



# DECD

## Brownfields Revolving Loan Fund Program Description

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## **INTRODUCTION**

In March 2010, the Environmental Protection Agency (EPA) awarded the Department of Economic and Community Development (DECD) \$1 million to establish the DECD Brownfields Revolving Loan Fund (BRLF). The program is being carried out under the statutes and regulations of the US EPA. The DECD BRLF Committee oversees the implementation of the BRLF. The DECD BRLF Committee is made up of five (5) regular members; three (3) members from the Maine Department of Environmental Protection (MeDEP) and two (2) members from DECD's Office of Community Development. The purpose of the program is to provide below market rate loans and grants to facilitate the cleanup of abandoned or underused properties (Brownfields) contaminated with petroleum or hazardous materials in order to revitalize these properties, and to protect the environment and public health.

## **DESCRIPTION OF THE FUND**

### **A. Lead Agency**

DECD is the lead agency responsible for administering the BRLF. DECD has appointed the Office of Community Development (OCD) the responsibility of loan servicing agent. Approximately, \$520,000 will be available for loans and \$395,000 available for cleanup grants (available to municipalities, Maine Indian Tribes, and nonprofits). The remaining funds will be used for programmatic expenses, underwriting/closing costs, and to hire a brownfields site manager (as needed). In addition to acting as loan servicing agent the OCD, with MeDEP guidance, will be responsible for the following activities:

1. Comply with and requiring that work conducted by borrowers and recipients complies with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 104(k).
2. Ensure that cleanup activities supported with EPA funding comply with the applicable Federal and State laws and regulations. In addition to CERCLA 104(k), Federal applicable laws and requirements include:
  - a. 40 CFR 31 and OMB Circular A-87 for governmental recipients of subgrants or 40 CFR 30 OMB Circular A-122 for non-profit recipients of subgrants.
3. Ensure that the Maine Department of Environmental Protection (DEP) approves the cleanup plan.
4. Ensure that borrowers and grantees comply with the prevailing wage rate requirements under the Davis-Bacon Act of 1931 for construction, repair or alteration contracts "funded in whole or part" with funds provided through the Fund. The Lead Agency must ensure that the borrower or grantee obtains recent and applicable wage rates from the US Department of Labor and incorporate them into the construction, alteration, or repair contract.
5. Ensure through the review of the Maine Department of Environmental Protection (MeDEP) that cleanups are protective of human health and the environment.
6. Comply with Executive Order 13202 (Feb. 22, 2001, 66 Fed. Reg. 11225) of February 27, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded

Construction Projects,” as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg.18717).

7. Comply with Federal cross-cutting requirements including, but not limited to:
  - a. MBE/WBE requirements found at 40 CFR 31.36(e) or 40 CFR 30.44(b);
  - b. OSHA Worker Health and Safety Standard 29 CFR 1910.120;
  - c. The Uniform Relocation Act;
  - d. Historic Preservation Act;
  - e. Endangered Species Act;
  - f. Permits required by Section 404 or the Clean Water Act;
  - g. Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4;
  - h. Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333;
  - i. The Anti Kickback Act (40 USC 276c); and
  - j. Section 504 or the Rehabilitation Act of 1973 as implemented by Executive Orders 19914 and 11250.
8. Ensuring that public participation requirements are met. This includes ensuring the availability of documents, providing adequate public comment periods, and designating a spokesperson to inform the community of actions taken, to respond to inquiries, and to provide information;
9. Serving as Fund Manager and Loan Servicing Agent and designating a Brownfields Site Manager (see below), following federal procurement requirements;
10. Administering all aspects of the Cleanup Grant program, under the oversight of the Brownfields Steering Committee.

#### **B. FUND MANAGER AND LOAN SERVICING AGENT:**

The Department of Economic and Community Development (DECD) will serve as the Fund Manager and Loan Servicing Agent for the Revolving Loan Fund and the Cleanup Grant Program. DECD may hire legal counsel for the analysis of financial statements submitted with loan applications.

Activities of the **Fund Manager** include the following:

1. Maintain project files of all loan applications and agreements, payment requests, contracts and all other pertinent documents and transactions.
2. Work with the Brownfields Site Manager to determine the eligibility of borrowers/grantees in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
3. If necessary, hire legal counsel to assist with review of loan agreements.
4. Conduct required public notification and outreach.

5. Provide quarterly/annual financial statements for the BCRLF consisting of balance sheets, income statements, and statements of cash flow, in accordance with Generally Accepted Accounting Principles.
6. Establish an administrative record for each site.

Activities of the **Loan Service Agent** will include the following:

1. Maintain duplicate project files of all loan applications and related documents and transactions.
2. Conduct credit analysis and review financial information for each eligible applicant and make recommendations to the BRLF Committee regarding the credit worthiness of proposed projects.
3. Make recommendations to BRLF Committee regarding the advisability of approving a loan and loan structuring.
4. Provide loan agreements for private borrowers and close loans after review by the BRLF Committee and legal counsel.
5. Collect loan repayments from borrowers and deposit them in an established BRLF account.
6. Contact borrowers regarding late fees or delinquencies.
7. Attend RLF Committee meetings as needed to provide financial advice.
8. Comply with all applicable federal regulations regarding the BRLF program, based on direction from the MeDEP and EPA.

### **C. BROWNFIELDS SITE MANAGER**

The MeDEP will hire a qualified environmental professional to serve as the Brownfields Site Manager, or hire a qualified environmental professional as needed. The Brownfields Site Manager's main role is to ensure that brownfield cleanup activities funded by the BRLF are completed in accordance with applicable local, state and federal requirements and are protective of public health and the environment. The Brownfields Site Manager must have experience with on-site coordination, direction, and review of environmental response activities.

Activities of the Brownfields Site Manager will include, but are not limited to the following:

#### **State of Maine**

1. Assist with initial screening of applications to determine whether proposed cleanup activities are authorized by CERCLA.
2. Ensure that a BRLF cleanup meets applicable or relevant and appropriate requirements under Federal and State environmental laws.
3. Review loan and grant agreements to ensure that they meet all environmental response requirements and that BRLF funds are used only for authorized activities.
4. Ensure the adequacy of each BRLF cleanup as it is implemented, including confirmation sampling (development of the Quality Assurance Project Plan (QAPP) and actual sampling.)

