

INTRODUCED: March 14, 2016

AN ORDINANCE No. 2016-086

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute the fourth Economic Development Revolving Loan Fund – Tranche I Cooperation Agreement between the City of Richmond and the Economic Development Authority of the City of Richmond for the purpose of continuing the Economic Development Revolving Loan Fund Program.

Patron – Mayor Jones

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAR 28 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to enter into the fourth Economic Development Revolving Loan Fund – Tranche I Cooperation Agreement between the City of Richmond and the Economic Development Authority of the City of Richmond for the purpose of continuing the Economic Development Revolving Loan Fund Program. Such agreement shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

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

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 28 2016 REJECTED: _____ STRICKEN: _____



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

FEB 12 2016

Chief Administration Office
City of Richmond

4-4789

O&R REQUEST

RECEIVED

DATE: January 8, 2016

EDITION: 4

MAR 07 2016

TO: The Honorable Members of City Council

OFFICE OF CITY ATTORNEY

THROUGH: Dwight C. Jones, Mayor

[Signature]

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

[Signature]

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

[Signature]

THROUGH: Jay A. Brown, Director of Budget and Strategic Planning

[Signature]

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development & Planning

[Signature]

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

[Signature]

RE: Adopt the fourth Cooperation Agreement by and between the Economic Development Authority of the City of Richmond and the City of Richmond to continue administrating the Economic Development Revolving Loan (ED RLF-Tranche 1) Program.

ORD. OR RES. No.

PURPOSE: To authorize the Chief Administrative Officer to enter into the fourth Economic Development Revolving Loan Fund Cooperation Agreement with the Economic Development Authority (EDA) of Richmond, Virginia for the continuance of the administration of the Loan Program.

REASON: To enter into a Cooperation Agreement for the continuance of the ED RLF-Tranche 1.

RECOMMENDATION: Approval is requested.

BACKGROUND: The City submitted an application in 2006 to the HUD Section 108 Loan Guarantee Program to establish a business loan fund. In June of 2007 HUD issued a notification of award to the City of \$9,875,000 to finance a "Business Loan Pool" project. On June 24, 2014, HUD awarded a new loan guarantee commitment (B-13-MC-51-0019) in the amount of \$9,875,000 which will expire on September 30, 2019. The Section 108 funded Economic Development Revolving Loan Fund is one of the Department of Economic & Community Development funding tools to address gap financing for projects of scale.

The ED RLF is a well regulated program. Potential loan applications will undergo appropriate due diligence including generally accepted underwriting criteria, a loan committee review and final recommendation to HUD for approval. The loan program is subject to the Community Development Block Grant (CDBG) regulations and each loan will meet the National Objective of benefit to low- and moderate- income persons through job creation.

The ED RLF will impact three key strategies that comprise the City administration's neighborhood revitalization agenda:

- Revitalize commercial corridors and gateways.
- Stimulate the continued growth of Downtown Richmond.
- Advance select, potentially transformational projects, or activities that could facilitate additional projects.

FISCAL IMPACT/COST: There will be no cost to the City above the available \$9,875,000 of Section 108 Loan Guarantee funds. The interest expense will be paid from program income on loans closed within the revolving loan fund and/or CDBG funding.

FISCAL IMPLICATIONS: The adoption of this paper will provide the continued funding to eligible businesses with projects of scale located within the City. These incentives will stimulate private investment in the respective businesses and or properties housing the businesses, resulting in new jobs for low- and moderate-income persons and increased taxes for the City.

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: Increased business and real estate taxes over time

DESIRED EFFECTIVE DATE: Upon adoption by City Council.

REQUESTED INTRODUCTION DATE: February 8, 2016

CITY COUNCIL PUBLIC HEARING DATE: February 28, 2016

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Finance & Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: The Economic Development Authority

AFFECTED AGENCIES: Office of Budget and Strategic Planning, Finance Department.

RELATIONSHIP TO EXISTING ORD. OR RES.: This O&R will supersede Ordinance 2013-150-143.

