

ECONOMIC DEVELOPMENT REVOLVING LOAN PROGRAM

POLICIES AND PROCEDURES MANUAL

GRAFTON, WISCONSIN

Revised February, 1999

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SECTION 1 GENERAL PROVISIONS

1.1 TITLE

These regulations shall hereafter be known, cited, and referred to as the Economic Development Revolving Loan Program Policies and Procedures for the Village of Grafton, Wisconsin.

1.2 PURPOSE

These regulations have been established to set forth the criteria which will govern economic development activities to be assisted with funds made available through the Village's Economic Development Revolving Loan Program (hereinafter referred to as the Program).

1.3 OBJECTIVES

Economic Development activities assisted with funds made available through this Program are intended to meet the following objectives:

- 1) To maintain and promote a diverse mix of employment opportunities and to minimize seasonal or cyclical employment fluctuations.
- 2) To encourage the creation and retention of permanent jobs, which represent a range of wage scales approximate to the skills and experience of the area labor force. A minimum of 51 percent of the jobs created shall be made available to low and moderate income persons.
- 3) To encourage the leveraging of new private investment in the community in the form of fixed asset investment, particularly in land and buildings.
- 4) To maintain a positive business climate which encourages the retention and expansion of existing business and industry and helps to attract desirable new business and industry.
- 5) To encourage the development of modern technology and create safe, healthful work environments.

1.4 AMENDMENTS

The Village Board may from time to time amend the provisions imposed by the policies and procedures contained within the Revolving Loan Fund (RLF) manual. Such amendments are subject to prior written approval by the Wisconsin Department of Commerce, administrator of the Wisconsin Community Development Block Grant Program (CDBG) that provides the funds used to capitalize the RLF.

SECTION 2 ADMINISTRATION

2.1 PROGRAM ROLES

- 1) The Village Board shall establish overall policies and procedures for implementing the Program; review and rank all loan applications; approve or disapprove requests for funds; and resolve complaints or disputes within the Program.
- 2) The Village Administrator and Village President shall explain the Program to prospective applicants; furnish written information; assist applications, if necessary, in completing applications; and process all requests for funds.
- 3) The Village Administrator shall review all financial statements and loan amortization schedules; review and approve documentation of program expenditures; record security instruments; maintain a separate accounting record; and report semiannually to the Department of Commerce regarding the use of Program Income.
- 4) The Village Attorney shall prepare all loan agreements, review all Promissory Notes and mortgage or lien instruments, and advise the Village Board on default matters.
- 5) The Village Building Inspector shall verify the installation of all fixed equipment financed with program funds.

2.2 MEETINGS

Meetings shall be held on an as-needed basis in the Village Hall Board Room located at 1971 Washington Street. All Village Board members shall be given prior notice of each meeting. A majority of the seven Village Board members shall constitute a quorum. A majority of those present and constituting a quorum shall be required for official Board action to take place.

2.3 RECORDS

Written records of all Program activities including minutes of Program meetings, loan applications, and related documents, shall be maintained in the Office of the Village Administrator. All individual project files shall be maintained as confidential records. The Village's legal counsel shall be consulted in regard to compliance with state and municipal open records laws.

2.4 ADMINISTRATIVE COSTS

Up to 15 percent of the funds available each year may be used for direct loan administration costs, including the following:

- 1) Legal costs.
- 2) Consulting fees for credit analysis, business plans reviews and technical assistance.
- 3) Office supplies, copying, typing, mailing, and related expenses.
- 4) Training Costs.

To generate additional revenue to cover administrative costs, the Village may also establish loan origination fees, closing fees, servicing fees, and other fees to cover charges directly related to either processing an application or servicing a loan. All fees collected shall be deposited in the RLF.