## **MEDEP**

5. Ensure that a site is secure and that it poses no immediate threat to human health or the environment, if a Borrower or Grantee is unable or unwilling to complete a BRLF cleanup.

## **Borrower**

6. Prepare an analysis of Brownfield cleanup alternatives which will include information about the site and contamination issues (i.e. exposure pathways, identification of contamination, sources, etc.); cleanup standards; applicable laws, alternatives considered, and proposed cleanup. The evaluation of alternatives must include effectiveness, implement ability, and the cost of the response proposed. The evaluation will include an analysis of reasonable alternatives, including no action.
7. Consultants hired by Borrowers/Grantees must hold Workers Compensation and Liability Insurance, and Errors and Omissions Insurance in the following amounts:

\$1,000,000 – Annual Aggregate

\$1,000,000 – Per Occurrence

## **D. TARGET AREA**

The BRLF may be used in municipalities and on tribal lands throughout the State of Maine.

## **III. BROWNFIELD CLEANUP REVOLVING LOAN FUND – LOANS AND GRANTS**

### **A. Application Procedure**

#### **1. Site Eligibility Application**

BRLF applications and guidance will be provided upon request to loan and grant applicants for the BRLF program. Before submitting a complete application packet, the applicant will submit an Eligibility Application to MeDEP. MeDEP's staff will consult with Brownfields Site Manager regarding the completeness of the eligibility application and will consult with EPA for eligibility determination.

#### **2. Loan/Grant Application Materials**

Applicants must submit a complete application package in order to be considered for a loan or grant. In addition to the application form, applicants must submit the following materials:

- a. Supporting information (all previous reports including ASTM Phase I or equivalent and any other site assessment documents that were completed without EPA funding)
- b. Voluntary Response Action Plan, and State letter stating that VRAP has preliminary approval from the Maine DEP (if available)\*
- c. Community Relations Plan\*\*
- d. Development Plan for the site
- e. A Business Plan for the site
- f. A brief summary of the company/organization, its products and history.

- g. A profile/resume of the owner and senior management.
- h. Three years of financial statements and/or tax returns
- i. If the year-end statements are over 90 days old, the most recent internally prepared financial statements.
- j. The most recent accounts payable and accounts receivable aging.
- k. If it's a privately held company, a personal financial statement along with three years of personal tax returns.

**\*Voluntary Response Action Plan Requirements:** Voluntary Response Action Plans must be prepared according to guidance published by the Maine Department of Environmental Protection Bureau of Remediation and Waste Management. A feasibility study (FS) (i.e. an analysis of cleanup alternatives) must be included with the VRAP application and the public must have the opportunity to comment on the analysis of cleanup alternatives (see Community Relations Plan, below).. The DEP must approve all environmental reports and the feasibility study as complete prior to applicants presenting it for public comment. If the VRAP has not yet been approved by DEP, the Borrower must also submit a copy of the VRAP to the DEP Brownfields Site Manager (Jean Firth).

**\*\*A Community Relations Plan (CRP)** is a document required by the Environmental Protection Agency for all cleanup loans and grants, and will be submitted to EPA for approval. Community involvement activities must be initiated at the grant application phase and occur throughout each environmental cleanup process. The Community Relations Plan must include the following:

- For FS/VRAP process: At least one public meeting after the development of the FS and provision of reasonable notice of meetings (minimum 15 days); 15 day comment period after development of the VRAP. Documents and administrative records must be available for public review as soon as meeting is noticed and through the end of public comment period on VRAP. If the documents are presented concurrently, only one meeting is necessary.
- Response to public comments: All CRPs must include plans to complete a written response to public comments and documentations of changes to the VRAP
- Other activities may include where appropriate: Interviews with local officials, community residents, public interest groups, or other interested and affected parties.

### 3. **RLF Brownfields Site Manager Review**

A Borrower must submit a copy of the Voluntary Response Action Plan (VRAP) and FS (if applicable), most recent site assessment documents, and information regarding the site's environmental compliance history to MeDEP. If necessary, an RLF Brownfield Site Manager will conduct an analysis of the feasibility of the cleanup budget and the environmental risks. See Section III-D for a discussion of the types of documents required. The Brownfields Site Manager may consult with MeDEP staff in making his/her feasibility determination.

The Brownfields Site Manager will submit a recommendation, in writing, to the Brownfields RLF Committee.

After the Brownfields Site Manager review, MeDEP will advise the applicant whether the application is complete. If the Brownfields Site Manager or the DEP Brownfields Project

Manager recommends additional work on the VRAP, the loan application will be held until final DEP approval is received. Once the VRAP is approved, the site has been determined as eligible, and all required documents have been submitted, the application will be forwarded to the Loan Servicing Agent and to the Brownfields RLF Committee for review. Approval of the VRAP may also signify the beginning of the public comment period required by the State (see Community Relations Plan, above).

#### **4. Review by the Loan Servicing Agent**

The Loan Servicing Agent will review credit reports and financial documents, as well as the budget feasibility analysis provided by the RLF Brownfields Site Manager in order to assess the Borrower or Grantee as a cleanup and/or business risk. The Loan Servicing Agent will provide a recommendation to the Brownfields RLF Committee on whether to approve or disapprove a loan within 30 days of receiving a complete application package.

#### **5. Review by the Brownfields RLF Committee and RPC board**

Within 15 days receipt of a **complete** application for a loan or grant, the Loan Servicing Agent will provide the Brownfields RLF Committee with a written analysis of the request and will set a meeting date to act upon the request. At this meeting the Brownfields RLF Committee will review the recommendation of the Loan Servicing Agent and approve or disapprove the loan or grant request.

