

Questions ask by Kellems and below a draft of the City of Madison loan program

1. Will it be a difficult road trying to craft a successful RLF when the community is in limbo with the new Economic Development Reform Committee (mayor's blue ribbon panel) -- before the study is complete?
2. Banks are very heavily regulated, in every area, but especially in lending. This document is essentially a loan agreement. Would this document pass muster with a regulator?
3. The banks have no risk in this scenario. The loans are fully secured by escrowed funds and if the loan defaults it is returned to the city. The city assumes all the risk in trying to collect the funds. The city is not a lending institution and has even less experience at being a collection service or doing loan workouts. Any thoughts along these lines?
4. Perhaps here is the main question: if the borrower cannot qualify for a loan from a commercial bank why would "the city", i.e. the taxpayers, want to loan funds to this individual or enterprise?
5. Why would "the city" think it could have more success as a sub-prime lender than a financial institution? In other words, why do we think we as a city might be more qualified to making lending decisions than a bank?
6. Do we need more criteria on credit reports than just pulling them. E.g are bankruptcies disqualifying? low score, average score?
7. Same with financials and proformas - are there standards associated with the expectations?
8. What is the purpose of 15 percent of your own money requirement?
9. Why specify types of business?
10. Why restrict criteria?
11. Why limit approved uses of monies? E.g, leasehold improvements are not listed and should be acceptable?
12. Do we need to make sure corporations are in good standing with secretary of state?
13. Should we always require personal guarantees, not just sometimes?
14. Do we need more specificity on rates, e.g. prime as published by wall street journal? are they fixed rates, adjustable?
15. Should the revolving loan program be a part of the mayor's blue ribbon panel's agenda – and therefore wait until they have time to address it in the larger, holistic context of the city's economic development reform initiative?

-DRAFT-

CITY OF MADISON, INDIANA

PROGRAM GUIDELINES AND PROCEDURES

MICRO-LOANS AND ECONOMIC DEVELOPMENT REVOLVING LOAN FUNDS

APPLICANT:

All eligible individuals or corporations applying for loans from the City of Madison's Economic Development Revolving Loan or Micro-Loan funds must submit a completed application available from the office of the Mayor or his designated representative. A \$ 50.00 non-refundable application fee is required to be paid by the applicant if it is determined the application will be forwarded to the Economic Development Revolving Loan committee for consideration. **(Either charge the application fee for every application or none. If applicants can't pay the \$50 fee, it's a clue that there is a problem?)** Loan closing costs will also apply should the loan receive final approval. Closing cost may include lien records, security records, title searches as well as any other reasonable and applicable loan generation expenses. These costs are to be paid by the borrower and will be subtracted from the loan proceeds at the loan closing. **(All fees should be disclosed up front. Pick an amount that will cover charges in most cases and say the fees will be no more than "x" but may be less?)**

The borrowing applicant will then be interviewed by the Mayor or his designee to determine whether the borrower will require professional business advisory and consulting services. Any cost associated with this service is to be borne by the borrower. **(Again, disclose fees up front?)** From information gathered from the borrower from the application and interview, the Mayor or his designee will, at a minimum, learn the location of the proposed business, the type of business, the purpose and use of the loan request, the amount and period of time of the loan, intended security to be used as collateral against the loan and expected jobs created or retained.

LOAN CRITERIA:

- Business must be located (or is locating) within the city corporate limits or the two (2) mile area of the city corporate limits that lay within the boundaries of Jefferson County, Indiana.

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16. Maximum loan from the Revolving Loan Fund is \$ 75,000 (may exceed this amount if approved by the Common Council)

- Maximum loan from the Micro-Loan is \$ 25,000.
- Minimum loan from either fund is \$ 5,000

- Loan terms are two (2) to seven (7) years for the Revolving Loan and two (2) to five (5) for Micro-Loan
- Applicant must be at least 18 years of age and a legal resident of the United States of America
- No active full-time employee of the City of Madison or member of the Common Council, Board of Public Works and Safety or EDRLC or their direct relatives as defined in City of Madison Ordinance 2012- are eligible to receive funds from the city loan programs.

ELIGIBLE INDUSTRIES/BUSINESSES

- Manufacturing
- Retail Trade
- Wholesale Trade
- Transportation
- Service Industries (To include Information Technology, Professional)
- Trades (Electrical, Plumbing, Roofing, Lawn Care)

REQUIRED DOCUMENTS:

- Acceptable business plan (**What is an "acceptable" business plan? Provide a template that all must use to fill out the same information for consistency? This helps those underwriting the loan as well.**)
 - Two year financial statements (for existing businesses)
 - Two year proforma financial statements (for new businesses)
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- Copies of latest two year federal income tax returns
 - If loan is to a corporation, a corporate resolution authorizing the loan
 - Authorization for the city to obtain current credit information from one or more commercial and/or personal credit reporting agencies. (**Who will see this information? Must be able to ensure privacy for personal financial information? Who is "the city"?**)

- Must show evidence and provide affidavit that borrower has at least 15% of the amount of the loan as equity in the business

APPROVED USES OF FUNDS

- Land and building acquisition
- Equipment
- Inventory
- Working Capital

PROHIBITED USES OF FUNDS

- To pay past due taxes
- To pay past due debts except for non-secured trade payables
- To pay dividends or repay individual's equity

(To pay personal expenses of any kind?)

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TYPES OF SECURITY FOR LOANS

- General Security Interests

The city requires each borrower grant to the security a blanket security interest in the borrower's assets, including, but not limited to, accounts receivable, inventory and equipment.

- Mortgages

17. The city will require a mortgage in cases where real estate is being acquired with loan funds or the real estate where the borrower's business is located is owned by the shareholders or partners of borrower and leased to borrower and in any other instances in which the city deems necessary.

