

## **I. COMMERCIAL REHABILITATION PROGRAM**

### **A. PROGRAM GOAL**

The goal of the Commercial Rehab Program is to encourage commercial development through building rehabilitation and to improve the visual quality of the building. The Commercial Rehabilitation Program is funded by the Community Development Block Grant Program and is subject to all of the Community Development Program rules.

### **B. APPLICANT**

1. The applicant must own or have a written agreement to purchase the property to be improved. The applicant may be a lessee if there is acceptable collateral.
2. The applicant may be an individual, limited liability company, corporation, partnership or non-profit entity.

### **C. PROPERTY**

1. All taxes due on the property must be paid in full or acceptable arrangements made with the Treasurer of the City of Auburn.
2. The intended use for the building must be for commercial purposes. No residential development will be financed with this program.
3. All property improvements must meet the City's building codes.
4. The property must be located within one of the three Community Development identified target areas, Downtown, New Auburn, or Union Street.

### **D. ASSISTANCE CATEGORIES AND TERMS**

#### **1. Exterior Repair**

- a) Maximum grant is 25% of the eligible rehabilitation project cost not to exceed \$25,000 per property;
- b) Only one grant will be awarded per property; and
- c) A loan will be available for projects that exceed the grant/match amount with the same terms and conditions as described in section 2 for General Improvements.

#### **2. General Improvements**

- a) The maximum loan amount is \$50,000 per property;
- b) Interest rate is prime minus one-half (1/2) percent;
- c) The City's loan shall be leveraged with a minimum of 25% in private funds. The leveraged requirement may be waived by the Community

Development Loan Committee based on cash flow or inability to obtain financing; and

d) Loan term shall be established by the Community Development Loan Committee based on financial capacity of the applicant. The maximum term is 25 years.

### 3. **Private Match Funds**

The applicant will have the option of using cash or borrowed funds. Match funds will be deposited into a segregated City account and will be subject to disbursement of funds procedures defined in this guideline.

## **E. ELIGIBLE IMPROVEMENTS**

### **1. Curb Appeal Grant Priorities**

- a) Grants under this section are intended to enhance the visual quality of the neighborhood. Improvements under this program must address the conditions that contribute to blight in the neighborhood. Blight is defined as the characteristics of the built and natural environment that have deteriorated to the point that they constitute a threat to public health, safety, and welfare; contribute to the physical and economic deterioration of neighborhoods, or result in the degradation of the quality of life in the City of Auburn.
- b) The Rehabilitation Coordinator will be responsible to document blighting influences by assessing the physical condition and visual impact of the exterior building elements and recording observable deficiencies.
- c) In order to assure that the proposed improvements produce a positive impact, severe conditions will be remedied first. If funds remain after severe conditions are remedied, then other conditions may be addressed.

### **2. Curb Appeal Exterior Improvements**

- a) architectural and engineering services relative to exterior improvements;
- b) prime and paint exterior surfaces;
- c) repair or replacement of exterior surfaces according to the City's Historic Property Exterior Restoration Policy, including siding, porches, steps, railings, decking, fire escapes, window and door trim, soffits and eaves, and gutters;
- d) lighting;
- e) foundation repair;
- f) re-pointing or reconstruction of walls and chimneys;
- g) retaining walls and fences;
- h) replacement of windows and doors; and
- i) exterior repair to garages, barns, and accessory buildings.

### **3. General Rehabilitation Improvements**

- a) architectural and engineering services relative to project improvements;

- b) structural repairs;
- c) energy improvements;
- d) elimination of lead paint hazards;
- e) weatherization;
- f) accessibility for disabled persons;
- g) weather protection;
- h) repair or replacement of major building systems;
- i) repair of code deficiencies
- j) repair of retaining walls;
- k) utility connections;
- l) paving;
- m) fencing when required to correct a hazardous condition;
- n) improvements which would generally increase the economic viability of the property; and
- o) any improvements that accomplish the goal of this program.

#### 4. **Ineligible Improvements**

- a) new construction;
- b) costs of equipment, furnishings or other personal property not an integral structural fixture;
- c) labor costs for property owners to rehabilitate their own property; and
- d) improvements attributable to the residential portion of a mixed-use property.

### E. **NATIONAL OBJECTIVES**

Projects will be eligible under only one of two national objectives: low-income benefit through creation of jobs or slums/blight. The allocation of loan pool funds each year will be a minimum 75% for job creation projects. Projects will be processed under the low-income criteria whenever possible and under the Slums/Blight criteria as a last resort.