### **B. APPLICANT ELIGIBILITY**

#### **1. Borrower or Grantee Eligibility**

Eligible Loan Fund Borrowers are any public or private entities that meet the following criteria; eligible grantees are any municipal or nonprofit entities that meet the following criteria:

- Borrower/Grantee has control or access to a site on which a state-approved Voluntary Response Action Plan (VRAP) was completed within the six months prior to application. Preference will be given to sites on which site assessments and/or VRAP were funded through EPA assessment funds.
- Borrower/Grantee is an owner/operator who acquired property after the time of disposal, and who the lead agency (with the help of the Brownfields Site Manager) has determined has not caused, contributed to, permitted or exacerbated the release of hazardous substances on or emanating from the property;
- Borrower/Grantee is exempt from CERCLA liability;
- Borrower/Grantee is authorized to incur debt and enter into legally binding agreements;
- Borrower/Grantee is financially sound; and
- Borrower/Grantee has an economically viable redevelopment plan.

#### **2. Financial Risk Evaluation (Loans)**

The Fund Manager, with assistance from the Loan Servicing Agent, will request and review financial and legal records to assess the following criteria:

- The legal structure of the applicant (corporation, partnership, limited liability partnership or sole proprietor), its ownership and its Board of Directors if applicable; business name, location, principal owners/stockholders, type of business and products/services, date established;
- The adequacy, timeliness and completeness of the applicant's financial statements (audited or un-audited);
- The applicant's financial overview: the historical financial condition of the applicant and its comparison to industry norms;
- The applicant's record of earnings and cash flow;
- The applicant's history of borrowing and adherence to the terms and conditions of past loans;
- The integrity and ability of the applicant's management ownership and Board of Directors if applicable;
- The applicant's credit references: financial institutions and other creditors;
- Applicant's equity and additional collateral to make the loan more financially feasible;
- Matching funds, credit lines and other potential sources of funding;
- Maximum Loan Amount in any related program;
- Type of financial assistance requested;
- Compliance with Federal and State regulations, requirements and conditions.

**Financial Risk Evaluation (Grants):**

With assistance from the Site Manager, the Fund Manager will request and review financial records to assess the following criteria:

- Voluntary Response Action Plan budget is reasonable and cleanup is achievable within the budget provided;
- Applicant shows at least 20% cost share from sources other than the BRLF loan fund for cleanup;
- Budget demonstrates that cleanup will be fully funded by grant in combination with all other sources of funding;
- Compliance with Federal and State regulations, requirements and conditions.

**3. Borrower/Grantee Ineligibility**

If a Borrower or Grantee is out of compliance at the time of application of the BRLF, they will be deemed ineligible. Entities that have been suspended, debarred or declared ineligible for Federal financial assistance programs are also ineligible for the BRLF. A party that MeDEP determines to be a generator and/or transporter of wastes contributing to site contamination is ineligible for a BRLF loan for the same site.

#### **4. Conflict of Interest**

BRLF monies shall not be available to a business entity if the owner of such entity or any owner of an interest in such entity is related by blood, marriage, law or business arrangement to any person who advises, approves, recommends or otherwise participates in decisions concerning the loans. No employee, staff member, or board member of the DECD, MeDEP, or the BRLF Steering Committee; or person related to the employee, staff member, or board member of DECD, MeDEP or the BRLF Steering Committee by blood, marriage, law, or business arrangement shall receive any benefits resulting from the use of loan or grant funds, unless the party affected first discloses to DECD and MeDEP on the public record the proposed or potential benefit, and DECD and their legal counsel determine that the benefit involved is not so substantial as to affect the integrity of the loan decision process and the services of the officer, employee or board member. Former and current DECD and MeDEP staff members are ineligible to apply for or receive loan or grant funds for a period of one year from the date of termination of his/her services.

### **C. SITE ELIGIBILITY**

#### **1. Environmental Risk Evaluation**

The Brownfields Site Manager will review the following documents to assess environmental risk:

- Voluntary Response Action Plan and approval letter from ME DEP
- Environmental Site Assessments (Phase I and Phase II) in accordance with ASTM standards;
- Current site environmental compliance and statutory exemption from liability if granted (see Section II B);
- Information regarding applicant's environmental compliance history.

#### **2. Eligible Sites**

Eligible Brownfield sites for BRLF loans and subgrants are:

- Sites with an actual release or substantial threat of release of a hazardous substance; and
- Sites at which Phase I and II Site Assessments have been completed in accordance with ASTM standards, and a DEP-approved Voluntary Response Action Plan has been completed, and
- Sites enrolled in the Voluntary Response Action Program (VRAP), and/or that can demonstrate assurances such as bonding and/or insurance to enable the lead agency to **properly** close the site in the event that cleanup is not completed.

Eligible petroleum-contaminated brownfield sites are:

- Sites that the State has determined are of relatively low risk as compared to other petroleum-only sites in the state;
- Sites for which the State has determined there is “no viable responsible party;”
- Sites for which the State has determined that the person assessing, investigating, or cleaning up the site is a person who is not potentially liable for cleaning up the site; and
- Sites that are not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act.

**In addition**, applications for **BRLF grants** must demonstrate at least two (2) of the following:

- a. The extent the grant will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, or other property used for nonprofit purposes;
- b. The extent the grant will meet the needs of a community that has the inability to draw on other sources of funding for environmental remediation and subsequent redevelopment in the area in which a brownfield site is located because of the small population or low income economy; and
- c. The extent the grant will facilitate the use or reuse of existing infrastructure.

The Lead Agency must submit all sites and site-specific work to EPA for approval prior to incurring any costs. This includes information stating whether or not a site meets the definition of a brownfield as defined in Section 101(39) of CERCLA. If a site is excluded from the general definition of a brownfield, but is eligible for a property-specific funding determination, then the Lead Agency must provide information on how financial assistance will protect human health and the environment, and either promote economic development or enable creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreation property, or other property used for nonprofit purposes.

Sufficient documentation concerning petroleum-only sites must be submitted by the Lead Agency or appropriate state official to certify eligibility of petroleum-only site.

### **3. Restrictions**

Ineligible Brownfields sites are:

- Facilities listed or proposed for listing on the National Priorities List;
- Facilities subject to unilateral administrative orders, court orders, administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
- Facilities that are subject to the jurisdiction, custody of the United States government except land held in trust by the United States Government for an Indian tribe; or
- A site excluded from the definition of a brownfields site for which EPA has not made a property-specific funding determination.

