explanation of the underlying assumption supporting the cash flow projections
- Individual Federal Income Tax Return – (if proprietorship or partnership) – Prior 3 years.
- Business Federal Income Tax Return – Prior 3years.
- IRS Form 4506, Request for Copy of Tax Return
- Verification of business space (i.e. Deed of Trust, Lease/Rental Agreement, Purchase Agreement as applicable)
- Agreement of Landlord (for tenant improvement loans)
- Proof of Hazard and Liability Insurance
- Plans, Cost Estimates/Bids for Construction or Equipment
- Appraisals or independent evaluations on assets offered as collateral.
- Aging of Accounts Receivable and Payable within 90 days and list of vendors and addresses and account numbers for any accounts over 30 days.
- Schedule of Business Debts (Include the following: original amount of debt, current balance outstanding, payment amount(s), payment amount, interest rate, collateral, status (current/delinquent)
- Private Lender Commitment or Denial of funds letter(s).
- Copy of Business License
- Environmental Checklist (if required for project)

The City of Berkeley and/or the RLF program underwriters will be conducting a credit check of your business and personal payment record, if applicable.

Exhibit E

**Sample Loan Administration Board (LAB)  
Resolution**

**LOAN ADMINISTRATION BOARD  
of the  
CITY OF BERKELEY**

The Loan Administration Board (LAB) administering the City of Berkeley's Revolving Loan Fund (RLF) met on \_\_\_\_\_, 20xx to discuss the RLF loan to \_\_\_\_\_ and passed the following motion:

Moved by \_\_\_\_\_ to approve loan with the requirements recommended in the underwriter's credit memo, and with the following additional requirements; 1) specific UCC-1 filing on \_\_\_\_\_; 2) blanket UCC-1 filing on all business assets; 3) direct disbursement of loan proceeds to vendors for equipment and to contractor for improvements; 4) 1st position on collateral; 5) signed tax returns; 6) audited financial statements for 200\_; 7) other conditions:.

The staff recommendation on loan terms is as \_

follows: Principal Amount: \$ \_\_\_\_\_  
Loan Term: Due in months, amortized over months  
Interest Rate: \_\_\_\_\_ %  
Monthly Payment: \$ \_\_\_\_\_ per month

Seconded by \_\_\_\_\_.

The Board vote with respect to this Motion was \_Ayes, \_ Noes, \_Abstentions.  
Board Members Absent: \_\_\_\_\_

\_\_\_\_\_  
Chairperson  
Loan Administration Board

Exhibit F

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**Sample Commitment Letter**



Loan Administration Board

Date:

Name of Borrower:

Re: Loan Approval/Intent to Lend

Dear Borrower:

This commitment letter will confirm that on behalf of the Berkeley Revolving Loan Fund, the Loan Administration Board of the RLF approved a commitment to make funds available to you substantially upon certain terms and conditions. This approval was made on\_\_\_\_\_.

1. Amount and Nature of Loan. Loan Amount (\$000,000.00) associated with the business located at:

\_\_\_\_\_

2. Purpose. The loan funds will be used solely for the acquisition of the commercial equipment,\_\_\_\_\_, and related soft costs.

3. Maturity and Payment of Loan. The amortization of loan will be\_\_\_\_months , with a\_\_\_\_-month call, and will be payable as follows: Principal and Interest payments, with interest commencing from date of note, with interest accruing at\_\_\_\_\_% fixed. The estimated payment amount is \$\_\_\_\_\_per month, with first payment due the first day of the month following the original note date.

4. Interest. The stated interest rate on the loan will be\_\_\_\_\_percent (\_\_\_\_\_%). Following any default, the interest rate shall increase to the maximum rate allowed by State of California Law after any default. Interest will be calculated based upon a 365-day year.

In the event any payment is more than fifteen (15) days past due, you will be assessed a late charge of five percent (5%) of the amount of such payment for each thirty (30) day period for which the payment is overdue.

Evidence of Obligation. The loan will be evidenced by a Loan Agreement and Promissory Note executed by you, together with the documents necessary to create

and perfect security interests described herein.

5. Fees and Expenses. You shall pay all out-of-pocket expenses incurred by the RLF in connection with this transaction, including legal fees and disbursements of counsel and including by way of illustration, but not limited to appraisal costs, title insurance premiums and other related title company costs, escrow fees, UCC search fees and all recording fees, even in the event the transaction is not consummated.

