

INTRODUCED: July 24, 2017

AN ORDINANCE No. 2017-157

To amend ch. 2, art. IV, div. 3, by adding therein a new § 2-305, concerning a microenterprise loan program, for the purpose of establishing a microenterprise loan program.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEPT 25 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 2, Article IV, Division 3 of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein a new** section numbered 2-305:

Sec. 2-305. Microenterprise loan program.

For purposes of this section, the term “microenterprise” has the meaning ascribed to it by 42 U.S.C. § 5302(a)(22). Pursuant to Code of Virginia, § 15.2-956, a microenterprise loan program is established. Only microenterprises may be eligible for participation in the program. The City shall provide technical assistance, as 42 U.S.C. § 5305 uses that term, to

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: SEPT 25 2017 REJECTED: _____ STRICKEN: _____

microenterprises that participate in the program. The microenterprise shall accept the technical assistance as a condition of participation in the program. No loan under the program shall exceed \$50,000. No grant under the program shall exceed \$10,000. The Department of Economic and Community Development shall administer the program and, with the assistance of the City Attorney, shall establish detailed requirements for program eligibility and other policies necessary for the administration of the program in accordance with this section and any applicable requirements of federal law or regulation.

§ 2. This ordinance shall be in force and effect upon adoption.

Received

MAY 19 2017

4-6573

Office of the
Chief Administrative Officer



MAY 31 2017

CITY OF RICHMOND

INTRACITY CORRESPONDENCE

OFFICE OF CITY ATTORNEY

O&R REQUEST

DATE: April 13, 2017 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

JS 5/30/17
SB

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Lenora Reid, Deputy Chief Administrative Officer for Finance & Administration *LR*

THROUGH: John B. Wack, Director of Finance *JBW*

THROUGH: Jay Brown, Director of Budget and Strategic Planning *JB*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer, Planning and Economic Development *PD*

FROM: Douglas C. Dunlap, Interim Director of Economic & Community Development *DD*

RE: Establish a Micro-Enterprise Pilot Loan Program to Provide Loans and Grants to Eligible Very Small to Small Businesses.

ORD. OR RES. No. _____

PURPOSE: To establish a Micro-Enterprise lending program to assist micro-business entrepreneurs in neighborhoods throughout the City of Richmond. The program is targeted to small businesses and is designed to stimulate growth and create new private enterprise jobs that will provide financial opportunity for the owners. All companies in the program will be required to receive technical assistance (TA) to be eligible for any funding. The TA will be client specific and may include but not be limited to: basic financial literacy training, business plan

development, accounting, marketing, business management, training, regulatory compliance, employee recruiting, etc.

REASON: Currently there is no micro-lender in the Richmond metropolitan area making small business loans in the minimum amount of \$2,500 up to \$50,000 with loans averaging in the \$10,000 to \$25,000 range. This program will fill that void and is intended to provide financial assistance to micro businesses unable to obtain smaller amounts of capital in the Richmond marketplace.

RECOMMENDATION: Approval is requested by the Administration.

BACKGROUND: The Micro-Enterprise Loan Program will be funded with the now defunct Neighborhoods in Bloom Revolving Loan Fund dollars (federal funds). This pilot Program will initially be administered by the Department of Economic & Community Development (ECD) working in conjunction with the Office of Minority Business Development (MBD). The goal is to provide revolving loan funds and technical assistance that will address the ongoing challenges of access to capital for very small to small businesses and entrepreneurs that are seeking to stimulate the revitalization of Richmond's neighborhoods, and promote permanent job creation for low to moderate income local residents by helping bridge the credit gap in the marketplace.

Following are three key strategies that comprise the City administration's micro-business and neighborhood revitalization agenda:

- Revitalize commercial corridors and gateways.
- Stimulate the continued growth of new jobs and retained jobs.
- Potentially direct these businesses into neighborhoods with increasing populations and activities that could facilitate additional retail, commercial and housing activities.

