

**SSBCI Cash Collateral Program  
Borrower Application and Agreement**

*Please Review Program Guidelines on Page 2 and Application Help on Page 5*

**Applicant:** \_\_\_\_\_ **EIN:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Alternate/Cell Phone:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **County:** \_\_\_\_\_

**Contact Name:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Business Website:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Entity Type:** \_\_\_\_\_ **NAICS:** \_\_\_\_\_ **Date Business Established:** \_\_/\_\_/\_\_

**Annual Revenue:** \_\_\_\_\_ **Tell us about your business:** \_\_\_\_\_

**Business Owners:**

Name	SSN	Address	Office Held/Title	% of Ownership

**Loan Amount Requested:** \$ \_\_\_\_\_ **Loan Purpose:** \_\_\_\_\_

**Collateral:** \_\_\_\_\_

**Guarantor Name:** \_\_\_\_\_ **Guarantor Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**SSN/EIN:** \_\_\_\_\_ **SSN/EIN:** \_\_\_\_\_

**Email:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Certification as a Small Business:**

- Does the business have 250 or less employees:  Yes  No
- Does the business have less than \$10,000,000 in annual gross revenues over each of the last three fiscal years:  Yes  No
- Does the business have less than \$2,000,000 in net worth:  Yes  No
- Is the business currently operating in Virginia:  Yes  No

**Background Data:**

Answer the following questions and provide comments on questions answered "yes"

- Have any owners, officers, directors, guarantors, general partners, stockholders or limited partners owning 20% or more of the business ever been convicted of any criminal offense, other than minor motor vehicle violations?  Yes  No
- Has the business or any owners, officers, directors, guarantors, general partners, stockholders or limited partners owning 20% or more of the business file for, or been adjudicated as bankrupt?  Yes  No
- Is the business or any owners, officers, directors, guarantors, general partners, stockholders or limited partners owning 20% or more of the business involved in any pending lawsuits?  Yes  No
- Does the business or any guarantors owe past due federal, state, or local taxes of any nature?  Yes  No
- Is the Applicant, if a sole proprietorship, and all guarantors U.S. citizens or legal permanent residents?  Yes  No

**Comments:** \_\_\_\_\_

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Are you a current or past VSBFA Customer?  Yes  No How did you hear about the VSBFA or this Loan Program?  SBSD Website  
 Bank Referral  Economic Development Staff  VSBFA Marketing Event  Other \_\_\_\_\_

**Current Employment and Projected Job Creation and/or Retention:**

# Full-Time Existing Jobs Located in Virginia \_\_\_\_\_ #Full-Time Existing Jobs Located Outside of Virginia \_\_\_\_\_

# Full-Time Existing Jobs Saved as a result of this Financing \_\_\_\_\_ # Full-Time Equivalent Jobs Created as a result of this Financing \_\_\_\_\_

Average Hourly Wage Rate: \$ \_\_\_\_\_ Provide a brief summary of how loan proceeds will save or create new jobs: \_\_\_\_\_

**Government Monitoring Data:**  I do not wish to provide this information

**Ethnicity:**  Hispanic or Latino  Not Hispanic or Latino

**Sex:**  Female  Male

**Woman-Owned Business:**  Yes  No

**Minority-Owned Business:**  Yes  No

**Race:**  American Indian or Alaska Native  Asian  White  Black or African American  Native Hawaiian or Other Pacific Islander

**Veteran Status:**  Yes, I am a veteran of the U.S. Armed Forces  No, I am not a veteran of the of the U.S. Armed Forces

**Program Guidelines**

The Virginia Small Business Financing Authority's (VSBFA) *Cash Collateral Program (CCP)* is designed to help Virginia's small businesses obtain the funds to start, enhance, or expand their operations and thereby created new jobs for citizens of the Commonwealth. VSBFA's participation helps reduce the lender's credit risk in those instances where the applicant company has the demonstrated ability to cash flow the debt, but the collateral coverage is insufficient for the lender's normal underwriting standards. In considering whether to provide cash collateral support for a lender's loan, the VSBFA assesses the company's ability to repay the loan, the experience of the company's management and the adequacy of the collateral available to secure the loan. Although there is no specific job creation requirement under the program, VSBFA also considers the economic impact and job creation and/or retention resulting from the financing.