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: The Economic Development Revolving Loan Fund Cooperation Agreement and Exhibit A.

STAFF: Denise Lawus, Deputy Director of Economic and Community Development, 804-646-3975 and Ronnie N. "Ron" Johnson, Chief Credit & Financial Strategies Officer, 804-646-7489 Department of Economic and Community Development;



Economic Development Authority
City of Richmond

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ECONOMIC DEVELOPMENT
REVOLVING LOAN FUND-TRANCHE I
COOPERATION AGREEMENT

THIS forth COOPERATION AGREEMENT is made this _____ day of _____, 2016 by and between the **City of Richmond, Virginia**, a municipal corporation of the Commonwealth of Virginia ("City") and the **Economic Development Authority of the City of Richmond, Virginia**, a political subdivision of the Commonwealth of Virginia ("EDA").

RECITALS

WHEREAS, the City desires to facilitate business growth and development and promote permanent job creation for low and moderate income residents;

WHEREAS, the City has identified the provision of financing to help bridge the credit gap for developers and small businesses pursuing Community Development Block Grant ("CDBG") eligible projects as one vehicle to achieve this goal;

WHEREAS, the City's Consolidated Plan as approved by the United States Department of Housing and Urban Development (HUD) includes the authority to establish a Revolving Loan Fund pursuant to Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 4308) (Economic Development RLF) to assist with such financing;

WHEREAS, by letter dated April 19, 2007 the United States Department of Housing and Urban Development (HUD), approved the City's request for loan guarantee assistance under Section 108;

WHEREAS, by letter dated June 24, 2014 the United States Department of Housing and Urban Development (HUD), approved the City's request for the reissue of loan guarantee assistance under Section 108;

WHEREAS, the establishment of a Economic Development RLF in accordance with the Consolidated Plan and with the approval of HUD will promote the CDBG national objectives including improving economic opportunities for low and moderate income persons through job creation;

WHEREAS, the City and the EDA have determined that a Economic Development RLF furthers the purpose of promoting economic development; will result in substantial benefits to the welfare of the City and its inhabitants; is in the public interest; and serves governmental interests, including but not limited to an increase in tax receipts, job creation and job retention;

WHEREAS, to meet the economic development goals and serve the public and governmental interests, the City and the EDA desire to continue the Economic Development RLF;

WHEREAS, at the City's request, the EDA will undertake certain activities in the implementation of the RLF pursuant to established Policies and Procedures, from time to time;

WHEREAS, upon drawdown from HUD, the City will have available Section 108 funds to establish this program and intends by this Agreement to

authorize transfer of funds (when available) to the EDA for FY 2017 for the purpose of implementing the Economic Development RLF;

WHEREAS, the City and the EDA agree to work together to jointly continue the Economic Development RLF as authorized by Virginia Code section 15.2-1300; and

WHEREAS, the City is authorized by Section 15.2-953 of the Code of Virginia (1950), as amended, Section 15.2-956 of the Code of Virginia (1950), as amended, and other laws, and the EDA is authorized by the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia and other laws to perform the activities contemplated in this Cooperation Agreement.

NOW, THEREFORE, in consideration of the benefits to accrue to the City and its citizens from a revolving loan fund providing financing to local developers and small businesses pursuing CDBG eligible projects which will improve economic opportunities for low and moderate income persons through job creation, and of the mutual covenants hereinafter set forth, the City and the EDA agree as follows:

1. Purpose. The purpose of the Economic Development RLF is to provide financing to local developers and small businesses pursuing Section 108 eligible projects which will improve economic opportunities for low and moderate income persons through job creation.
2. Applicant Eligibility.