FISCAL IMPACT/COST: Funds currently available are \$654,272.80 of federal funds.

FISCAL IMPLICATIONS: The adoption of this paper will provide new funding for financial incentives to eligible businesses doing business within the City. These incentives will continue to stimulate private investment in the respective businesses and or properties housing the businesses, resulting in new jobs for low- and moderate- income persons, wealth creation for micro-business owners and increased tax revenues for the City.

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: Increased real estate, business & personal property taxes over time.

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: June 12, 2017

CITY COUNCIL PUBLIC HEARING DATE: June 26, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Finance & Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:

AFFECTED AGENCIES: Economic and Community Development, Office of Minority Business Development, Office of Budget and Strategic Planning, and Finance

RELATIONSHIP TO EXISTING ORD. OR RES.: N/A

REQUIRED CHANGES TO WORK PROGRAM(S): Some

ATTACHMENTS: Exhibit A City of Richmond Micro-Enterprise Pilot Loan Program Budget and Exhibit B General Provisions

STAFF: Denise Lawus, Deputy Director II, 804-646-3975; Ronnie N. Johnson, Chief Credit & Financial Strategies Officer, 804-646-7489, Department of Economic and Community Development; Patricia Foster, Director, Minority Business Development 804-646-7966

EXHIBIT A

BUDGET

Micro-Enterprise Loan Program

Loans:	\$518,000.00
Grants:	\$ 85,000.00
Technical Assistance:	\$ 40,000.00
Other Costs:*	\$ 11,272.80
Total:	\$654,272.80

***May include travel, training,, supplies and other associated costs.**

Exhibit B
Microenterprise Revolving Loan Fund Program
GENERAL PROVISIONS

The City of Richmond Department of Economic and Community Development ("City") will serve as the Program Administrator and will be assisted in this effort by Minority Business Development who will provide training and counseling services to the prospective program applicants. In addition, the City will employ consultants on an as needed basis as they deem appropriate to achieve the overall goals and objectives of the Program.

The City will market the program, accept and process applications, underwrite and recommend approval of loans and grants ensure proper loan closing, disbursement of funds, environmental review, maintain loan files and fiscal records. The City will be responsible for implementing the Program according to the adopted guidelines.

PROGRAM ELIGIBILITY

- Businesses operating for at least two (2) years to receive loan and/or grant consideration.
- Individual consideration will be given to start-ups (new businesses, or in operation for less than two (2) years).
- The business must have five (5) or fewer employees, including the owner(s).
- Additional services cannot be accessed when the business grows beyond the maximum employee requirement.
- The business must have a location within the City of Richmond. Example: Food trucks that are stored outside the City but have a licensed location in the City qualify.
- A person "developing a microenterprise" is a person who has expressed interest towards development, after screening for capacity to undertake the development of that business.
- All borrowers must be able to show a minimum of ten percent (10%) or more equity investment, or equity position in the business.
- The applicant and/or business must not have recorded tax liens and must be current in filing all withholding and/or other applicable taxes.
- The applicant must not have filed for personal or business bankruptcy within the past twenty-four (24) months and any bankruptcy, personal or business must be discharged at the time of application.
- The applicant must be at least twenty-one (21) years of age and be a legal United States resident.
- Any loan and/or grant disbursed in support of a federal, state or local contract must be supported by a signed contract with the respective governmental entity.
- The applicant must have clearly defined business goals and demonstrate a commitment to working to make the business a success.

MEETING THE MICROENTERPRISE DEFINITION

Participants for this Program must meet the United States Department of Housing and Urban Development's definition of a microenterprise business. The definition states that "a microenterprise is a business that has five (5) or fewer employees, one or more of whom owns the enterprise. All part-time and full-time employees on the business payroll at the time of the loan and/or grant will be counted".