- Personal Guaranties

The city may require the personal guaranty of repayment by the borrower.

JOB CREATION OR RETENTION:

Each loan should provide at least one (1) job created or retained for each \$25, 000 or portion thereof borrowed.

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EDRLF REVIEW COMMITTEE AND APPROVAL PROCESS:

The Economic Development Revolving Loan Committee is comprised of five members as per City of Madison Ordinance 2012- . The committee will meet monthly with a majority present in an open public meeting to review loan applications as provided to the committee from the Mayor or his designee. At the first meeting of the committee, the committee will elect from its membership a chairman, vice-chairman and secretary and will at the first meeting after January 1st of the ensuing years, elect officers for these positions for that year. If no loan applications are pending, the committee via its chairman may cancel the required monthly meeting. If a quorum is not present, the meeting shall not be held.

During the open meeting, the Chairman shall announce the name of the applicant, the type of business, business location, the loan amount requested and the requested term of the loan. The applicant or his designee must be present at the meeting. If the applicant is using a designee, this must be done in writing and signed by the applicant. The members may question the applicant concerning the loan request and received public comments regarding the loan and/or the applicant.

Following the end of the public portion of the loan(s) request discussion, the committee, by majority vote of the members present, may go into executive session to review the financial documents and business plan of the applicant(s). The EDRLF Committee may request additional information from the applicant in executive session, but only obtain information to clarify the financial documents or to discuss trade or intellectual secrets of the applicants planned or current business.

Following the executive session, the committee, in public session, will vote to recommend the approval, disapproval or to table the loan request. If the recommendation is to approve the loan request, the committee will also recommend the amount and the term of the loan. The committee chairman will only vote to break a tie vote of the majority present. The Mayor or his designee and the Clerk-Treasurer or his designee are ex-officio members of the committee without voting privileges.

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18. If the committee tables the application, at the next meeting of the committee, the application shall be taken off the table to be reconsidered. The applicant or his designee must be present for the committee to take any action on the application. The committee may vote to place the application on the table one additional time, but at the next meeting, with the applicant or his designee present, shall take the application off the table and vote to recommend approval or disapproval at that meeting.

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FINAL APPROVAL PROCESS:

19. Following the recommendation from the EDRLF Committee, the application shall be forwarded to the Mayor for his consideration. If the Mayor desires to have the application proceed, he will, by his signature, recommend approval and forward the application for the next meeting of the City of Madison Board of Works and Safety for final approval or disapproval.

No loan shall be made without sufficient funds available in the applicable fund account

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FINANCIAL INSTITUTION LOAN PARTICIPATION:

To help in the administration of the approved loans, the city will encourage full service financial institutions (Banks) that provide commercial loans and have offices located within the city or the two mile area of the city corporate limits that lay within the boundaries of Jefferson County, Indiana, to participate in these loan programs. The city will request a letter of interest and intent to participate in these programs from all qualifying institutions.

If more than one bank agrees to participate, the loans will be made on a rotating basis. The bank may refuse to accept any loan if offered by the city. The bank may not transfer, assign or change terms of the loan without the written consent of the city through its Board of Public Works and Safety.

Banks are expected to provide the following:

- Loans at 1% over their normal prime rate
 - Subtract their regular closing costs from the proceeds of the loan
- 20.
- To inform the city if the loan becomes past due at 30 days
- 21.
- If the loan becomes over 60 days delinquent, the bank will clear the escrow account against the open debt and refund the difference to the city's Clerk-Treasurer's office and transfer the remaining debt obligation of the borrower back to the city.
- 22.
- The bank will use their regular reminder to the borrower of a 30 day past due payment by either letter or internal collection efforts. No outside collection service is to be used by the bank if there is a cost to the city for this service.

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The city will provide the following:

- The placement of funds to the bank in an escrow account dedicated to the individual loan in an amount equal to the loan made as a guarantee

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- for the loan. The escrow account will earn 2% interest compounded at least on a monthly basis.

If, in the event, all banks decline to administer a loan approved by the City of Madison Board of Public Works and Safety, the city, with the consent of the Board of Works and Safety, may execute the loan directly with the borrower at an interest rate that would have been provided by the participating bank, i.e. prime rate + 1 %. All necessary closing costs associated with making the direct loan will be deducted from the loan amount at the closing of the loan.

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LEVERAGED LOANS:

If a participating bank contacts the city and desires to have the city use funds from the city loan funds to guarantee a percentage of a pending loan with a commercial or industrial client of the bank, the city may agree to participate with the following provisions:

- The loan would not be made without the city's participation
 - The city will take a subordinate position on the loan only up to 20% of the total loan and a period not to exceed 3 years.
- 24.
- The loan must create or retain at least 1 job per \$ 25,000 of the city's match or portion thereof \$ 25,000.
- 25.
- The loan process for the city's match must be the same as a 100% guaranteed loan.

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LOAN DEFAULT:

Should a borrower fail to make timely payments that exceed 60 days of being due, the Mayor or his designee will attempt to negotiate with the borrower to rework the loan. If the city is able to reach an acceptable agreement with the borrower, the change in the borrowing agreement must have the express and written approval of the City of Madison Board of Public Works and Safety.

Any loan that is delinquent and an acceptable agreement between the city and the borrower cannot be reached, then the Board of Public Works and Safety will decide on whether the loan should be referred to a collection agency, filing a lawsuit or determine if the loan is uncollectable and removed from the city's accounts

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REPORTING:

Prior to March 31st of the year following the approval of City of Madison Ordinance 2012- , and for each year thereafter, the Mayor or his designee shall provide the Common Council with the financial condition of the loan funds as well as any other information requested by the Common Council.