## **D. PROJECT COST ELIGIBILITY**

### **1. Redevelopment Potential Evaluation**

Additional criteria to be considered in the making of a BRLF loan are the socioeconomic and public benefits of redevelopment projects. While these additional criteria are very important, they will be secondary to the primary underwriting criteria to insure the financial soundness of the BRLF. The Borrower will be asked to provide MeDEP with the following documents regarding the project:

- ***Voluntary Response Action Plan Summary*** – A technical description of work to be done, contracts and cost estimates
- ***Redevelopment Plans*** – A description of the cleanup project and the Reuse Plan and compliance with the eligible site and project costs criteria;
- ***Business Plan*** – A description of the business goals, strategies and action plans
- ***Financial Plan*** – Pro-forma financial statements which demonstrate the economic viability of the project and identify sources of repayment for the loan.

These documents should contain the following information:

- Development challenges, project schedule and timing
- Site location, site size, and physical characteristics of site
- Development plan for site
- Quantity of jobs created (if known)
- Increase in property valuation
- Compliance with zoning requirements and impact on surrounding area
- Project quality
- Impact on the Region
- Impact on community
- Participation of minority and/or women-owned enterprise
- Need for additional community/city services
- The socioeconomic and public benefits of the redevelopment project.

### **2. Eligible Activities**

The Borrower/Grantee shall use funds only for eligible activities. Eligible project costs, as designated by the U.S. EPA's Administrator, are for cleanup only and must be associated with removal activities. Eligible project costs include the following:

- Costs associated with removing, mitigating, or preventing the release or threat of release of hazardous substance, pollutants or contaminant, including:
  - Fences, warning signs, or other security or site control precautions;

- Drainage control;
- Stabilization of berms, dikes, or impoundments or drainage or closing lagoons;
- Capping of contaminated materials;
- Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- Excavation, consolidation or removal of highly contaminated soils from drainage or other areas;
- Removal of drums, barrels, tanks or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants;
- Containment, treatment, disposal or incineration of hazardous materials; and
- Provision of alternative water supply where necessary immediately to reduce exposure to contaminated household water and continuing until such time as local authorities can satisfy the need for permanent remedy.
- Site monitoring costs, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup.
- Costs associated with meeting the public participation, worker health and safety and interagency coordination requirements.
- Costs associated with removal activities, including demolition and/or site preparation that are part of site cleanup.
- Environmental Insurance Premiums.

### **3. Restrictions**

The BRLF cleanup loan or grant may not be used for:

- Pre-cleanup environmental response activities (i.e. planning, inventory, site assessment, identification, or characterization). However, the Lead Agency may request EPA approval for limited site assessment on a case-by-case basis when necessary to ensure protection of the environment and public health through cleanup actions.
- Monitoring or data collection necessary to apply for, or comply with environmental permits under other state and federal laws unless such a permit is required as a component of the cleanup action;
- Development activities that are not removal actions (e.g. construction of a new facility or marketing of property);
- Job training unrelated to performing a specific cleanup at a site covered by a loan or grant;
- To pay for a penalty or fine;
- To pay a federal cost share requirement (for example, a cost-share required by another Federal grant) unless there is specific statutory authority;
- To pay for response costs at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA Section 107;

- To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable for cleanup;
- Unallowable costs (e.g. lobbying and fund raising) under applicable OMB Circulars.

#### **4. Administrative cost prohibition**

Borrowers are prohibited from using loans financed with EPA funds for administrative costs. These include the following:

- a. Salaries, benefits, contractual costs, supplies, and data processing charges incurred for loan administration and overhead costs;
- b. Direct costs for loan administration, even if the borrower is required to carry out the activity under the loan agreement. Ineligible loan administrative costs include expenses for:
  - Preparation of applications for loans and loan agreements
  - Preparing revisions and changes in the budget, work plans, and other documents required under the loan agreement;
  - Maintaining and operating financial management and personnel systems;
  - Preparing payment requests and handling payments; and
  - Audits.

### **E. Loan Agreement**

#### **1. Loan Amount**

The minimum amount to request for a loan or grant is \$50,000. There is no maximum.

#### **2. Interest Rates**

The BRLF is intended to be a flexible financing tool. The interest rate will be no higher than 2%, dependent upon the loan term and other project characteristics. Special circumstances such as exceptional collateral or development challenges to the site may be used to justify the lower interest rate.

#### **3. Terms**

Loans for environmental remediation may have terms **up to 5 years**. The actual term is negotiable on a case-by-case basis, and may include a longer amortization period with a balloon at the end of the designated term. All projects must justify the need for the maximum term.

#### **4. Security**

DECD will utilize prudent lending practices to evaluate whether sufficient and adequate collateral is available to secure all BRLF loans. It will usually be in the form of liens on the assets financed, including fixed assets such as machinery and real estate, account receivable, inventory and lease assignments. Liens upon other non-project assets of the Borrower or personal guarantees may also be used to secure the loan.

## **5. Cost Share Requirement**

Evidence of a cost share of at least 20% of the loan or grant amount will be required of all borrowers. The final cost share percentage will be based on the final loan or grant amount, with larger commitments requiring a higher cost share percentage. The cost share on any project shall not exceed 30% of the loan or grant amount. Cost share may be in the form of a contribution of money, labor, materials, or services from a non-federal source. The cost share contribution must be for costs that are eligible and allowable under the Cooperative Agreement between DECD and the EPA, and must be supported by adequate documentation.

## **6. Completion Date**

All BRLF projects shall be completed in a timely fashion with maximum remediation project duration of eighteen months. A remediation project is considered “complete” once an as-built report has been submitted and approved by the DEP Brownfields Site Manager. If circumstances require additional time for completion, a memorandum shall be written and placed in the loan file explaining the reasons for the delay. With the approval of the federal EPA, DECD may extend the deadline for completion. If the BRLF funds are not expended within the allocated time, amounts of the loan not expended may be reallocated to the BRLF if needed to loan to other applicants.

## **F. CLOSING THE LOAN**

### **1. Closing Date**

The closing date will be scheduled at the convenience of all parties.

### **2. Closing Agenda**

A list of items necessary for closing will be provided to the Borrower prior to closing.