TYPES OF MICROENTERPRISE BUSINESS

An applicant may be an existing microenterprise business needing funds to continue the business or expand its current operation. Existing microenterprise business applicants must be private for profit business concerns legally operating within the City of Richmond. Nonprofit entities are not eligible for microenterprise business assistance. Under certain circumstances, applicants may also be persons starting a new business. All federal, state and local permits as they may apply will be required as a condition for receipt of microenterprise funds. Each successful applicant must also provide proof of insurance as required for their specific microenterprise business. Home based microenterprise businesses are eligible for Program assistance. However, the City prefers assisting businesses located in underutilized commercial buildings in the City of Richmond.

PROGRAM MARKETING AND OUTREACH

Program marketing will be conducted by the City with assistance from other agencies and organizations. Marketing brochures will be distributed to the Chambers of Commerce, neighborhood business organizations, public assistance providers, economic and community development providers, the City's web page, community bulletin boards, the Community College; the City's Office of Multicultural Affairs and the Center for Workforce Innovations offices. Presentations promoting the Program may be conducted among various groups and organizations. In addition, the City shall conduct public meetings both on and off site of City premises to disseminate Program information.

NO CONFLICT OF INTEREST

For purposes of defining a conflict of interest, the City has adopted the federal standard contained in Title 24, Section 570.611 of the Code of Federal Regulations as its definition which reads as follows: No member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of this program and the operation of the Department of Economic and Community Development shall directly or indirectly be eligible for this Program. Exceptions to this policy may be achieved upon public disclosure and formal approval by the governing

body of the City of Richmond along with written authorization by the City of Richmond City Attorney.

EXCEPTIONS AND SPECIAL CIRCUMSTANCES

Exceptions are defined as any action, which would depart from policy and procedures as stated in these guidelines. The City may initiate the process for consideration of an exception when it deems consideration is warranted. When considering an exception to the Program Guidelines the City will prepare a memo outlining the circumstances and basis for the exception which will be included in the loan underwriting package. The memo shall contain a narrative, including the staff's recommended course of action and any written or verbal information supplied by the applicant.

Loan payments may, on a case-by-case basis, be deferred or restructured to meet the payment needs of the borrower. The decision to consider and/or approve a loan payment deferral and/or modification shall be made by the City.

TECHNICAL ASSISTANCE PROVISIONS

The overall goal of the Program is to provide specialized training and one-on-one technical assistance to eligible microenterprise borrowers and prospective borrowers on how to operate and expand a successful business.

INITIAL REVIEW

Program eligible participants will be referred to Minority Business Development for evaluation and initial counseling. Staff will meet with the participant to ascertain readiness and obtain the necessary information needed to formulate a training/technical assistance plan for the business. Those in need of basic entrepreneur training may be assisted in house or be referred to SCORE or the Small Business Development Center. Counseling and technical assistance may be provided after the loan closing if the City believes it is both warranted and appropriate to ensure the successful repayment of the loan, or preserve the effectiveness of the grant.

Minority Business Development staff will follow-up on the implementation of the Business Development Plan including, assigning and monitoring counselors, providing training, monitoring business progress, guiding participants in resolving business issues, fielding calls from participants, data collection and coordinating post-counseling consultations. City staff will provide reports on a quarterly basis.

Those participants that have completed their Business Development Plan (including current Business Plan, Marketing Plan and business financial documents) and are found to have the capacity to obtain a loan or receive a grant will be referred for application processing.

MICROENTERPRISE LOAN PROVISIONS

SOURCE OF LOAN FUNDS

The program will be capitalized initially with \$654,272.80 funds reprogrammed for this sole purpose. The intent is to lend these funds on a revolving basis to leverage their impact for many years. In the future, the City may seek additional funds from various sources to expand the Program. To the extent these funds require an amendment to the Program Guidelines, the City shall incorporate those requirements in the Guidelines contained herein.