6. Security Arrangements. The loan will be secured by a second position deed of trust on the commercial real property located at \_\_\_\_\_; a first security filing on equipment of \_\_\_\_\_, guarantees of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_; deed of trust on \_\_\_\_\_ personal residence at \_\_\_\_\_; and deed of trust on \_\_\_\_\_ personal residence at \_\_\_\_\_.

7. Conditions of Lending. The loan will be conditioned upon satisfaction of all required elements, for example, the following:

- a. Execution by you of all documents required by the RLF to evidence the loan or any of the security interests described herein.
- b. Approval by the RLF of the results of a title report and lien searches on equipment and fixtures.
- c. The absence of any adverse change in your business or financial condition.
- d. The City is satisfied that no hazardous waste or substances, toxic, waste, substances or pollutants are or have been used, generated, stored or removed on or from the real property to be covered by the deeds of trust described herein in violation of any federal, state or local law, rule or regulation. You will be required to indemnify the City against any such violations.
- e. Your obtaining irrevocable written commitments from other lenders and providing such additional funds as are reasonably necessary in the discretion of the City to permit you to complete the acquisition and purchase of the property located at: \_\_\_\_\_.
- f. Your provision of evidence that \_\_\_\_\_ is organized and qualified to do business in this state.
- g. A copy of your current business license from the City of Berkeley.
- h. Payment of a loan fee in an amount equal to \_\_\_\_\_ percent ( %) of the loan at closing.

8. Covenants. In connection with the loan, you will be required to comply with all of the following:

1. Within time periods specified in the Loan Agreement you will be required to provide annual, CPA compiled financial statements to the RLF.
  2. You will be required to provide evidence of adequate liability and property damage insurance in an amount and with a company satisfactory to the RLF as stipulated in the Loan Agreement.
9. Default: The Loan Agreement and other loan documents will contain provisions making any breach of any term or condition thereof a default.
10. Miscellaneous:  
Funds used by the RLF to make the loan are be provided by the Economic Development Administration, (EDA), and as a consequence will be subject to certain restrictions and requirements, all of which will be described in the Loan Agreement.

You will not have any right to assign the loan or any of your interest therein. Time is of the essence in the performance of all of your obligations hereunder. This letter and the loan shall be construed and interpreted in accordance with the laws of the state of California.

ORAL AGREEMENTS, PROMISES, OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY OR AMEND ANY TERMS OF THE LOAN, RELEASE ANY GUARANTOR, FORBEAR FROM ENFORCING REPAYMENT OF THE LOAN OR EXERCISING ANY REMEDY UNDER THE LOAN DOCUMENTS, OR MAKE ANY OTHER FINANCIAL ACCOMMODATION PERTAINING TO THE LOAN ARE NOT ENFORCEABLE UNDER CALIFORNIA LAW.

This commitment is conditioned upon the preparation, execution and delivery of legal documentation in form and substance satisfactory to the RRLF and to its counsel, which documentation in addition to incorporating substantially the terms set forth above will include such other terms as are customary for transactions of this type. This commitment is further conditioned upon the strict compliance by the Borrower with all requirements of this commitment letter before the expiration date hereof.

Please evidence your approval of the foregoing to signing and returning the lender the enclosed copy (accompanied by the commitment fee referred to above) on or before \_\_\_\_\_. If such executed copy (and fee) is not received by the RLF by such date, then this commitment shall automatically expire and be of no further force or effect.

Sincerely yours,

---

Economic Development Manager

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 200x.

BORROWER:

By: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit G

## Sample Closing Checklist

### CLOSING CHECKLIST

Applicant Name: \_\_\_\_\_

Approved: \_\_\_\_\_

ITEM REQUIRED	Required		Received/Complete	
	Yes	No	Yes	No
<b>A. DOCUMENTS RECEIVED</b>				
ATTORNEY ENGAGEMENT LETTER				
1. Commitment letter completed				
1a. Commitment letter returned				
2. Loan Agreement				
3. Note				
3.a. Amended Note				
4. Deed of Trust				
4a. Title Policy				
1. Assignment of Rents				
2. Assignment of (Commercial) Lease				
5. Guaranty (s)				
5.a. Acknowledgment and Consent				
6. Security Agreement				
6a. List of equipment for UCC.				
7. UCC-1 and/or UCC-2				
7a. UCC 11R				
8. Estoppel Certificate (8a/parties to Estoppel)				
9. Assignment of Cash Value/Life Insurance				
9a. Copy of Insurance Policy				
9b. Personal residence				