**Eligible Borrowers:**

Qualified borrowers must be operating in Virginia and be in good standing with the State Corporation Commission or other applicable state or local licensing authority. Businesses must meet at least of one of the following criteria to be an eligible borrower:

- Have \$10 million or less in annual revenues over each of the last three years; or
- Have a net worth of \$2 million or less; or
- Have fewer than 250 employees in Virginia, and fewer than 750 employees overall, or
- Be a 501(c) 3 non-profit entity.

**Eligible Loan Purposes:**

- Lines of credit to finance general working capital purposes or
- Loans to finance equipment and other fixed asset purchases.

**Ineligible Loan Purposes:** Loan funds may not be used to:

- Eliminate the bank's requirement for business collateral, personal collateral from the principal(s), or the principal's personal guaranty.
- Compensate for a fundamental business weakness, including poor financial condition of the business, unprofitable business operations and the business' inability to repay a debt.
- Finance investment real estate, purchase of residential housing, real estate construction or development.
- Refinance a Lender's existing debt, however additional debt may be eligible for support depending on the purpose of that debt.
- Repay delinquent federal or state taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or repay taxes held in trust or escrow, e.g. payroll or sales tax; or
- Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance.
- Reimburse funds owed to any owner for business expenses previously paid by the owner with a personal credit card.
- To purchase any portion of the stock ownership interest in a Borrower.
- To finance the purchase of goodwill.
- To finance the unguaranteed portion of a SBA-guaranteed loan(s) or other federally guaranteed loan(s).

**Program Loan Amounts and Terms:**

- The maximum participation under the program is \$500,000 or 40% of the initial loan amount, whichever is less.
- Collateral support shall not exceed 40%.
- Term loans can receive up to 5 years of support.
- Annual lines of credit may be renewed up to 2 times with a maximum 3 years of support.

**Personal Guarantees:**

The program requires all individuals and business entities owning 20% or more of the applicant business (including a spouse owning 5% or more when the combined ownership of both spouses is 20% or more) to provide a personal guaranty of the loan.

**Program Fees:**

A non-refundable application fee of \$200.00 is collected from the borrower by the participating lender and submitted with the lender's application for the *Cash Collateral Program*. If the application is approved, there is a one-time VSBFA *Cash Collateral Program* Support Fee calculated as 1.5% of the support amount.

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**THIS AGREEMENT** (the "Borrower Agreement") is dated \_\_\_\_\_, 20\_\_\_\_\_, and is given by \_\_\_\_\_

\_\_\_\_\_, ("Borrower"), whose address is \_\_\_\_\_;

and by \_\_\_\_\_, guarantor(s) of the Loan described below (collectively, "Guarantor");

and is for the benefit of \_\_\_\_\_, ("Lender") and the **Virginia Small Business**

**Financing Authority** ("VSBFA").

**RECITALS**

- A. Lender intends to make a loan (the "Loan") to Borrower for the purpose set forth in Lender's loan commitment.
- B. The Loan shall be evidenced by a promissory note payable by Borrower to the order of Lender (the "Note") and shall be made pursuant to written agreements between Borrower and Lender (the "Loan Documents").
- C. As additional security for the Loan, and pursuant to the State Small Business Credit Initiative Act of 2010 (P.L. 111-240 - Sept. 27, 2010) (the "Act"), VSBFA is making a deposit of funds in the Collateral Account as described in the Cash Collateral Deposit Agreement between Lender and VSBFA (the "Agreement").
- D. In consideration for Lender's making the Loan and for VSBFA's making a Cash Deposit in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), Borrower and Guarantor(s) shall execute this Borrower Agreement for the benefit of Lender and VSBFA.

NOW, THEREFORE, Borrower and Guarantor(s), jointly and severally, hereby represent, covenant and agree with VSBFA and Lender as follows:

**BORROWER'S AGREEMENT**

- 1.1 Reimbursement, Enforcement and Indemnification.** Borrower and Guarantor(s), jointly and severally, agree to reimburse VSBFA for any payment made by VSBFA under the Agreement, together with interest and costs of collection, including attorney's fees. Borrower and Guarantor(s), jointly and severally, acknowledge and agree that VSBFA may at its option assume (and in such event shall be subrogated to) all rights and remedies of Lender under the Loan Documents and may enforce any such rights or remedies against any collateral for the Loan, and against Borrower and Guarantor(s). Additionally, Borrower and Guarantor(s) shall jointly and severally hold VSBFA and Lender harmless from, and hereby indemnify each of VSBFA and Lender against, and agree to pay to VSBFA and Lender any and all liabilities, damages, claims, costs and losses incurred or suffered by either of VSBFA or Lender, including attorneys' fees and costs, resulting from (a) any materially incorrect certification, statement, representation or warranty made by Borrower, Guarantor(s), or an agent of Borrower or Guarantor(s), to VSBFA or Lender in connection with the Loan, the Agreement, this Borrower Agreement or any of the other Loan Documents or (b) any breach by Borrower or Guarantor(s) of the terms and conditions of this Agreement or any of the other Loan Documents. Borrower and Guarantor(s) also acknowledge that any statement, certification or representation made by Borrower or any of the Guarantor(s) in connection with the Loan is subject to the penalties provided in 18 U.S.C. § 1001.
- 2.1 Set Off.** Borrower and Guarantor(s), jointly and severally, acknowledge and agree that all loan repayment obligations of Borrower and Guarantors under the Agreement, this Borrower Agreement, and the Loan are subject to collection pursuant to the Set-Off Debt Collection Program as authorized under the Virginia Debt Collection Act (§§ 58.1-520 - 58.1-535 of the Code of Virginia (1950), as amended).
- 3.1 Use of Proceeds.** The Borrower hereby certifies to the VSBFA as follows:
  - (a) The loan proceeds will be used for a "business purpose." Business purpose includes, but is limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.
  - (b) The loan proceeds will not be used to:
    - i. Eliminate the bank's requirement for collateral or the principal's personal guaranty.
    - ii. Finance passive real estate investment, purchase of residential housing, real estate construction or development.
    - iii. Refinance a Lender's existing debt, except that if there is additional debt added to the refinance amount, the additional principal is eligible for CCP.
    - iv. Repay delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
    - v. Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance; or
    - vi. To purchase any portion of the ownership interest in the Borrower; or to purchase any portion of the ownership interest in any company, including 100% interest; or
    - vii. To purchase goodwill, or
    - viii. To finance the unguaranteed portion of SBA-guaranteed loans or other federally guaranteed loans, or
    - ix. To provide financing to a religious establishment unless the proceeds of the loan are used only for a "business purpose." A "business purpose" does not include an explicitly religious purpose, and the proceeds of the loan to a religious establishment may not be used

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for the purposes of supporting, assisting, or furthering an explicitly religious purpose, including, but not limited to, worship, religious instruction, or proselytization.

- (a) The Borrower is not:
- i. an executive officer, director, or principal shareholder of the lender; or
  - ii. a member of the immediate family of an executive officer, director, or principal shareholder of the lenders; or
  - iii. a related interest of such executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a lender as the relationship described in Part 215 of Title 12 of the Code of Federal Regulations, or any successor to such part.

- (b) The Borrower is not:
- i. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or
  - ii. a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions; or
  - iii. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
  - iv. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); or
  - v. a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

**4.1 Borrower Sex Offender Certification.**

As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity hereby certifies to the participating State that no Principals of the private entity have been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). National registry is at <http://www.nsopw.gov/Core/Portal.aspx>. For the purposes of this Certification, "Principal" means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the private entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the private entity.

**5.1 Miscellaneous.**

- (a) This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia. The parties agree that jurisdiction shall be solely in the courts of the Commonwealth of Virginia and that venue shall be solely in the Circuit Court for the City of Richmond, Virginia. In the event of any lawsuit by VSBFA to enforce the provision of this Agreement, Borrower and Guarantor(s), jointly and severally, agree that the jurisdiction and venue provisions of this Section 3.1 shall apply to the Note, the Loan Documents and any guaranties executed by Guarantor(s).
- (b) All notifications required by this Agreement shall be given in the manner provided in the Loan Documents. Borrower and Guarantor shall promptly notify VSBFA and the Lender in writing of any change in its or their addresses.
- (c) If at any time any provision of this Agreement becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, the validity, nor the enforceability of the remaining provisions hereof shall in any way be affected or impaired. This Agreement may be executed in counterpart originals, with each counterpart to be deemed an original Agreement, constituting a single instrument. This Agreement cannot be changed or terminated orally. This Agreement shall inure to the benefit of, and be binding upon the parties, their successors and assigns.
- (d) Borrower and Guarantor(s) authorize Lender to provide to VSBFA any and all information, including financial information, relating to the Loan, Borrower or any of Guarantor(s), at the request of VSBFA.
- (e) If application is approved, Borrower agrees to provide VSBFA with economic development information (i.e. job creations, wage rates, investment, and revenues) as VSBFA may reasonable request while the loan remains outstanding.

