

**Spice Up Lancaster Loan Program  
Policies and Procedures**

**City of Lancaster**

November 1, 2012

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## **Executive Summary**

The purpose of the Spice Up Lancaster Loan Program is to provide established local restaurants with the funding they need to expand their operations to a new location in Lancaster. This program aims to build the synergy of various commercial areas by creating additional dining options, enhance the atmosphere and stability of these areas with long-established and well-known local restaurants, and build the City's sales tax base by providing local businesses with opportunities for expansion.

Eligible businesses may qualify for up to \$25,000 in low-interest loan funding through the program. Under unique circumstances, the amount of the loan may be increased to suit the business's needs, pending availability of funds and approval by the City Council. In order to be considered for the program, a business must be a locally-owned, established restaurant that has been operating in the Antelope Valley for 10 years or more and have fewer than 5 existing locations. Loans are offered on a 5-year loan term, with an interest rate equal to the City's weighted average portfolio yield in effect the month the loan is approved, adjusted annually, for the first three years and an interest rate of 3% for the remaining two years.

As limited funds are available, applications will be evaluated on a competitive basis. Those which best meet the program criteria will be given priority for funding. The program will be available through December 31, 2013 or until program funds are depleted, whichever occurs first.

## **Section I: Program Components**

Subject to the availability of program funds, established local restaurants located in the Antelope Valley may apply for loan funding of up to \$25,000 to assist them in preparing a new restaurant location for expansion in Lancaster. Under unique circumstances, the amount of the loan may be increased to suit the business's needs, pending availability of funds and approval by the City Council. Loans are offered on a 5-year loan term, with an interest rate equal to the City's weighted average portfolio yield in effect the month the loan is approved, adjusted annually, for the first three years and an interest rate of 3% for the remaining two years. There is no prepayment penalty for paying off the loan before the loan term is complete. Established local restaurants are defined as those that have been in business in the Antelope Valley for 10 or more years and must have fewer than 5 existing locations.

## **Section II: Eligibility**

### **A. Eligible Area**

The area served by the Spice Up Lancaster Loan Program shall be located within the city limits of the City of Lancaster.

### **B. Eligible Applicants**

- (1) To obtain a loan under the Spice Up Lancaster Loan Program, applicants must be locally-owned restaurants that have been in business for 10 or more years and have fewer than 5 existing locations.
- (2) Property Owners: Applications may be submitted by the property owner.
  - a. If the property owner is a separate entity from the lessee, the property owner must submit documentation demonstrating that the lessee is a restaurant with leasehold interest of three (3) years or greater.
- (3) Lessees: With the written approval of the property owner, an authorized representative of a lessee may apply for funding under the Spice Up Lancaster Loan Program. Written consent may be either in the form of a lease indicating the lessee's responsibility for property renovation or documentation of the property owner's agreement to the proposed improvements.
  - a. If a lessee is accepted to the program, the property owner will be required to co-sign a Maintenance Agreement.
- (4) No member of the governing body, review committee, or any other official, employee, or agent of the City who exercises decision-making functions or responsibilities in connection with the implementation of this program is eligible for financial assistance under this program.
- (5) Applicants shall not be disqualified based on age, race, religion, color, handicap, sex, physical condition, development disability, sexual orientation or national origin.

### **C. Eligible Activities**

The Spice Up Lancaster Loan Program is designed to provide financing options for established local restaurants that wish to expand. This program has several primary goals: to enhance the vibrancy of Lancaster's commercial centers by providing additional dining options; continue building

synergy in these areas; expand the City's tax base; create jobs; and encourage the highest and best use of vacant properties. Successful applications will be in keeping with these goals.

Loans shall be available for the following activities:

- (1) Loan proceeds may be used to perform substantial improvements to commercial structures and premises including, but not limited to: replace/remove false facades; modify/reinforce parapets; improve ingress/egress; establish plaza-to-plaza linkages; improve pedestrian circulation; and perform other work yielding aesthetic and functional improvements.
- (2) Loan proceeds may also be used for necessary tenant improvements, including construction of a kitchen, as well as kitchen equipment, furniture and fixtures.
- (3) In addition, loan proceeds may be used to fund or offset the cost of architecture and design fees, as well as any building, review or permitting fees required by the City of Lancaster as part of the approved project (i.e. development impact fees).
- (4) All work must be in accordance with the City of Lancaster Zoning Ordinance, City of Lancaster Architecture and Design Standards, Downtown Specific Plan, and Uniform Building, Plumbing, Electrical and Mechanical Codes as applicable. All required permits must be obtained.