SECTION 3 ELIGIBILITY

3.1 ELIGIBLE APPLICANTS

- 1) Applications may be submitted by the sole proprietor or Chief Executive Officer of any business or industry wishing to expand an existing operation or establish a new operation in the Village of Grafton.
- 2) No member of the Village Board or any other official, employee, or agent of the Village who exercises policy, decision-making functions or responsibilities in connection with the implementation of this Program is eligible for financial assistance under this Program.
- 3) No Program loans will be made which are in conflict with Section 946.13 of the Wisconsin Statutes (Private Interest in Public Contract Prohibited).
- 4) Applicants shall not be disqualified based on age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.01 (5), sexual orientation or national origin.

3.2 ELIGIBLE ACTIVITIES

Program loans shall be available to eligible applicants for the following activities:

- 1) The acquisition of land, buildings, and fixed equipment.
- 2) The construction, reconstruction, or installation of buildings, fixed equipment, and site improvements.
- 3) The clearance, demolition, removal, or rehabilitation of buildings and improvements.

- 4) The payment of assessments for sewer, water, street, and other public utilities, if the provision of the facilities will directly create or retain jobs.
- 5) Acquisition of inventory.

3.3 INELIGIBLE ACTIVITIES

Program loans shall not be available for the following activities:

- 1) Payroll costs.
- 2) Refinancing or consolidating existing debt or reimbursement for expenditures made prior to loan approval.
- 3) Equipment which is moveable or has a depreciable life of less than 5 years, such as office equipment, furnishings, or minor tools.
- 4) Specialized equipment that is not essential to the business operation.
- 5) Residential building construction or reconstruction (unless such reconstruction is intended to convert the building to a business or industrial operation).
- 6) Routine maintenance.
- 7) Professional services such as feasibility and marketing studies, accounting, management services, and other similar services. Legal services incurred in the closing of a RLF loan are eligible.
- 8) Other activities that the Village Board may identify during the administration of the program.

3.4 INELIGIBLE BUSINESSES

Program loans shall not be available for the following businesses:

- 1) Speculative investment companies.
- 2) Real estate investment companies.
- 3) Lending institutions.
- 4) Gambling operations.
- 5) Non-public recreation facilities.

- 6) Other businesses not serving the interests of the Village.

3.5

MINIMUM REQUIREMENTS

To be eligible for funding, the proposed project must meet all of the following minimum requirements:

- 1) Private Funds Leveraged. The applicant must leverage a minimum of one dollar of private funds for every one dollar of loan funds requested. Higher leverage may be required at the discretion of the Village Board.
- 2) Cost per Job Created. At least one full time permanent position must be created for every \$20,000 requested.
- 3) Financial Feasibility and Business Viability. The applicant must demonstrate that the proposed project is viable and the business will have the economic ability to repay the funds.
- 4) Location. Activities financed under the Program must be located within the Village of Grafton corporate limits.
- 5) Low and Moderate Income (LMI) Benefit. The project shall provide increased permanent employment or will retain existing jobs, which would have been lost locally. Of the jobs created or retained by the project, at least 51 percent of these jobs must be made available to low to moderate income persons, (as defined by household incomes published by the U.S. Housing and Urban Development and available through the Wisconsin Department of Commerce).
- 6) Compliance with Applicable Laws. Applicants shall comply with all applicable local, state, and federal laws and codes.
- 7) Project Completion. Projects shall be completed within 24 months from the date of the loan approval. Applicants shall provide the Community a project implementation schedule not exceeding 24 months for project completion and job creation, and maintain the positions created for 24 months.

SECTION 4 REVOLVING LOAN PROGRAM

4.1 DEFINITION

Direct loans are available to eligible applicants meeting all the minimum Program requirements.

CONDITIONS

Loan proposals should be based on need and ability to repay. Minimum standards include the following:

- 1) **Loan Amount.** Loan amounts are subject to the availability of funds. There is no set minimum or maximum loan amount.
- 2) **Interest Rate.** The interest rate may be fixed or graduated on a fixed schedule. In no case shall the interest rate be less than 3 percent or greater than 2 percent above the prime rate at the time the contract is signed.
- 3) **Term.**
 - a.) Working capital loans for inventory shall have a maximum term of 7 years.
 - b.) Loans for machinery, equipment and fixtures shall have a maximum term of 10 years.
 - c.) Real estate loans shall have a maximum term of 12 years which can be amortized on a 20-year basis with the option of refinancing for an additional 8 years.
 - d.) In any case, the loan shall not have a term longer than the terms of the other private financing in the project.
- 4) **Period of Payment.** Terms may include longer amortization schedules with balloon payments. Amortization schedules shall be set up for monthly payments.
- 5) **Amount of Payment.** Payment of interest and/or principal may be deferred during the implementation period of the assisted activity if merited in the loan application. Interest shall accrue during the deferment period and may be paid in full or added to the principal amount of the loan. Following the deferral period, interest and principal shall be paid for the remaining term of the loan.
- 6) **Prepayment.** There shall be no prepayment penalties.
- 7) **Collateral.** The Village will seek to have the best possible collateral position possible to ensure that RLF loans are adequately secured.

SECTION 5 APPLICATION PROCEDURES

5.1 DISCUSSION OF REQUIREMENTS

Before submitting an application, the applicant shall discuss the Program with the Village Administrator and Village President. The Village Administrator shall provide the applicant with the appropriate application forms and shall assist the applicant, as necessary, in completing the application. All financial information shall be kept confidential.

5.2 TIMING

Applications may be submitted at any time during the calendar year.

5.3 PRIORITY

Applications will be evaluated in the order received and based on readiness for the proposed project to proceed. In the event that loan funds requested exceed available funds, the following criteria will be used to determine which business(es) will be awarded the loan(s):

- 1) Eligibility of the applicants.
- 2) Eligibility of the project to be undertaken.
- 3) The extent to which private funds are to be leveraged.
- 4) The extent to which jobs are to be created, and the type of jobs and wages.
- 5) The extent to which the loan can be secured.
- 6) Evidence of ability to repay the loan.
- 7) Size of the loan requested.
- 8) Timing of the proposed expenditures.
- 9) Completeness of the application.
- 10) Other factors as deemed appropriate.

5.4 LOAN APPLICATION

Applicants shall submit a loan package consisting of the following information:

- 1) Application. A completed application form, as provided by the Village Administrator.
- 2) Business Description. A written description of the business, including the following:
 - a) A brief history of the existing or proposed business, including when it started or is to start, type of operation, legal structure, markets, and products.
 - b) Key customers and clients.
 - c) A brief personal resume of each principal associated with the business, including professional experience, experience relating to the proposed project, educational background, and personal involvement in proposed or existing business.
 - d) Three years of financial history including balance sheets, profit/loss statements, cash flow statements and accountant notes.
- 3) Project Description. A description of how the company plans to use the requested funds.
- 4) Commitments from Private Lenders. Include documentation of commitments from all private lenders making loans to the project. Lender commitment letters should include:
 - a) Description of the type of loan being made by the lender (first mortgage, permanent financing, construction financing, etc.)
 - b) The amount of the loan, interest rate, term, security, availability, repayment schedule and amounts.
- 5) Projections. Provide proformas (a balance sheet & income statement and cash flow statement). These should cover a 3-year period and should be based on the assumption that the business will receive the requested loan.
- 6) Additional Information. Additional information as may be required by the Village Board or the Administrator.

5.5

REVIEW PROCESS

Specific steps in the review process include the following:

- 1) Preliminary Review. The Village Administrator, Village President, Village Attorney, and business financial analyst review the application for completeness and verify that the proposed project meets the minimum requirements provided in Section 3.5. If the application is not complete, the Village Administrator and the Village President will inform the applicant of the deficiencies.
- 2) Formal Review. The Village Board will meet to formally review the application.
- 3) Negotiation of Terms. Once the review is complete and the proposal is acceptable for funding, the Village President will contact the business to negotiate and arrive at a consensus on the terms for the loan.
- 4) Notice of Award. If the application is approved, a meeting will be arranged to execute the necessary loan closing documents. If the application is not approved, the Village President shall send a letter to the applicant stating the reasons for the rejection and offer to meet with the applicant to explore ways to strengthen the loan request or to identify alternative funding sources.