REQUIRED MICROENTERPRISE TECHNICAL ASSISTANCE

All Program participants are required to complete a Business Development Plan under the technical assistance portion of this Program prior to applying for a Microenterprise Loan or Grant. Limited exceptions to this requirement will be viewed on a case-by-case basis when the applicant has demonstrated an ongoing ability to successfully operate the business and the City staff believes that technical assistance is not needed. However, the City reserves the right to require these businesses to accept ongoing technical assistance should their business encounter operational problems during the term of the City's loan or grant compliance period.

USE OF FUNDS

Funds under this program are provided to eligible microenterprise businesses in the form of loans with a maximum loan amount of \$50,000, or grants in the maximum amount of \$10,000. A description of the loan and grant terms and underwriting are further described in the Guidelines. Approved loans under this program are required to be repaid. Grants may be structured with a recapture provision if the borrower fails to meet the terms and conditions of the grant.

Funds under this program are restricted to certain eligible costs. Some common eligible costs are:

1. Permanent working capital to pay staff, operating expenses, purchase inventory and manage receivables;
2. Acquisition of furniture, fixtures and equipment;
3. Purchase of manufacturing equipment including installation;
4. Purchase rolling stock;
5. Purchase software and computers;
6. Make leasehold improvements, and
7. Government contract receivable financing.

INELIGIBLE USE OF FUNDS

Projects that are primarily housing in nature are not eligible. Financing business "goodwill" is not an eligible loan or grant expense. Businesses excluded from financing consideration under the SBA 7A program are also ineligible for the Microenterprise Pilot Loan and Grant Program.

ELIGIBLE BORROWERS

Any for-profit corporation, partnership, LLC, Subchapter S, joint venture, sole proprietorship, cooperative or other entity which is authorized to do business in the Commonwealth of Virginia and meets the definition of a microenterprise business.

REQUIRED REVIEW BY CITY STAFF

City staff must review and underwrite each microenterprise loan for eligibility and procedural compliance with the adopted Program Guidelines. Upon review and approval of the loan and/or grant application package submitted to the City, a formal written approval letter will be issued.

FAIR LENDING COMPLIANCE

This program will be implemented in accordance with both the Federal Fair Lending and the Fair Lending Statutes of the Commonwealth of Virginia. No business person shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with funds allocated for this program, or any other funding which may be secured after commencement of lending under the Microenterprise Pilot Loan Program on the basis of his or her religion or religious affiliation, age, race, color, ancestry, national origin, sex, marital status, family status, physical or mental disability, sexual orientation, or other arbitrary cause.

LOAN APPLICATION PROCESS

Loan applications will be processed on a first-come-first-served-basis. The City shall accept loan applications and review in accordance to initial eligibility requirements. The City shall conduct an interview with business owners to determine if the business meets the Program and Eligibility requirements. Participants that do not meet basic Program requirements shall not be allowed to enter counseling and submit an application for loan and/or grant assistance.

The City will provide a Microenterprise Loan Program Application to each eligible applicant. From the information contained in the application, the City will compile an underwriting loan file consisting of credit, financial, and underwriting information necessary to conduct a loan analysis. Upon evaluation of the application, the City shall develop a memorandum summarizing the loan and/or grant request with pertinent financial data along with a recommendation of appropriate determination to the Loan Committee. Following their review

and approval process, the City shall move forward with the loan settlement. The City will charge a \$50 loan application fee to each applicant.

LOAN CLOSING PROCESS

Upon approval of the loan and/or grant, the City will prepare all necessary loan closing documents including lien searches and UCC-1 filings, if appropriate. The City's legal counsel will review all closing documents as necessary. The City will charge a closing fee which can be paid from the proceeds of the credit facility provided by the City.

LOAN APPLICANT CONFIDENTIALITY

Persons serving under this Program, whether employed by the City or an agency, shall not disclose any of the Borrowers personal or business information. All confidential information supplied by the Borrower will only be disclosed to persons required to view information as part of the loan review, underwriting and approval process. All personal and business confidential information shall be kept in secure files and shall not be available to persons outside of the Program. In the event the City receives a Freedom of Information request to access public records relative to the Borrower's application, then only non-confidential information as verified by the City Attorney will be provided.