### **3. Loan Agreement**

DECD staff shall work to prepare draft loan documents for review by the BRLF RLF Committee, EPA and the Borrower. Loan documents shall include Loan Agreement, Promissory Note, and such other documents as may be necessary to complete the particular loan. Final lending decisions and loan negotiations will be conducted by DECD with the advice of legal counsel. Once the Loan Agreement has been negotiated and agreed upon, a Closing Date will be schedule.

### **4. Promissory Note**

BRLF programs are to provide for the recapture of BRLF funds to be returned for future loan awards. The loan principal and interest of a BRLF loan shall be paid in monthly installments of accrued interest only on the first day of each month, commencing on the first day of the month after the earlier of (i) the month in which the Project (as defined in the Loan Agreement) is completed, as determined by the Payee, and (ii) the projected Completion date. The entire amount of principal outstanding shall be due and payable in full together with accrued interest no later than on the 5<sup>th</sup> anniversary of the date of the first required payment. Loan agreements are to provide for equity participation on behalf of the Borrower as deemed possible.

### **5. Borrower Certifications**

The following certifications shall be made in the Loan Agreement:

- Borrowers shall certify that they are not currently, nor have they previously been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan;
- The Borrower shall certify that they are not a generator and/or transporter of wastes contributing to the contamination at a brownfields site;
- The Borrower shall modify response activities as required by DECD; and
- The Borrower must certify that they will submit Quarterly Progress Reports documenting clean-up activities and use of loan proceeds. Documentation of the cleanup activity shall be maintained by the Borrower for a period of ten years after the completion of cleanup activities or the length of the loan, whichever is longer. Prior to disposal of any records, the Borrower shall obtain written permission of the DECD;
- Borrowers shall conduct BRLF response activities in accordance with the cooperative agreement and the U.S. Comprehensive Environmental Response Compensation and Liability Act (CERCLA);
- Borrowers must certify that they will provide written notification of shipments in accordance with CERCLA; and
- If a Borrower is currently the owner/operator of the site, the Borrower must provide evidence of statutory exemption from liability; or indicate that EPA intends to use enforcement discretion and not pursue the party as a responsible party under CERCLA.

## **G. GRANT AGREEMENTS**

### **1. Grant Amount**

A maximum grant award of \$200,000 is available to municipalities, tribal units of government and nonprofit corporations. The minimum grant award available to municipalities, tribal units of government and nonprofit corporations is \$50,000. A grant award may be made less than \$50,000 if sufficient need is demonstrated by a municipality or nonprofit corporation. A grant request exceeding \$200,000 will require review and approval by EPA.

### **2. Grant Funding Criteria**

When making a funding decision, the BRLF Committee may use the following criteria: private and public sector leverage generated by project, number of persons benefiting (locally and regionally), contribution to maintaining heritage of community/region, impact to character of community/region, and design standards for project. Extra points can be awarded for meeting the needs and goals of the community/region (e.g. job creation, affordable housing). Projects that propose utilizing a combination of a grant and a loan will receive a higher score.

### **3. Project Timeline**

To the extent possible, projects should begin within three months of receiving a grant award. If a project does not begin within six months then funds will no longer be available. A community would need to submit a new request to re-secure grant funds. This deadline may be extended if a municipality or nonprofit organization can demonstrate the delay is due to issues/problems beyond their control.

#### **4. Application Timeline**

The initial application deadline will be December 3, 2010. Initially, municipalities, Maine Indian Tribes, or nonprofit organizations may receive no more than one grant award. A municipality, Maine Indian Tribe, or nonprofit organization may submit more than one application. If any grant funds remain after the initial application deadline, municipalities, Maine Indian Tribe, and nonprofit organizations will be able to apply, and receive funds for, additional projects. The BRLF Committee may accept and consider a grant application at any time.

#### **5. Recapture of Grant Funds**

There will be a sliding scale recapture rate for projects that are sold by a municipality or nonprofit organization after project completion. The scale would last no longer than five years and decrease by 20% per year. For property sold within one year after cleanup and grant closeout 80% of the funds need to be repaid, within two years 60% of the funds need to be repaid, within three years 40% of the funds need to be repaid, within four years 20% of the funds need to be repaid, and within five years 0% of the funds need to be repaid. Changes to these terms can be made if a municipality or nonprofit organization demonstrates need and benefit.

#### **6. Completion Date**

All BRLF cleanup projects shall be completed in a timely fashion with a maximum remediation project duration of twelve months. If circumstances require additional time for completion, a memorandum shall be written and placed in the file explaining the reasons for the delay. With the approval of the federal EPA, DECD may extend the deadline for completion. If the BRLF funds are not expended within the allocated time, amounts of the grant not expended may be reallocated to the BRLF.

#### **7. Disbursement Requests**

Loan/Grant disbursements for approved BRLF projects may be made after DECD has signed and executed agreements with the selected applicants. Requests for loan/grant disbursements may be made to DECD, and must be based on the budget submitted with the Voluntary Response Action Plan. The Fund Manager, in consultation with the Brownfields Site Manager, will review and approve disbursement requests according to the amount of work completed and the degree to which work completed matches the amount budgeted. The budget may include a contingency amount for change orders. The Brownfields Site Manager will review the invoices and a signed certificate of completion or partial completion of remedial work. Upon invoice approval, the Brownfields Site Manager will forward the request to DECD to process the disbursement. Disbursement requests may be made on a monthly basis and must be in excess of \$5,000.

## **8. Delinquent Loan Procedures**

In the event that a loan payment is more than fifteen (15) days late, a loan shall be declared delinquent and the Loan Servicing Agent shall take the following action:

- Contact Borrower to determine cause of loan delinquency; and
- Refer the Borrower to other appropriate sources of technical and management assistant.

## **9. Default Provisions**

In the event loan payments are more than forty-five (45) days late, a loan shall be declared in default. The Loan Servicing Agent will conduct the following:

- Review of the loan file;
- Notify the BRLF Committee that the loan is in default, state action taken, and recommend remedies;
- Take action to remedy default.

In addition, the Loan Servicing Agent may recommend one of the following actions:

- Take legal action to enforce guarantees and security agreements;
- Make total or partial write-off;
- Place a moratorium on payments.