**CLOSING CHECKLIST**

Account Name: \_\_\_\_\_  
 Approved: \_\_\_\_\_

ITEM REQUIRED				
	Required		Received/Complete	
	Yes	No	Yes	No
<b>B. FINAL CLOSING PROCESSS AND CROSS CHECK LIST</b>				
1. Escrow/Disbursement Instructions				
2. Copy of lender(s) approval/commitment/decline letter				
3. Tenant and owner lease agreements received				
4. Title Commitment				
4. (a) Title Policy #				
Contact Name:				
5. Organizational documents and borrowing resolutions				
6. Liability and fire protection insurance binders				
7. Copy of purchase agreement/and amendments				
8. Bills/invoices to be paid from escrow				
9. Copies of architect, engineer, and construction contracts				
10. Receipt of performance bond, as required				
11. Copies of all construction lien releases				
12. Copies of all reports, certificates, or other documents furnished by construction lender				
13. Real estate appraisal and all addendum and/or amendments				
14. A certified survey with a legal description conforming to the title policy and the deed of trust				
15. Evidence that required equity has been provided				
16. Other (list below)				
16a. Order check for closing				
16b. Final review of documents				
16c. All insurance binders received				
16d. Prepare data entry sheet				

**CLOSING CHECKLIST**

Account Name: \_\_\_\_\_

Approved: \_\_\_\_\_

ITEM REQUIRED				
	Required		Received/Complete	
	Yes	No	Yes	No
<b>C. DOCUMENTS TO BE REVIEWED AND/OR MODIFIED</b>				
1. Promissory Note				
2. Security Agreement				
3. Loan Agreement				
3.a. UCC Filings				
4. Participation Agreement				
5. Continuing Guaranty				
6. Other documents				
7. Warrant Agreement				
8. Copies of Subordinated Debt				
9. Copies of Other Notes/Warrants				
10. Inter-creditor Agreement				

Exhibit H

## Loan File Checklist

### LOAN FILE CHECKLIST

**Applicant:** \_\_\_\_\_

APPLICANT: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CONTACT ADDRESS: \_\_\_\_\_

PHONE:( ) \_\_\_\_\_ FAX:( ) \_\_\_\_\_

PROJECT ADDRESS: \_\_\_\_\_

**CHECK ONLY THOSE REQUIRED FOR APPLICATION:**

<input type="checkbox"/> Application	<input type="checkbox"/> Business Plan	<input type="checkbox"/> Balance Sheet & Income Statement (projected)	<input type="checkbox"/> Tax Returns
<input type="checkbox"/> Interim Statements	<input type="checkbox"/> Aging of A/R, A/P & Taxes	<input type="checkbox"/> Projected Cash Flow (12) months	<input type="checkbox"/> Personal Financial Statement
<input type="checkbox"/> Personal Tax return	<input type="checkbox"/> Business Tax return		<input type="checkbox"/> Personal credit report
<input type="checkbox"/> Business credit report	<input type="checkbox"/> Purchase & sale agreement		<input type="checkbox"/> Construction schedule
<input type="checkbox"/> Bid or cost estimates	<input type="checkbox"/> Appraisal or valuation		<input type="checkbox"/> List of other collateral
<input type="checkbox"/> Legal or Parcel Numbers	<input type="checkbox"/> Organizational documents		<input type="checkbox"/> List of existing loans, commitments, or equity investment
<input type="checkbox"/> Copies of tenant leases	<input type="checkbox"/> Copies of building leases		<input type="checkbox"/> Environmental Questionnaire
<input type="checkbox"/> NEPA/CEQA or other environmental reporting requirements.	<input type="checkbox"/> Completed loan write-up		<input type="checkbox"/> Other

COMMENTS: \_\_\_\_\_

Completed By: \_\_\_\_\_ Date: \_\_\_\_\_  
Does reviewer recommend this application for consideration & approval?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_

Exhibit I

### Sample Servicing Report

#### LOAN SERVICING REPORT Insurance, Jobs Report and Site Visits

START-UP LIST OF EXISTING AND PROJECTED JOBS: \_\_\_\_\_

JOBS REPORTS DUE: \_\_\_\_\_

JOB CREATION OBJECTIVE: ( ) MET: \_\_\_\_\_ (Date)

JOB RETENTION OBJECTIVE: ( ) MET: \_\_\_\_\_ (Date)

Job Creation/Retention Reports Received:

Date: _____	Employee Status: _____
Date: _____	Employee Status: _____
Date: _____	Employee Status: _____
Date: _____	Employee Status: _____
Date: _____	Employee Status: _____

Insurance Certificate with the RLF listed as Loss Payee Required on:

- ( ) FF&E ( ) Vehicles ( ) Real Estate ( ) Inventory
- ( ) Personal Residence ( ) Key Man Life Insurance
- Other ( ) General Liability

Company Name: \_\_\_\_\_

Collateral Covered: \_\_\_\_\_

Agent Name: \_\_\_\_\_ Agent Phone: \_\_\_\_\_

Expires: \_\_\_\_\_

Company Name: \_\_\_\_\_

Collateral Covered: \_\_\_\_\_

Agent Name: \_\_\_\_\_ Agent Phone: \_\_\_\_\_

Expires: \_\_\_\_\_

Comments on Expirations/Change of Coverage:

\_\_\_\_\_

\_\_\_\_\_

<b>LOAN MONITORING and SITE VISIT REPORT</b>						
BORROWER:						
CONTACT NAME:						
PHONE NUMBER:		REPORT DATE				
REVIEWER NAME:						
NAME OF STAFF INTERVIEWED:						
PROJECT SITE VISIT:	Yes	No	FILE REVIEW ONLY?	Yes	No	
ORIGINAL LOAN PURPOSE (Use of Proceeds):						
			Days Delinquent			
STATUS OF LOAN:	Current					
	Delinquent					
<b>G. LOAN AGREEMENT IN COMPLIANCE</b>			Yes	No		
Comments						
JOB CREATION and/or RETENTION						
Full-time #	Part-time #		Minority/Ethnic Group			
	Hours worked per week:		Asian Pacific Islander			
FOLLOW-UP and/or REQUESTS TO BORROWER:						
DATE OF NEXT REVIEW:						

Exhibit J

**Sample Default Notification Letter**  
**LOAN DEFAULT NOTIFICATION LETTER**

Date:

Borrower Name  
Address  
City, State, Zip

Loan #:  
RE Account:  
Amount Past Due:  
Late Charges:

Dear (Borrower):

You are hereby notified that due to your failure to make the monthly payments due for (time-span, year), for the total amount indicated above, pursuant to the terms of that certain Promissory Note dated \_\_\_\_\_ in the original principal amount of \$ \_\_\_\_\_ (the Note) given to you by the Berkeley Revolving Loan Fund (RLF), you are in default under the terms of the Note.

Pursuant to the terms of the Note, the City hereby demands that you pay all payments now due, together with accrued interest, late charges, and any costs or fees incurred by the Authority in connection with the default as provided in the Note.

The current principal balance of the Note is \$ \_\_\_\_\_ as of \_\_\_\_\_, with interest accruing on the principal balance from \_\_\_\_\_, the date of your default, at the rate of \_\_\_\_\_ ( \_\_\_\_\_ %) per annum. In addition, you are required to pay a late charge equal to five percent (5%) of the amount of the monthly payment due for each thirty day period after fifteen days from the due date of such payment. Late charges accrued are indicated above.

All payments must be made to the City of Berkeley RLF at.....