LOAN/GRANT TERMS AND CONDITIONS

Microenterprise loans underwritten in accordance with these Guidelines may be from \$2,500 to \$50,000. The requested loan amount must be reasonable given the scope of the Business Development Plan and be supported by the information provided in the loan application.

The term of the loan shall not exceed ten (10) years based on the assets being financed. The term generally should not exceed the economic life of the asset being financed. City staff will ultimately determine the term of the loan based upon the proposed use of loan proceeds and the Borrower's ability to repay the loan.

The interest rate charged for the loan will be based on the underwriting analysis conducted by the City. Some of the factors that will influence the interest rate are: 1) ability of the Borrower to service the loan; 2) credit risk factors and business management experience; 3) collateral and security offered for the loan. The City may charge interest only for a period of time if the underwriting analysis determines the need for such terms. By allowing interest rate flexibility, the City can tailor the loan terms charged under this Program to meet the specific needs of the individual Borrower. Generally, the interest rate charged to a Borrower will range between Three percent (3%) and six percent (6%).

Loan terms may, on a case-by-case basis, be modified with the approval of the Microenterprise Loan Committee.

COLLATERAL AND SECURITY REQUIREMENTS

All loans made under this program will be collateralized using standard commercial underwriting guidelines. Collateral coverage will be assessed based on assets available for security. A personal guarantee will be required. Should there be more than one owner, anyone owning a twenty-percent (20%) or more interest in the business will be required to provide a personal guarantee.

The Microenterprise loan may be subordinated to a bank loan, but may not share less than a second security position behind the commercial lender. The loan provided through this program shall not be subordinate to any private financing.

Types of collateral may include but not be limited to:

- UCC liens on machinery, equipment or other fixtures
- Unlimited personal guarantees
- Unlimited corporate guarantees
- Lease assignments

Although it is the desire of this program to limit the fees and other costs associated with microenterprise borrowing, credit reports will be required for each owner and for larger loans, appraisals of the machinery, equipment and other fixtures may be necessary. The combined loan-to-value ratio on collateral provided for these loans shall not exceed ninety percent (90%).

The program will require that the microenterprise business demonstrate that business can achieve a minimum 1.1:1 debt coverage ratio on a projected basis.

The program will record all security agreements and file UCC-1(s) when appropriate.

The Microenterprise Pilot Loan Program may from time-to-time provide a recoverable grant to a Recipient/Borrower either as a stand-alone financing when circumstances warrant such financing, or in combination with a Program loan. The maximum grant amount will be \$10,000 and each Recipient shall agree to repay the grant if the terms and conditions of the individual grant agreement are not met. Each grant agreement will be crafted specifically for the target Recipient/Borrower. Grants may also be given to a Recipient/Borrower to cover the cost of counseling or acquiring specialized consulting assistance that in the City's sole discretion is needed for that business to succeed.

GENERAL CREDIT REQUIREMENTS

A Dun and Bradstreet report may be obtained for loans exceeding \$25,000. A personal credit report provided by a recognized credit reporting firm will be required for each owner.

MANAGEMENT AND CAPACITY REQUIREMENTS

A loan and or grant applicant must:

- Demonstrate the ability to operate a business successfully
- Demonstrate that the business has sufficient borrowing ability or equity to operate, with the loan and/or grant on a sound financial basis
- Demonstrate the proposed loan/grant is of sound value and provides for the current and future needs of the business
- Demonstrate that the past earning record and projected financial performance of the business indicate the ability to repay the loan and other fixed debt, if any, out of earnings after expenses.
- Demonstrate the capacity for operating the business and managing future growth

The City may from time to time review and revise the terms and conditions of the Microenterprise Revolving Loan Fund Program General Provisions.