## **10. Liability against default.**

Under no circumstances shall either the Department of Economic and Community Development or the Maine Department of Environmental Protection become responsible for owning or operating a project or for completing a corrective action plan when the grant or loan recipient defaults on a loan obligation, abandons the project site, or fails to complete a corrective action plan to the satisfaction of the secretary of the Department of Environmental Protection.

## **11. Loan Accounting and Financial Reporting**

The BRLF will be held in an account at the home bank of the Loan Servicing Agent. The Loan Servicing Agent will be responsible for keeping track of each Borrower's Loan Terms, Loan Disbursements, Loan Outstanding, Repayment Terms (principal and interest); calculating accrued interest and other loan fees; generating invoices for Loan Payments; and processing Loan Payments. The Loan Servicing Agent will provide quarterly on the status of each Borrower and the portfolio of loans showing Loans Outstanding, Un-disbursed Loan Amounts if any, interest and loan fee accruals, payment due dates and any delinquencies. These Reports will be furnished to the EPA under the terms and conditions of the Cooperative Agreement.

## **VI. COMPLIANCE WITH STATE AND FEDERAL CONDITIONS**

Each applicant must demonstrate an acceptance of and willingness to follow all applicable State and Federal regulations, including but not limited to:

- The need to minimize the time that elapses between payment of BRLF funds by EPA and the use of these funds to pay costs incurred in the cleanup;
- Compliance with competitive procurement requirements;
- Davis/Bacon compliance;
- MBE/WBE Enterprise;
- Other cross-cutting requirements such as the Uniform Relocation Act;
- Descriptions of CERCLA and NCP requirements and limitations;
- Roles and responsibilities for carrying out CERCLA and NCP requirements; and
- Historic preservation requirements



DECD  
Brownfields Revolving Loan Fund  
(BRLF)  
Eligibility Application

The Department of Economic and Community Development (DECD) in conjunction with the Maine Department of Environmental Protection (MeDEP) is pleased to offer this Brownfields Revolving Loan Fund to provide below market rate loans to facilitate cleanup of contaminated properties (brownfields) in all areas throughout the State. The purpose of this program is to assist in the revitalization of these properties to promote jobs and a cleaner environment for the communities of the State. Loan funds are available to public, private and nonprofit owners who comply with the eligibility requirements of the Environmental Protection Agency; grants are available to eligible municipalities, Indian tribes, and nonprofit owners of brownfield properties.

Property owners or prospective purchasers (developers) of brownfield properties must fill out this form to determine whether the property is eligible to receive EPA funds. Once EPA approval has been granted to a site, the applicant will be notified and will be invited to make a full application and to provide supplemental information. An invitation to make full application is not a guarantee of funding.

Eligibility Applications must be received at MeDEP no later than:

On or before 4:00 p.m. October 1, 2010 for Round 1 Funding consideration

On or before 4:00 p.m. February 4, 2011 for Round 2 funding consideration.

To determine eligibility, please submit:

- One signed and complete Eligibility Application with requisite attachments
- Supporting information (ASTM Phase I or equivalent, DEP approved Remedial Action Plan)

Submission Formats:

1 electronic copy to Jean Firth – [jean.m.firth@maine.gov](mailto:jean.m.firth@maine.gov)

1 hard copy with original signatures to: Jean Firth

Brownfields Coordinator

Maine Department of Environmental Protection

17 State House Station

Augusta, Maine 04333-0017

Faxed, late, and/or incomplete Eligibility Applications will be returned. Late applications will not be considered until the next funding cycle.

**A. BACKGROUND INFORMATION**

Grant Recipient: Department of Economic and Community Development

Legal Name of Applicant: \_\_\_\_\_

Person Who Filled out this Form: \_\_\_\_\_

Property Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Owner of Property: \_\_\_\_\_

From whom was the property acquired: \_\_\_\_\_

Date of Acquisition: \_\_\_\_\_

**B. ALL APPROPRIATE INQUIRY**

Please describe any inquiry into previous ownership and uses of the facility conducted PRIOR TO PURCHASING the property.

Please describe in detail:

- the types of site assessments performed (i.e ASTM Phase 1),
- who performed the assessments AND
- who reviewed the assessments on behalf of the applicant:

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If owned by a municipality, how was it acquired?

Foreclosure     Donation     Eminent Domain     Bought it outright     Other

Explain: \_\_\_\_\_  
\_\_\_\_\_

Describe the operational history of the site. Identify how and when, to the extent possible, the site became contaminated: \_\_\_\_\_  
\_\_\_\_\_

Describe, to the extent possible, the nature and extent of contamination: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. AFFILIATION**

Please identify any known parties who may be considered potentially liable for the contamination on the site:

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Please describe any family or financial relationship that you have with potentially liable parties at the site:

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Identify known on-going or anticipated environmental enforcement actions related to the site:

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Describe the steps that have been taken with regard to contamination at the site:

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Did the applicant cause or contribute to the contamination at this property?  YES  NO

Did they generate or transport any waste brought to the site?  YES  NO

#### **D. CONTINUING OBLIGATIONS**

Are there any land use restrictions and institutional controls on the property due to existing contamination?

YES  NO

Please describe the appropriate care that has been exercised with respect to hazardous substances found at the facility. What REASONABLE STEPS have you taken to:

- stop any continuing releases,
- prevent any threatened future release,
- prevent or limit exposure to any previously released hazardous substance

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*Please note that reasonable steps may include actions such as limiting access to the property, monitoring known contaminants, and complying with state and/or local requirements.*

Are you committed to assisting and cooperating with those performing the cleanup and to providing access to the property?  YES  NO

Are you committed to complying with all information requests and administrative subpoenas that have or may be issued in connection with the property?  YES  NO

#### **E. PROPERTY SPECIFIC DETERMINATION**

Certain properties cannot be approved without a "Property Specific Determination". Please answer the following questions to the best of your knowledge:

1. Is your site/facility subject to a planned or **ongoing** CERCLA removal action?  YES  NO

2. Has your site/facility been issued a permit by the U.S. or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SWDA)?  YES  NO