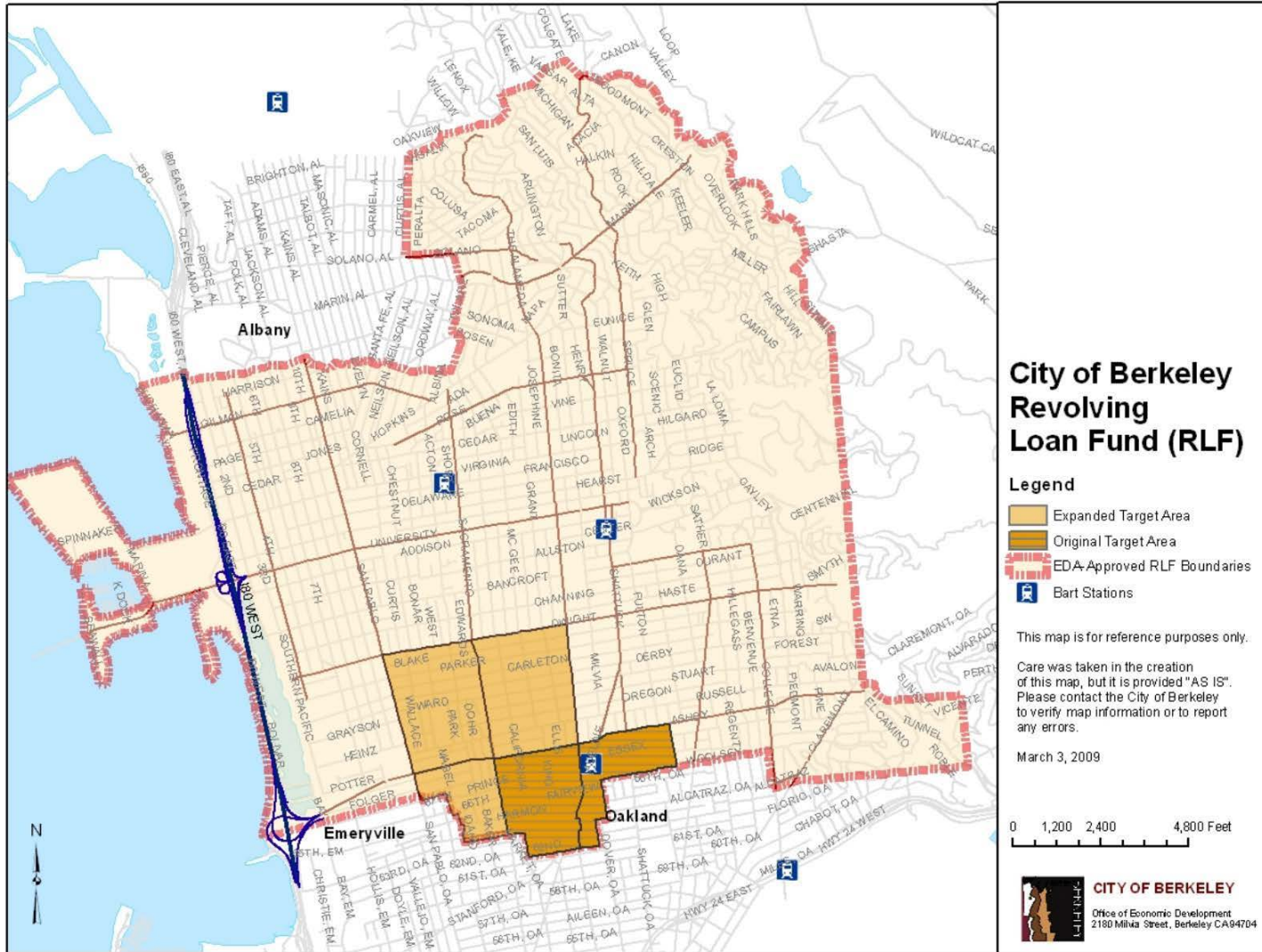
You are being given 30 days from the date of this letter to bring these payments current. Failure to do so will result in legal action against the corporation, and you personally.

Sincerely yours,

Economic Development Manager

Exhibit K

### Map of Target Area







RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE CITY MANAGER TO EXECUTE A SOLE SOURCE CONTRACT AND ANY AMENDMENTS WITH WORKING SOLUTIONS TO PROVIDE ADDITIONAL SMALL BUSINESS SUPPORT AND TECHNICAL ASSISTANCE TO BERKELEY'S COVID-19 RESILIENCY LOAN PROGRAM (RLP) PARTICIPANTS

WHEREAS, Working Solutions (a CDFI lender) has proven to be an effective partner implementing the underwriting services for the City of Berkeley's Revolving Loan Fund (RLF) since 2018; and

WHEREAS, Working Solutions has been a tremendous partner in providing underwriting services the COVID-19 Resiliency Loan Program (RLP) since its establishment 2020; and

WHEREAS, Working Solutions has worked steadily for more than two decades to develop and implement programs that address a wide range of important supports for small businesses and is a certified CDFI lender and is a successful well-regarded revolving loan and grant fund administrator in the Bay Area; and

WHEREAS, the Revolving Loan Fund's Administrative Plan, which governs both the RLF and the RLP loan programs, has been amended to incorporate the ability of a third-party administrator of the RLP program; and

WHEREAS, Working Solutions, a qualified CDFI lender, will now perform this role and will govern the origination and servicing of the *COVID-19 Resiliency Loan Program (RLP)* loans; and

WHEREAS, the efforts of Working Solutions will enhance the Berkeley RLP borrowers lending experience, and provide supplemental support and technical assistance to RLP program participants; and

WHEREAS, the anticipated term of the RLP loans is a period of five years, this engagement for supplemental technical assistance and support for RLP program participants shall correspond in length; and

WHEREAS, the City of Berkeley has been granted American Rescue Plan Act (ARPA) funds to provide additional support to small businesses impacted by the COVID-19 pandemic, assures a source of revenue for the service.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract and any amendments with Working Solutions not to exceed \$60,000 of ARPA funds to support the RLP loan recipients for the period March 31, 2022 to December 31, 2027. A record signature copy of said contract and any amendments are to be filed in the Office of the City Clerk.