#### 1. **Low-Income Criteria**

Applicants will be required to directly create 1 full-time equivalent permanent job per \$25,000 of Commercial Loan Program funds within a one-year period after loan closing, 51% of which will be taken by persons of low and moderate income according to income limits established by the U. S. Department of Housing and Urban Development for Lewiston-Auburn MSA. Turnover jobs, jobs that were previously taken by an employee and are now open are not eligible to be counted as new jobs. During the application process, jobs will be evaluated to determine if there is potential to satisfy the 51% low-mod requirement. The applicant will be required to sign a Job Agreement as a condition of the loan and comply with all required reporting.

#### 2. **Slums/Blight Criteria**

Eligible activities for the Slums/Blight objective are limited to exterior of the building and interior improvements to correct building code violations. Code

violations include improvements necessary to satisfy Life Safety Code, Maine State Plumbing Code, National Electrical Code, and the BOCA Building Code. Projects under this criteria shall be processed only if when the City is able to meet its income targeting prescribed by HUD, at least 70% of funds must assist low- and moderate-income persons.

### **III. APPROVAL PROCESS**

#### **A. COMMUNITY DEVELOPMENT STAFF**

The Community Development Department has responsibility for administration of the Rehabilitation Program. Community Development performs the underwriting and presents the loan request to the Community Development Loan Committee.

#### **B. COMMUNITY DEVELOPMENT LOAN COMMITTEE**

1. Loans and grants will be reviewed by the Community Development Loan Committee who will be responsible for making a decision to approve or deny loan requests and to establish loan and grant conditions.
2. Appeal Procedure: The reason(s) for rejection shall be given to the applicant. Applications that have been denied may be appealed to the Community Development Loan Committee for a period of thirty days after the date of rejection. The applicant will be allowed to present his/her case to the Community Development Loan Committee. The Community Development Loan Committee may reconsider their prior vote to denying the application after the appeal review has been completed.
3. Waiver of Loan Amount and Term: The City Council may authorize a different interest rate, repayment term or loan amount than what is specified in this program guideline.

#### **4. Loan Considerations**

In approving or denying loan requests, the Community Development Loan Committee shall be guided by the following loan considerations:

##### **a. Underwriting**

Projects under the Commercial Loan Program will be analyzed to determine risk according to typical lending considerations.

##### **1) Required for All Loans:**

**a) Cash Flow:** Ability to repay the debt will be the most important consideration with a minimum debt coverage ratio of 1.1. to 1.

**b) Collateral Coverage- minimum of 100%**

- Real Estate: 100% of market value

- Business Equipment: 90% of market value
- Inventory: 60% of market value
- Accounts Receivable: 90% of market value
- Furniture & Fixtures: 80% of market value
- Vehicles: 90% of retail value
- Marketable Securities: 100% of market value
- Personal Assets: (same as above)

c) **Owner Equity: minimum 10%**

d) **Character:** Good credit history and reputable, no bankruptcies in past 5 years.

e) **Additional Considerations:** The following shall be evaluated by the Committee before making a decision.

- **Security - Assignment of Leases and Other Assets**
- **Commitment to the project is strongly encouraged**  
May include: Personal guarantees from owners with 25% or greater ownership; deferral of development fee; lease commitments; owner equity or cash contribution
- **Management experience in running the business**
- **Business Plan**
- **Market Analysis**
- **Experience in development team**

2) **Project is Financially Appropriate**

- a) Project costs are reasonable
- b) All sources of financing are committed \
- c) To the extent practicable:  
CDBG funds not substituted for non-federal financial support  
Project is financially feasible  
The return on the owner's equity investment is not unreasonably high

3) **Terms of the Bank Loan**

(as defined in the commitment letter)

b. **Assessment of Public Benefit**

The Community Development Loan Committee will also consider the broader implications of public benefits in making a decision to approve or deny the loan and will make a necessary and appropriate determination that the amount of assistance is reasonable in relation to the public benefit to be achieved. The Community Development Loan Committee will consider the following factors in assessing public benefits:

- Number and type of jobs
- Increase in needed services
- Increase in tax base including real estate and personal property
- Development which is likely to be stimulated in the area by the activity
- Other public benefits

**D. Appeal Procedure**

The reason(s) for rejection shall be given to the applicant. Loans that have been denied may be appealed to the Community Development Loan Committee for a period of thirty days after the date of rejection. The applicant will be allowed to present his/her case to the Community Development Loan Committee. The Community Development Loan Committee may reconsider their prior vote to denying the application after the appeal review has been completed.