**IN WITNESS WHEREOF**, Borrower and Guarantors have caused this Agreement to be duly executed as of the date first written above

**Borrower:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**By:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Guarantor:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Guarantor:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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### ***Application Help***

Businesses should apply to commercial banks for their financing need. The bank determines if VSBFA participation is needed for their approval. The lender is encouraged to call the VSBFA to discuss the transaction. Email: [VSBFA@sbsd.virginia.gov](mailto:VSBFA@sbsd.virginia.gov) Telephone: 804-371-8254.

Below are descriptions to help you complete the *State Small Business Credit Initiative Cash Collateral Program (SSBCI CCP) Borrowers Application*. If you have additional questions or need information, please contact the VSBFA at 804-371-8254 or email us at [VSBFA@sbsd.virginia.gov](mailto:VSBFA@sbsd.virginia.gov).

Additional information about this program and the other services offered by the Virginia Department of Small Business and Supplier Diversity can be found at [www.sbsd.virginia.gov](http://www.sbsd.virginia.gov).

**Business Legal Type:** Provide the legal business structure of the business as registered with the State Corporation Commission (SCC). Examples are sole proprietorship, partnerships, LLC, LLP, C Corp, S Corp, Non Profit Corp. etc.

**Annual Revenue:** Supply the last full year's revenue figure.

**NAICS:** The applicant's North American Industry Classification System code can be determined at <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

**Business Owners:** List all owners, officers, directors, and general partners of business and stockholders or limited partners owning 20% or more of business. Include any spouses owning 5% or more when the combined ownership of both spouses is 20% or more.

**Loan Purpose and Collateral:** Describe specifically how the loan funds will be used. The uses must meet program guidelines above. Collateral can be a lien on business or personal assets.

**Projected Job Creation:** If the loan will create or save full-time jobs enter data based on your best evaluation. This is not a requirement of the program.

**If the application for the Cash Collateral Program is approved, the borrower may be required by VSBFA to submit additional annual economic impact data, including the number of full-time equivalent jobs created by the borrower and the average wage rate for those jobs.**

#### **Government Monitoring Data:**

This data is used to determine the usage of VSBFA programs within the small business community. You are not required to provide this information, but are encouraged to do so. VSBFA does not discriminate on the basis of this information and this information will have no bearing on VSBFA's credit decision for this application. If you do not wish to provide the information a selection is provided.

**Woman-Owned, Minority-Owned, or Veteran-Owned Business:** Select yes if at least 51% of business is owned by one or more of each of the categories.

#### **Where and How to Submit an Application:**

The Borrower's Application for the *Cash Collateral Program* should be submitted to the participating lender and will be submitted to VSBFA as part of that lender's application package.

#### **What the Borrower must provide with the Application:**

The information listed below is in addition to any information or documentation required by the participating lender at the time of the borrower's application for financing:

1. Completed and executed copy of this Borrower's Application for the *Cash Collateral Program*;
2. Copy of valid driver's license for any owner with a 20% or greater ownership and each guarantor;
3. A non-refundable application fee of \$200.00 is collected from the borrower by the participating lender and submitted with the lender's application for the *Cash Collateral Program*.

#### **Application Process: What to Expect from the VSBFA**

VSBFA will communicate directly with the participating lender regarding the lender's application for the *Cash Collateral Program*. The participating lender will be notified by VSBFA regarding approval or decline of the application.

If approved, VSBFA will issue a commitment letter to the participating lender which specifies terms and conditions of VSBFA's guaranty. Loan closings for approved requests are scheduled by the participating lender.

For approved applications, VSBFA charges a one-time *Cash Collateral Program* fee of 1.5% of the support amount. This *Cash Collateral Program* fee will be collected from the borrower by the participating lender at the time of the lender's loan closing.