#### **D. Ineligible Activities/Properties**

Program loans shall not be available for the following:

- (1) Property acquisition
- (2) Working capital, advertising, training, start-up costs, cash for operating expenses, etc.
- (3) Work in progress or performed prior to project's approval
- (4) Tax-delinquent properties or businesses
- (5) Special-assessment-delinquent properties
- (6) Property subject to litigation
- (7) Property in condemnation or receivership
- (8) Property owned by nonprofit groups
- (9) Exclusively residential buildings

### **Section III: Application Procedures**

#### **A. Timeline**

The Spice Up Lancaster Loan Program will launch on November 13, 2012 pending approval by the Lancaster City Council. The program will continue through December 31, 2013 or until funds allotted to the program are depleted; whichever occurs first.

#### **B. Application Materials**

Application materials will be maintained and available in hard copy at Lancaster City Hall, 44933 N. Fern Avenue.

### **C. Pre-Application Conference**

Prior to submitting an application, the applicant shall meet with City staff to discuss the program features and terms.

### **D. Application Submittal**

Prospective program participants must submit a complete application on a form provided by the City of Lancaster (Exhibit A). As a limited amount of funding is available, applications are accepted on a competitive basis. Applications may be submitted at any time during the effectiveness of the program. Applications will be reviewed for completeness and to verify that the proposed project meets the minimum requirements for eligibility. If the application is not complete, the applicant will be informed of the deficiencies. All financial information will be kept in a secured place with limited access by authorized personnel only.

The application must include the following information.

- (1) Project Description. A description of each of the project components.
- (2) Project Budget. A preliminary budget is required at the time of the initial application.
- (3) Financial Capacity. Evidence of applicant's ability to make progress payments as required by the project budget and construction contract, as well as ability to pay back the loan.
- (4) Site Control. Evidence of property ownership or leasehold interest of three years or greater.
- (5) Existing Conditions. Photographs illustrating current conditions of building(s) and property.
- (6) Additional Information. Additional information as may be requested.

**Note:** False or misleading information shall be considered a default of the loan agreement, and may cause the City to seek remedies as stated in the Loan Agreement.

## **Section IV: Project Approval Procedures**

### **A. Loan Committee Review and Approval**

Applications will be evaluated by a Loan Committee composed of representatives of the Planning, Finance and Administration Departments. Based on input from the Loan Committee, the City Council will have the authority to approve or reject each individual loan agreement, and the City Manager will have the authority to execute the agreement.

The Committee shall meet monthly as needed to review and act on loan applications. If the Committee deems that additional information is required before acting on an application, it may postpone action until all necessary information is available to the Committee.

The applicant will be notified in writing of all Committee, City Council and City Manager determinations.

## **B. Evaluation Criteria**

As limited funding is available, loans are offered on a competitive basis. The following criteria will be used to evaluate, rank and select project applications for program loans. Priority will be given to those projects which best meet the following evaluation criteria. The City may specify “target areas” for funding according to program needs. Businesses that do not meet all of the following criteria may be eligible to receive loan funding; such determinations will be made at the discretion of the City.

- (1) Vacancy. Will the business fill an existing vacancy?
- (2) Small Business Concerns. Is the business a small, locally-owned, entrepreneurial business? Does the business have an up-to-date and thorough business plan?
- (3) Tenant Mix. Does the business contribute to the synergy of the commercial area in which it plans to locate?

## **Section V: Loan Terms**

### **A. Type of Loan**

The Spice Up Lancaster Loan Program provides low-interest microloans for qualifying businesses. Loans are awarded for a term of 5 years, with an interest rate equal to the City’s weighted average portfolio yield in effect the month the loan is approved, adjusted annually, for the first three years and an interest rate of 3% for the remaining two years. The standard loan amount is \$25,000. However, under unique circumstances, the amount of the loan may be increased to suit the business’s needs, pending availability of funds and approval by the City Council.

### **B. Recipients of Funds**

No construction work for which reimbursement will be sought may be completed by the owner or relatives of the owner.

### **C. Payment of Prevailing Wages**

Work funded through the Spice Up Lancaster Loan Program is considered a “Public Work” and subject to the payment of prevailing wages (California Labor Code Sections 1720 et seq and 1770 et seq, as well as California Code of Regulations, Title 8, Section 16000 et seq). The recipient must ensure that all bids solicited and all contracts for work funded through a loan made by the City comply fully with Prevailing Wage Laws.

### **D. Indemnity**

The recipient shall commit to defend, indemnify and hold the City of Lancaster, including its elected officials, officers, employees and agents, free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure of the loan recipient or its contractors or consultants to comply with Prevailing Wage and other applicable laws.