- a. Applicant must demonstrate that the project being financed is Section 108 eligible.
 - b. Applicant must demonstrate cash flow generation capacity sufficient to service debt, in general a minimum debt service coverage ratio of 1.2 but projects with a lower DSCR may be considered on a case-by-case basis.
 - c. Applicant must provide adequate collateral or guarantees to secure the loan.
 - d. Applicant must provide evidence that the proposed project is not feasible in the absence of Economic Development RLF financing.
 - e. Applicant must demonstrate inability to secure adequate financing from a bank or other conventional lender.
 - f. Applicant must demonstrate funding for 50% or more of project costs will come from sources other than the Economic Development RLF.
 - g. Applicant must demonstrate a successful track record of completing similar projects.
3. Eligible Loan Purposes. The activities to be financed by the Economic Development RLF must meet the CDBG National Objective of benefit to low- and moderate-income persons through job creation and must be for a Section 108 eligible purpose as follows:
- a. Acquisition of improved or unimproved real property in fee or by long-term lease, including acquisition for economic development purposes.

b. Rehabilitation of real property owned or acquired by the City or a public entity serving as its designee.

c. Relocation payments and other relocation assistance for individuals, families, businesses, nonprofit organizations, and farm operations who must relocate permanently or temporarily as a result of an activity financed with Section 108 funds, where the assistance is:

- i. Required by the provisions of 24 CFR 606(b) or (c); or
- ii. Determined by the City to be appropriate under the provisions of 24 CFR 606(d).

d. Clearance, demolition, and removal, including movement of structures to other sites and remediation of properties with known or suspected environmental contamination, of buildings and improvements on real property acquired or rehabilitated pursuant to subsections a and b above. Remediation may include project-specific environmental costs not otherwise eligible under 24 CFR 570.205.

e. Site preparation, including construction, reconstruction, installation of public and other site improvements, utilities or facilities (other than buildings) or remediation of properties (remediation can include project-specific environmental assessment costs not otherwise eligible under 24 CFR 570.205) with known or suspected environmental contamination, which is:

- i. Related to the redevelopment or use of the real property acquired or rehabilitated pursuant to subsections a and b above, or
- ii. For an economic development purpose.

f. Payment of issuance, underwriting, servicing, trust administration and other costs associated with private sector financing of debt obligations related to an eligible project.

g. Housing rehabilitation eligible under 24 CFR 570.202.

h. The following economic development activities:

i. Activities eligible under 24 CFR 570.203, and

ii. Community economic development projects eligible under 24 CFR 570.204.

i. Acquisition, construction, rehabilitation or historic preservation, or installation of public facilities (except for buildings for the general conduct of government) to the extent eligible under 24 CFR 570.201(c), including public streets, sidewalks, other site improvements and public utilities, and remediation of known or suspected environmental contamination in conjunction with these activities. Remediation may include project-specific environmental assessment costs not otherwise eligible under 24 CFR 570.205.

j. Other qualifying uses that meet the CDBG National Objective of benefiting low- and moderate-income persons through job creation.

4. Financing Policies.

a. Generally the minimum loan amount available will be \$500,000. However, eligible projects requesting a lesser amount will be considered on a case by case basis.

b. Loans will be available at interest determined by the City's borrowing rate for Section 108 funds plus a competitive margin.

c. Maturity of a loan will in part be based on the use of funds but in no event shall the loan term exceed 20 years or exceed the useful life of the asset being financed.

d. All loans will be subject to being called in the event of noncompliance with the stated loan conditions.

e. Borrowers will be charged up to a 2% transaction fee, and reasonable closing costs will be due from the borrower or applicant.

5. Application and Borrower Information.

Application will be made to the City of Richmond Department of Economic and Community Development and shall include an active City of Richmond business license. In addition, each application should include:

a. A non-refundable application fee of \$500.00 must accompany a completed application.

b. Business Resume.

c. Three most recent years of company financial statements (balance sheet, income statement and statement of cash flows)

d. Three most recent years of signed personal and business tax returns.

e. Personal resumes of all owners and key management personnel.

f. Personal financial statements (90 days old or less) for all owners and guarantors (any person owning 20 percent or more of the business.)

g. Annual cash flow budget.

h. Copy of Certificate of Incorporation or Partnership Agreement, and documentation showing good standing to transact business in the Commonwealth of Virginia.

i. Schedule of existing indebtedness.

j. Other financial documents as deemed necessary.