**E. Waiver of Loan Amount and Terms**

The City Council may authorize a different interest rate, repayment term or loan amount than what is specified in this program guideline.

**III. ADMINISTRATION**

**A. Non-Discrimination**

Administration of this program shall be in accordance with Title VI of the Civil Rights Act of 1964. No person shall, on the ground of race, color, national origin, be excluded from participation in, be denied the benefits of, or subjected to discrimination under this program.

**B. Participation by Religious Organizations**

1. Religious organizations can apply for commercial loans with the understanding that loan funds cannot be used to support inherently religious activities such as worship, religious instruction, or proselytization. The organization can engage in such activities, but they must be offered in a different location. Religious participation by beneficiaries must be voluntary.
2. The organization must not discriminate against a beneficiary or prospective beneficiary on the basis of religious belief or refusal to participate in a religious practice.

**C. Income Limits**

To determine income for certain benefits under the Commercial Loan Program, Community Development staff will use income limits for Lewiston-Auburn SMSA established by the Department of Housing and Urban Development. Revised charts will be used upon receipt.

**D. Loan Processing**

Applications shall be processed on a first-come, first-served basis. Community Development staff shall use the receipt date of application to establish the order of priority. The applicant will be notified if there is funding available to proceed with the project and if there is inadequate funding, then the application may be placed on a Commercial Waiting List.

**IV. APPLICATION PROCEDURES**

This section sets forth the application procedures for the Commercial Loan Program.

**A. Initial Application** - Loan application may be obtained from the (Community Development Department (CDD)).

**B. CDD Responsibilities** - The City will make available the services of the Community Development Coordinator who will solicit applications, prepare deficiency listing for slums/blight projects, secure the documentation for loan underwriting and national objective, secure a staff recommendation and the approval from the Community Development Loan Committee, prepare or coordinate preparation of City loan documents, and act as project manager including authorizing progress payments.

**C. Financial Submissions** - The applicant shall submit the application form, the last two years of business and personal tax returns as well as personal financial statements or other documentation from an accountant or other acceptable source required by the CDD. The applicant may be asked to supply a listing of personal property and inventory.

**D. Business Plan** - The applicant shall submit a business plan that 1) describes the business (type of business, the status of the business, the form of ownership, the profit potential, employment opportunities and other market/community benefits, and location and hours of operation); 2) the market (products/service, customers, market size, competition, estimated market share, production and distribution, image/packaging, advertising, and pricing); 3) operations/management (organizational management, management responsibilities, professional services, background and experience); 4) financial plan (cash flow projection, balance sheet, profit and loss statement, chart of accounts, equipment list, and sources and uses of funds); and 5) supporting documents (personal resume, personal financial statement, job descriptions, letters of reference, copies of leases, contracts, etc.), as applicable.

**E. Initial Inspection** - If it appears that the applicant and property are eligible for assistance, an inspection will be scheduled with the applicant. During the initial inspection, construction requirements will be determined.

**F. Inspection Report** - An inspection report shall be prepared by the CDD identifying the work that will be covered by the loan and will identify whether or not the applicant needs to secure architectural or engineering services.

**G. Technical Specifications**

The Community Development Department will prepare technical specifications to be used to obtain bids.

## **H. Obtaining Construction Bids**

1. The applicant may choose one of two options for obtaining construction bids..
  - a. Applicants may secure their own bids from contractors of their preference without the assistance of the Community Development Department. Three bids will be required.
  - b. Applicants may request that the Rehab Coordinator secure bids on their behalf. The Rehab Coordinator will notify all contractors on Auburn's Contractor List of the project, hold a pre-bid meeting on site, and accept bids on behalf of the applicant at a specified time and place.
2. Contractors may be selected from a list of eligible contractors as maintained by the City of Auburn CDD or contractors must be able to meet the Community Development Department's eligibility standards. No contractor may be selected who has been designated ineligible by the CDD.
3. The applicant is not bound to contract with the lowest *qualified* bidder, but in the event of choosing the higher bid the applicant must provide private funding for the difference in cost. All loan amounts will be calculated based on the lowest estimate.
4. Each contractor will give a proposal on the CDD specification/bid form. The contractor must, if requested, provide a cost breakdown on each portion of the work he is bidding. The contractor must sign the proposal sheet. The CDD may require that information pertinent to materials be submitted for approval.