### **E. Operating Covenant**

An Operating Covenant shall be executed requiring the business to continue operating in the same location for a specified period of time after having received loan funding. The time period may vary for different projects receiving different levels of funding and shall be mutually agreed upon between the City and the business owner or tenant. The Operating Covenant will include a Maintenance Agreement which will provide for ongoing maintenance of the property and program improvement, including, but not limited to, compliance with City of Lancaster Municipal Codes and keeping the property free from litter, graffiti, peeling paint, unkempt landscape, and other unsightly features as determined by the City of Lancaster. Business owners are required to ensure that the business is legal and compliant with the requirements of the zone applicable to the property. Tenants should be aware that property owners will be required to acknowledge the terms of the Maintenance Agreement.

### **F. Operating Schedule**

Recipients shall initiate the project within 60 days following the award of the loan and begin operation of their new business within 120 days following the award. The City Manager is authorized to extend these time limits by up to 30 days. Failure to comply with the operating schedule will constitute a condition of default.

### **G. Other Obligations of the Recipient**

In addition to the preceding terms and conditions of the loan, all recipients shall acknowledge and comply with the following:

- (1) Loan proceeds shall be used only to pay for the cost of approved improvements and according to the approved budget.
- (2) All improvements must be in accordance with the City of Lancaster Zoning Ordinance and all required permits must be obtained.
- (3) The recipient shall be responsible for payment of all costs in excess of the approved budget.
- (4) Recipient shall attend meetings with staff and decision makers as requested during the course of application review and approval.
- (5) All work to be done on the project shall be the sole responsibility of the property owner or tenant. The City of Lancaster administers the loan program and is not responsible for any work undertaken under the program.
- (6) If the approved loan uses include construction, the recipient must obtain lien releases from the contractor upon progress payment and project completion. Copies shall be provided to the City upon request.
- (7) Photographs of the completed project must be provided to the City upon completion of the project file.

## **Section VI: Awarding of the Loan**

### **A. Award Schedule and Conditions**

If the loan application is approved by the City Council, a date for awarding the loan will be set by the City. Prior to releasing funds, the following documentation must be in the project file:

- (1) Notice of Award issued by the City.



- (2) Executed Loan Agreement.
- (3) Executed Operating Covenant.
- (4) Executed Security Instruments (e.g. Promissory Note, Deed of Trust, etc. as deemed applicable by the City Attorney).
- (5) Casualty Insurance binder.
- (6) Proof of term life insurance (as deemed applicable by the City Attorney).
- (7) Evidence of Permits, Licenses, and any other required registrations.
- (8) Design drawings and material specifications, if applicable.
- (9) Approved project budget.

## **Section VII: Post-Award Procedures**

### **A. Loan Servicing**

A loan servicing file shall be established and maintained for each loan recipient that includes all written correspondence; a record of important telephone conversations; a list of applicable loan covenants; certificates of insurance for builders risk; property-casualty, and life, as applicable. The recipient will regularly deliver to the City those materials deemed necessary to monitor compliance with the loan terms and conditions, and advise the City promptly of any changes in terms and coverages.

Loan servicing files will be maintained in a secure place with access limited to authorized personnel. The City's legal counsel shall be consulted in regard to compliance with state and municipal open records laws.

### **B. Distribution of Loan Proceeds**

The recipient is responsible for viewing and approving vendor and/or contractor requests for payment. The recipient is further responsible to make timely payments. The City will disburse funds to the loan recipient according to the terms of the loan.

When submitting a request for disbursement of loan proceeds, recipient shall provide evidence of program expenditures consistent with the approved project budget. Documentation shall include bills and invoices of receipts for materials, final bills of sale, canceled checks and lien waivers. All documentation shall be reviewed and approved by City staff prior to disbursement of loan proceeds.

### **C. Default**

Any default in any term or condition of a Program Loan or a Maintenance Agreement shall be a default entitling the City to issue a Notice of Default to the loan recipient which shall specify the following:

- (a) The specific nature of the default.
- (b) The action required to cure the default.

- (c) A date, not less than thirty (30) days from the date of notice, by which the default must be cured to avoid action by the City to recover the loan funds invested.
- (d) Any penalties incurred as a result of the default.

In the event the default is not cured by the date specified in the Notice of Default, the City may take action to recover the funds loaned to the business through the program, plus any penalties. The City Manager may, in his sole discretion, offer to negotiate a repayment schedule with the loan recipient, pursuant to which monthly loan payments will be calculated to amortize the unforgiven remainder of the original loan amount.

#### **D. Program Report**

A separate accounting record for each loan shall be kept to account for all funds loaned. The Spice Up Lancaster Loan Program Fund account shall be reviewed following the end of the program on December 31, 2013 and a report will be presented to the City regarding the use of program funds.