6. Processing, Approval, and Servicing of Loans.

a. Upon receipt of the application by the Department of Economic and Community Development, it will be processed pursuant to written policies and procedures and forwarded to the Economic Development Authority Loan Committee with a written recommendation.

b. The Economic Development Authority will utilize a professionally diverse, largely non-governmental loan committee to consider the Department's recommendations and report to its Board. The composition and individual membership of the advisory committee will be determined cooperatively by the EDA and the City. The City's Chief Administrative Officer, or a designee thereof, shall serve on the committee. In addition, the committee shall consist of seven (7) unpaid members as follows:

i. From the Banking and Financial Services sectors

ii. From the Small Business sector,

iii. From the Real Estate Development sector

iv. From the Non-Profit sector and others that may be deemed appropriate.

v. One member of the EDA Board of Directors.

c. The Board of Directors of the Economic Development Authority will make a final recommendation as to approval or disapproval of the loan, subject to the required final approval of HUD.

d. The City will submit loans recommended for approval to HUD as required by Section 108 and HUD shall make the final eligibility determination as to whether to approve a loan.

e. Upon approval of a loan by HUD, the City will close the loan and issue the debt obligation or obligations associated with it, including any promissory note, trust certificate or other obligation guaranteed by HUD. It is not the intent of the parties for the EDA to assume the role of borrower pursuant to section 108.

f. The Economic Development Authority will act as loan servicing agent with staffing from the Department of Economic and Community Development.

g. The City shall be responsible for all required federal reporting pursuant to law, including but not necessarily limited to, that reporting required by the Consolidated Action Plan and Section 108 Regulations.

7. Budget and EDA Administrative Fee

a. The Economic Development RLF shall be administered in accordance with the budget contained in Exhibit A, attached hereto and made a part hereof. The budget shall be reviewed at least annually by the Chair of the EDA or a designee thereof and the Chief Administrative Officer of the City of Richmond or a designee thereof. Any increase in the budget shall be subject to

approval by City Council, appropriation of the necessary funds, and approval of the United States Department of Housing and Urban Development where necessary. The budget shall contain existing appropriations, any unencumbered amounts within the Program Fund and anticipated revenues from activities undertaken for the current Fiscal Year.

b. The EDA shall receive an administrative fee from the City up to the amount of \$ 20,000 (upon drawdown) for administration of the Program in FY 2014.

8. EDA Administrative Services. Administrative services provided by the EDA will include, but not necessarily be limited to, the preparation of "Comparative Statement of Fiduciary Assets and Liabilities" (Balance Sheet), Statements of Revenues, Expenses and Charges Due to Other Governments (P&L) on a monthly and quarterly basis and annual audit.

9. Information Sharing

The City and the EDA will ensure that necessary systems and practices are in place to allow any and all information sharing required by the EDA and the City to perform under this Cooperation Agreement.

10. Funding.

The City agrees to transfer to the EDA sums of various amounts (it is anticipated that there will be multiple drawdowns totaling up to \$9,875,000) described in the budget which is attached hereto and made a part hereof, as Exhibit "A", to allow the Authority to implement this Agreement in FY 2013.

11. General Project Fund.

The EDA agrees that funds transferred by the City to the EDA from time to time for the Economic Development RLF shall be deposited by the EDA in a designated Program Fund to be used only in accordance with this Agreement. The EDA agrees to transfer to the Program Fund any funds received from any source as a result of this RLF.

12. Authority Liability.

It is the intent of the parties not to impose upon the EDA any responsibility other than what may be required to implement the Economic Development RLF under this Agreement. Accordingly, the EDA does not assume any responsibility or liability whatsoever except as specifically stated herein, including any liability the City has undertaken pursuant to its contract with HUD and the City's position as Borrower of the Section 108 funds. Should any liability accrue to the EDA which is not specifically addressed in this Agreement, the EDA shall not be required to expend its funds to discharge such liability. If a lawsuit involving the Economic Development RLF is filed or expected to be filed against the EDA, the EDA shall immediately notify the City Attorney and Chief Administrative Officer.