## **I. Contractor Eligibility Standards**

1. Insurance -- The contractor and subcontractors shall carry Worker's Compensation Insurance for all their employees in accordance with the Worker's Compensation laws of the State of Maine. The contractor and subcontractors shall carry Manufacturer's and Contractor's Public Liability Insurance with a limit of \$300,000 for personal injury or death and \$100,000 for property damage. The CDD may require bonding for contracts in excess of \$100,000. The CDD will require evidence of insurance prior to signing a construction contract.
2. License and Qualifications --The contractor shall have in effect a license if required by the City of Auburn, or State of Maine. The contractor must obtain a Department of Environmental Protection approved-Repair, Renovate or Paint certification, if pertinent to the work being performed.
3. Credit -- The City may require a list of credit references, names of suppliers, name of bank where contractor does business, and names and addresses of recent home improvement customers.



4. Skill and Equipment -- No approval of a contract shall be given unless the construction contractor can satisfactorily demonstrate that he/she and/or their subcontractor(s) have the necessary skills and equipment to perform the work in an efficient and expedient manner.

**J. Ineligible Contractors** - Where a contractor fails to comply with the eligibility standards set forth above, or commits one or more of the following violations, the CDD shall remove the contractor from the list of eligible contractors and shall designate the contractor to be ineligible. The applicant will not award any rehabilitation work, other services, materials, equipment, or supplies to be paid for, in whole or in part, with the proceeds of the loan to any contractor or subcontractor whom the CDD has designated as ineligible.

Once the CDD has designated a contractor to be ineligible, the Contractor shall remain ineligible for a minimum of two years, and shall remain ineligible thereafter until the CDD determines, in its sole discretion, that the contractor has taken all necessary steps to ensure that no further violations will occur, provided that in the case of violations of Sections 9 (d) or 9(f) above the Contractor shall remain permanently ineligible.

The CDD shall designate a contractor to be ineligible if it finds that the contractor has:

1. Committed one or more material violations of its obligations under a rehabilitation contract and has failed to cure all such violations promptly after 10 days written notice by the applicant or the CDD.
2. Engaged in a pattern of delayed performance or failed to complete the work under a rehabilitation contract, and has received written notice of such delay.
3. Failed to communicate in a courteous, prompt and professional manner, and such failure continued after written notice by the applicant or the CDD.
4. Committed fraud and other illegal acts against the applicant or the City of Auburn, including but not limited to kickbacks and collusion.
5. Failed to pay subcontractors or suppliers on a timely basis, allowed a lien to be placed on the applicant's property, or otherwise failed to maintain good credit, and such failure continued after written notice by the applicant or the CDD.
6. Threatened, intimidated, or harassed the applicant or City staff.

**K. Labor Performed by the Owner** - A property owner may complete some or all of the tasks required to rehabilitate his/her property if he/she has the degree of skill required to perform the work involved. Self-help is usually appropriate for the accomplishment of tasks of an unskilled nature such as general cleanup, demolition, cartage and disposal of debris, and for work that involves minimal use of costly materials and equipment.

1. Materials and Workmanship --The CDD will require information regarding the cost of materials for any self-help work prior to approval of the loan. The CDD may require evidence of workmanship on previous projects before accepting the owner's intention to do his/her own work. The amount of the loan may include funds to pay for the materials and rental of equipment to be installed by self-help.
  2. Schedule -- The Rehab Coordinator and owner will establish a schedule of work items and projected completion date prior to loan closing.
  3. Qualification -- The owner must have completed a Department of Environmental Protection Renovate, Repair and Paint course, if pertinent to the work being performed.
- L. Private Lender's Loan** - Interest rates for the portion of the project to be funded by a private lender shall be individually negotiated between the loan applicant and the respective lending institution. To assure that CDBG funds are not substituted for non-federal financial support, the Commercial Loan Manager shall communicate with the participating lending institution to establish the maximum participation by the lender and to coordinate loan underwriting. Loan closings by the City and private lender shall be conducted jointly. The private and/or bank funds shall be subject to disbursement approval by the CDD.
- M. Escrowing of Funds** - The applicant will permit the CDD to act as escrow agent for the City loan as well as the applicant's personal commitment to the project. The CDD will have control of all funds. With the applicant's approval, the CDD will disburse City, personal, and bank funds to the appropriate party. The CDD may require lien waivers as a condition of payment.
- N. Loan Closing** - Loan documents shall include a promissory note, mortgage, security agreements, job agreement, construction agreement, and any other documents necessary to secure the terms and conditions of the loan. Legal and underwriting costs incurred by the CDD for closing documents will be the responsibility of the owner. Closings occur prior to the starting of the project. Work that has commenced and equipment that was ordered before the loan closing will be ineligible for financing under this program.
- O. Preconstruction Meeting** - The Owner and Contractor shall attend a pre-construction conference at the office of CDD. At that time the contractor will be required to submit a schedule of work indicating the order in which the contractor proposed to carry out the work, and the dates he/she will start and complete work on various items. The CDD shall review all project components, the responsibilities of each party, and payment process as well as program requirements for complying with federal regulations.
- P. Construction Contract** - The owner will sign a construction contract at the loan closing. The construction contract will be approved by the CDD and will be maintained in the CDD's file. The contractor shall provide a work schedule that demonstrates the construction work will be carried out promptly and efficiently