3. Is your site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h))?  YES  NO

4. Is your site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle C of RCRA or is subject to closure requirements specified in a closure plan or permit?  YES  NO

5. Has your site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation

under TSCA?       YES       NO

6. Has your site/facility received funding for remediation from the Leaking Underground Storage Tank (LUST) Trust Fund?       YES       NO

**F. PETROLEUM SITES**

1. Is the site the location (or former location) of an underground storage tank for petroleum or fuel oil?  
 YES       NO

2. If yes, is the remediation/redevelopment project eligible for the Maine Oil Storage Facility and Tank Program?  
 YES       NO

3. Provide information regarding whether any party can be identified that is subject to either:  
(a) a judgment rendered in a court of law or an administrative order issued by an administrative body that would require that party to assess, investigate, or cleanup the site; or  
(b) a filed enforcement action brought by federal or state authorities, or is party to a citizen suit, that would, if successful, require that party to assess, investigate, or clean up the site;

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4. Provide information regarding whether the party having such legal obligations has adequate financial resources to meet the obligation; \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Provide information regarding whether the prospective borrower caused or contributed to the petroleum contaminated located on the site. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**G. ATTACHMENTS:**

A – Project Description – Provide a one page narrative explaining the details of your plan/development.

B – Project Timeline – Describe in detail the timeframe for completing activities described in the Project Description.

C – Project Budget – Describe all other funding sources to be used to complete the entire (remediation and redevelopment) project, whether the funds are committed and/or when you expect financial commitment to the project.

**H. CERTIFICATION**

The undersigned hereby represents and certifies to the best of his/her knowledge and belief that the information contained in the forgoing statement and exhibits and attachments hereto is true and complete and accurately describes the proposed project. The undersigned further agrees to promptly inform the DECD Office of Community Development of any changes in the proposed project which may occur. The undersigned agrees that acceptance of any form of financial assistance from the DECD constitutes agreement to include the DECD and MeDEP in any public relations events or materials related to the project, and to cooperate with and permit the DECD and MeDEP to publicize its involvement for marketing and public relation purposes including, but not limited to: signage, press releases, public events, and promotional materials.

To the best of my knowledge, the data and information which I have submitted to obtain BRLF financing from the Department of Economic and Community Development are true and correct.

Borrower/Applicant \_\_\_\_\_.

Signature \_\_\_\_\_ Date:\_\_\_\_\_.

Printed Name:\_\_\_\_\_ Title:\_\_\_\_\_

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**Comment Space for Project Officer:**

Approval  is  is not granted for revolving loan funds at the above-described property:

\_\_\_\_\_  
Project Officer

\_\_\_\_\_  
Date:



DECD  
BRLF  
FUNDING APPLICATION



The Department of Economic and Community Development (DECD) in conjunction with the Maine Department of Environmental Protection (MeDEP) is pleased to offer this Brownfields Revolving Loan Fund to provide below market rate loans to facilitate cleanup of contaminated properties (Brownfields) in all areas throughout the State. The purpose of this program is to assist in the revitalization of these properties to promote jobs and a cleaner environment for the communities of the State. Loan funds are available to public, private and nonprofit owners who comply with the eligibility requirements of the Environmental Protection Agency; grants are available to eligible Maine municipalities, Maine Indian tribes, and nonprofit owners of Brownfield properties.

In completing this portion of the process, you have been notified by MeDEP that your project is eligible to complete an application.

Please submit the following:

\_\_\_ One signed/complete and five copies of the **DECD BRLF LOAN/GRANT APPLICATION**. **Note: Where information requested in this application or in the checklist below may be found in executive summaries of environmental reports and/or applications for other sources of funds, please attach these documents and make a note of alternative sources of information. The BRLF Committee will make a determination whether alternative information is sufficient, or whether additional materials are needed.**

- \_\_\_ Supporting information (all previous reports including ASTM Phase I or equivalent and any other site assessment documents that have not been previously submitted to the MeDEP).
- \_\_\_ Remedial Action Plan,
- \_\_\_ MeDEP VRAP letter stating that RAP has been approved (if available).
- \_\_\_ Community Relations Plan (examples available from MeDEP)
- \_\_\_ Development Plan for the site
- \_\_\_ A brief summary of the company/organization, its products and history
- \_\_\_ A profile/resume of the owner and senior management
- \_\_\_ Three years of financial statements and/or tax returns (for private firms) **OR** audits for the last three fiscal years (for municipalities and nonprofits)
- \_\_\_ If the year-end statements are over 90 days old, the most recent internally prepared financial statements
- \_\_\_ The most recent accounts payable and accounts receivables aging
- \_\_\_ For sole proprietorships – submit a personal financial statement along with three years of personal tax returns.

**TIPS for a successful application:**

- Keep attachments in the order of the application.
- Do not bind the application
- Be timely with your submission
- Applications **may** be submitted prior to the due date.

Applications must be submitted no later than:

December 3, 2010 for Round 1 funding;

April 1, 2011 for Round 2 (pending funding availability)

Submit your completed application and copies to:

Jean Firth  
Brownfields Coordinator  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

**Directions: Information may be typed into this form electronically, entered by hand, or included on attached sheets.**

**I. APPLICATION TYPE (check both loan and grant if applying for both)**

Applying for a  Loan  Grant  
In the amount of: \$ \_\_\_\_\_ \$ \_\_\_\_\_

**II. APPLICANT/BORROWER**

Applicant (Owner)'s Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Form of Ownership:  Corporation  Limited Liability Corp.  Partnership  
 Proprietor  Private  
 Nonprofit  Municipality

Tax ID Number: \_\_\_\_\_ Date of Incorporation: \_\_\_\_\_  
DUNS#: \_\_\_\_\_  
Type of Business: \_\_\_\_\_

Purpose of Redevelopment:

Describe the applicant's capacity to develop and manage the proposed redevelopment project, including planned use of consultants. If the applicant is a developer, describe the real estate and management experience as it relates to the proposed project:

**III. ENVIRONMENTAL REMEDIATION**

Briefly summarize your cleanup plan for the site and proposed time frame. Attach a copy of the Voluntary Response Action Program (VRAP)\* and letter from the Maine Department of Environmental Protection (MeDEP) stating that the VRAP has been approved by a DEP Site Manager.