13. Accounting and Audit.

The EDA shall keep records of its financial transactions, if any, for the Economic Development RLF described herein in accordance with generally accepted accounting principles. The City and the EDA agree that the EDA may engage the services of an independent auditor to conduct an annual audit of the financial transactions, if any, undertaken for the Economic Development RLF described herein. Such audit shall comply in all respects with generally accepted

accounting principles. The City Auditor shall have access to the independent auditor's work papers. In addition, the City Auditor or his designee, or an auditor on behalf of the United States Department of Housing and Urban Development, may at any time audit the financial transactions undertaken under this Agreement. The EDA shall cooperate to assure that the independent external auditor, the City Auditor, and any federal auditor are granted reasonable access on a timely basis to all books and records of any party necessary to complete such audits, and will require appropriate provisions in furtherance of this objective in any contracts required under this Agreement.

14. No Discrimination.

The City and the EDA agree not to discriminate, in carrying out this Agreement, against any employee, contractor or applicant for assistance because of race, color, religion, sex or national origin.

15. Authority Bond.

The EDA shall not be required to furnish the City a blanket corporate fidelity bond surety covering all officers and employees of the EDA capable of authorizing disbursements of funds or handling funds received or disbursed by the EDA from the City or any other party involved in any activities undertaken pursuant to this Agreement.

16. Governing Law.

This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the Commonwealth of Virginia.

17. Relation to Federal Law.

Should any provision of this Cooperation Agreement be deemed to conflict with any federal law, rule or regulation, the federal law, rule or regulation shall control.

18. City Obligation to HUD.

Should any provision of this Cooperation Agreement be deemed to conflict with the City's obligation to HUD as borrower of Section 108 loan guarantee funds, or should HUD disallow administration of the Economic Development RLF as set forth herein, this Agreement shall terminate and the EDA shall transfer to the City all assets held under this Agreement, including receivables, and shall cooperate in transferring any outstanding loans to the City, all in accordance with the direction of HUD and any applicable law.

19. Notices.

Any notices required to be given under this Agreement shall be sufficient if in writing and sent by first class, registered or certified mail, return receipt requested; if to the EDA, to its Chairman at AdvanTech, Suite 101, 501 East Franklin Street, Richmond, Virginia 23219 or if to the City, to its Chief Administrative Officer, City Hall, 900 East Broad Street, Second Floor, Richmond, Virginia 23219. Either party may change its address for purposes of notice by giving notice to the other in accordance with this paragraph.

20. No Assignment.

This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties hereto; provided, however, that

in no event may this Agreement or any of the rights, benefits, duties or obligations of the parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither party shall be obligated to give.

21. No Third Party Rights.

No third party rights are created by this Agreement.

22. Termination.

Either party may terminate this Agreement with or without cause at any time upon reasonable written notice. Upon termination, the EDA shall transfer to the City all assets held under this Agreement, including receivables, and shall cooperate in transferring any outstanding loans to the City.

WITNESS the following signatures and seals.

CITY OF RICHMOND, VIRGINIA
a municipal corporation of the
Commonwealth of Virginia

By: _____
Selena Cuffee-Glenn, Chief
Administrative Officer
Authorized by Ordinance No.

Approved as to Form:

By: _____
Bonnie M. Ashley
Deputy City Attorney

**ECONOMIC DEVELOPMENT
AUTHORITY FOR THE CITY OF
RICHMOND, VIRGINIA**
a political subdivision of the
Commonwealth of Virginia

By: _____
Julious P. Smith, Jr., Chairman



Economic Development Authority
City of Richmond

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EXHIBIT A
BUDGET-FY17
Section 108 Revolving Loan Fund-Tranche 1

Business Loan Fund Pool	\$ 9,845,000.00*
Administrative Fees & Audit	\$ 10,000.00
Monitoring/Compliance/Training	\$ 20,000.00

*The City has the ability to borrow and drawdown from HUD up to \$9,875,000.00-
Ordinance No. 2013-39-53