within a reasonable period of time. The contractor shall secure all necessary permits prior to the start of work at his/her own expense. The contractor shall contact the Commercial Loan Manager and the appropriate plumbing, electrical, building, or fire inspector for approval of each phase of the work.

- Q. Changes to the Work** – All Changes to the original scope of work must first be approved by the CDD, then the applicant and contractor. The CDD will require the execution of a change order for any changes that involve the use of different materials or that result in a price increase/decrease. The CDD may order work to cease if unauthorized work is observed.
- R. Progress Inspections** - The CDD shall have the right to inspect all work financed in whole or in part with the proceeds of the loan. The CDD will inform the owner and/or contractor of any noncompliance with respect to the contract for construction work, and the corrective action needed, and will verify that all work has been done according to the City of Auburn codes and associated specifications. No payment shall be made until the work is acceptable to both the CDD and the owner. The owner will take all steps necessary to assure that the CDD is permitted to examine and inspect the construction work.
- S. Records** - The owner agrees to keep such records as may be required by the CDD with respect to the rehabilitation work financed, in whole or in part, with the aid of the loan. The owner will, at any time during normal business hours, and as often as the CDD may deem necessary, permit the CDD to have full and free access to its records with respect to the project.
- T. Disbursement of Funds** - Personal funds will be disbursed first. Bank and City funds will then be disbursed on a pro-rata basis. After receiving appropriate invoices and inspecting the work, progress payments shall be authorized by the CDD. Payment shall consist of the total value of work completed, the value of materials properly stored on site and a deduction of 10% of the total amount to be retained until final payment. The value of materials properly stored on site shall be based upon the estimated quantities of such materials and the invoice prices.
- U. Un-utilized Funds** - Un-utilized funds may be applied to reduce the principal of the City and private lender's loan, proportionally, or may be used to complete additional work which is approved by the CDD.

## **V. OTHER PROGRAM REQUIREMENTS**

All loans will comply with applicable Federal Regulations, as amended, of the Community Development Program as listed below:

- A. Civil Rights** - The owner will be required to comply with Title VIII of the Civil Rights Act of 1968, as amended, barring discrimination upon the basis of race, color, religion, creed, sex, handicap, familial status, or national origin in the sale, lease, rental, use, or occupancy of the property.

- B. Federal Labor Standards Provisions** - The owner must abide by established minimum wage rates (Davis-Bacon Act) for the area for construction work exceeding \$2,000.
- C. Conflict of Interest** - No elected or appointed official or employee of the City of Auburn, and no member of any municipal board or committee which exercises any decision-making function with respect to the Community Development Program, shall participate in negotiating or shall exercise any influence in awarding or administering any contract in which he has a direct or indirect pecuniary interest as the term is defined by 20 MRSA Section 2250.
- D. Prohibition Against Payment of Bonus, Commission, or Fee** - The owner cannot pay any bonus, commission, or fee for the purpose of obtaining the City of Auburn's approval of the loan application, or any other approval or concurrence required by the City of Auburn or its designee obtain a loan under these guidelines.
- E. Equal Employment Opportunity** - The owner must abide by the provisions of Executive Order 11246 as amended by Executive Order 11375 concerning equal employment opportunity and will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, familial status, handicap, or national origin.
- F. Lead-Based Paint Hazards** - Any loan made by the City of Auburn for construction work is subject to requirements of the Department of Housing and Urban Development's with respect to treating lead-based paint hazards as set forth in Title 24 CFR, Part 35.
- G. Flood Hazard Insurance** - If the property to be improved is located in a designated flood hazard area, the owner will be required to purchase flood hazard insurance or show evidence of coverage, and abide by the regulations of the Flood Disaster Protection Act of 1973.
- H. Section 3 Clause** - For projects with costs in excess of \$100,000, the owner will be required to comply with the Section 3 clause where to the greatest extent feasible, opportunities for training and employment will be given to lower income residents of the project area and contracts for work in connection with the project will be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.
- I. Environmental Review Procedures** - All projects shall be subject to environmental review procedures of the National Environmental Protection Act.