\* The VRAP must include the following:

- An analysis of brownfields cleanup alternatives which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup.
- The effectiveness, ability to implement, and the cost of the response proposed. The evaluation will include an analysis of reasonable alternatives including no action.

Has a Quality Assurance Project Plan (QAPP) been developed to accompany the VRAP?  Yes  No

If no, when do you expect to have one completed?

#### **IV. PROPOSED REVITALIZATION PROJECT**

Location of the proposed project:

Size and physical characteristics of the site:

Please describe the zoning district in which the site is located and whether redevelopment plans are anticipated to comply with local regulations:

Have all other state permits been obtained for this project (Act 250, stormwater, waste management, access, etc.)?  Yes  No.

If No, please explain:

#### **Project Description**

Please provide a narrative description of the development concept, including the number of buildings and square footage, the anticipated building occupants, the terms of the leases, and anticipated tenant improvement costs (attach plans and addendum if needed).

#### **Business Plan**

Please provide a description of the business goals, strategies and action plans for the revitalization project. Attach a copy of the plan, if applicable.

**Economic and Physical Impact**

Please describe other economic/physical revitalization that your project will encourage as well as any community benefits:

How many new jobs will be created as a result of this project?

**Public Benefit**

Describe the extent the grant/loan will meet the needs of a community that has the inability to draw on other sources of funding for environmental remediation and subsequent redevelopment in the area in which the site is located because of small population or low income economy:

Describe the extent the grant/loan will facilitate the use of existing infrastructure:

Describe the extent the grant/loan will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, or other property used for nonprofit purposes:

**V. FINANCIAL INFORMATION**

**Please submit the following (or similar information submitted for other grant/loan applications):**

- \_\_\_\_\_ Three years of financial statements and/or tax returns for the company (if private), or audits (if public or nonprofit).
- \_\_\_\_\_ If the year-end statements are over 90 days old, the most recent internally prepared financial statements.
- \_\_\_\_\_ The most recent accounts payable and accounts receivable aging.

\_\_\_\_\_ If it's a sole proprietorship, a personal financial statement along with three years of personal tax returns.

Describe any contingent liabilities, suits, or disciplinary actions, etc.

Indicate whether applicant/owner or any occupant has ever filed for bankruptcy or protection against creditors. If yes, please give an explanation:

**VI. TOTAL PROJECT COSTS**

Indicate the estimated total project costs below or on a separate page. Please be sure to indicate all terms directly attributable to the cost of the project and attach a breakdown itemizing these costs where noted. An itemized budget will be required prior to project approval. See Attachment A for eligible and non-eligible costs.

Environmental Remediation (eligible for BRLF funding)

|                                |           |              |
|--------------------------------|-----------|--------------|
| Soil remediation               | \$        | _____        |
| Lead paint                     | \$        | _____        |
| Asbestos                       | \$        | _____        |
| Health and safety plan         | \$        | _____        |
| Other remediation _____        | \$        | _____        |
| <b>Total Remediation Costs</b> | <b>\$</b> | <b>_____</b> |

Rehabilitation/Construction (**not** eligible for BRLF funding)

|   |           |              |
|---|-----------|--------------|
| Demolition                                  | \$        | _____        |
| Construction                                | \$        | _____        |
| Rehabilitation                              | \$        | _____        |
| Landscaping                                 | \$        | _____        |
| Soft costs                                  | \$        | _____        |
| (i.e. legal, financing fees, permits, etc.) |           |              |
| Other _____                                 | \$        | _____        |
| <b>Total Rehab/Construction:</b>            | <b>\$</b> | <b>_____</b> |

**VII. PROJECT FINANCING**

To be eligible for loan or grant funds, a project must show that sufficient financing is not available from other sources without financing from the BRLF and that a financing gap exists. Please describe your efforts to secure financing from other private and/or public sources and summarize the reasons why participation in the BRLF program is necessary (attach pages as necessary).

**Matching Funds**

At least 20% of funds used for eligible site remediation activities must come from other sources. Please describe source(s) of matching funds:

Total Remediation Costs: \$ \_\_\_\_\_

BRLF Grant funds requested: \$ \_\_\_\_\_

BRLF Loan funds requested: \$ \_\_\_\_\_

Total Matching funds \$ \_\_\_\_\_

Sources: \_\_\_\_\_ Indicate below if funds are in-hand

|       |          |                              |                             |
|-------|----------|------------------------------|-----------------------------|
| _____ | \$ _____ | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____ | \$ _____ | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____ | \$ _____ | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____ | \$ _____ | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____ | \$ _____ | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPORTANT NOTICE REGARDING LEGAL FEES**

The DECD will be represented by legal counsel in the review of the terms of transaction documents and in any related legal matters arising prior to the issuance of a loan or grant. All incurred legal fees for said representation shall be the responsibility of the undersigned even if the financing shall fail to close.

**CERTIFICATION**

The undersigned hereby represents and certifies to the best of his/her knowledge and belief that the information contained in the forgoing statement and exhibits and attachments hereto is true and complete and accurately describes the proposed project. The undersigned further agrees to promptly inform the MeDEP of any changes in the proposed project which may occur. The undersigned agrees that acceptance of any form of financial assistance from the DECD constitutes agreement to include the DECD and MeDEP in any public relations events or materials related to the project, and to cooperate with and permit the DECD and/or MeDEP to publicize its involvement for marketing and public relation purposes including, but not limited to: signage, press releases, public events, and promotional materials.

To the best of my knowledge, the data and information which I have submitted to obtain BRLF financing from the Department of Economic and Community Development are true and correct.

Borrower/Applicant:

Signature \_\_\_\_\_ Date:

Printed Name and Title: \_\_\_\_\_

No liability is incurred by the Department of Economic and Community Development by reason of any approval for BRLF funding. Approval by the Loan Servicing Agent and Site Manager under contract with the

DECD is based on information supplied by the applicants. Applications may be rejected with or without cause, and DECD shall incur no liability costs associated with the preparation of this application. No guarantee is intended or implied by reason of any advice given by the DECD or its staff.