SECTION 6 DISTRIBUTION OF FUNDS

6.1 LOAN PROCEDURES

Prior to releasing funds, the following terms and conditions must first be met:

- 1) Notice of Award. The Village Board must have reviewed and approved a complete application for an eligible project submitted by an eligible applicant.
- 2) Evidence of Program Expenditures. Documentation must be provided by the business to evidence program expenditures prior to the release of funds. Documentation shall include invoices, receipts for materials, approved requests for payment, final bills of sale or canceled checks. All documentation shall be reviewed and approved by the Village Administrator.
- 3) Fixed Equipment. Fixed equipment financed with Program funds must have been purchased, delivered and installed. The Village Building Inspector shall verify the installation of fixed equipment.

- 4) Loan Agreement. The Village Attorney shall prepare a loan agreement which shall be executed by the Village President and Chief Executive Officer of the business.
- 5) Promissory Note. A promissory note shall be prepared by the Business' Attorney and approved by the Village Attorney. The promissory note must be signed by the Chief Executive Officer of the business at the time of the loan closing. The note must be dated; it must reference the agreement between the Village and the business; and it must specify the amount and terms of the loan funds delivered.
- 6) Repayment Schedule. A loan repayment schedule shall be prepared by the Village Administrator. At the closing, the repayment schedule should be dated and signed by both the Village President and the Chief Executive Officer of the business. At that time, the repayment schedule should be attached to both parties' copies of the agreement.
- 7) Security. Mortgage or lien instruments or personal guarantees provided as security for all loans shall be prepared by the Village Attorney and executed at the time of the loan closing. The Village Attorney, or Administrator, shall record the instrument and place a copy in the file to include:
 - a) Mortgage and/or security agreement.
 - b) UCC searches and filing.
 - c) Guarantee agreement.
 - d) Title insurance or Abstract.
 - e) Assignment of Life Insurance.
 - f) Casualty Insurance binder.
 - g) Personal guarantee.
 - h) Other documentation as may be appropriate.
- 8) Evidence of Permits, etc. Documentation must be provided by the applicant that all necessary permits, licenses, and any other registrations required have been obtained by the applicant prior to the release of program funds.

SECTION 7 POST APPROVAL REQUIREMENTS

7.1 OBLIGATION OF LOAN RECIPIENT

In addition to the terms and conditions of the loan, all borrowers shall agree to comply with the following:

- 1) The creation or retention of the agreed upon number of jobs within 24 months of the date of the execution of the loan agreement with the Village.
- 2) Not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.01(5), sexual orientation or national origin in any employment or construction activity related to the use of the business loan funds.
- 3) To use the loan money only to pay the cost of services and materials necessary to complete the project or activity for which the loan funds were awarded.
- 4) To permit inspections by persons authorized by the Village of all projects and properties assisted with loan funds. Related project materials shall also be open to inspections, which include, but may not be limited to, contracts, materials, equipment, payrolls, and conditions of employment. Requests for inspection shall be complied with by the borrower.
- 5) To maintain records on the project as may be requested by the Village. These files shall be maintained as long as the loan is active or for at least three (3) years after completion of the work for which the loan has been obtained, whichever is longer.
- 6) To submit periodic progress reports to the Administrator in accordance with the schedule in the loan agreement. These reports shall report on project progress including number of jobs created or retained during the loan agreement.
- 7) To maintain fire and extended coverage insurance on the project property required during the term of the loan. The Village shall be listed as Loss Payee, Mortgagee, or "additional" insured on the policy. Term life insurance may be required of the applicant to cover the loan balance through the life of the loan.
- 8) To abide by all federal laws, when applicable. These include, but may not be limited to: The Civil Rights Act of 1964; the Age Discrimination Act of 1975; the Davis-Bacon Act, as amended; the Contract Work Hours and Safety Standards Act; the Copeland "Anti-Kickback" Act; and, all regulations pursuant to these Acts.

SECTION 8 PERFORMANCE MONITORING

8.1 PRIVATE LEVERAGE COMMITMENTS

The Village Administrator shall monitor the use of funds and the expenditure of private leverage commitments. Documentation may include invoices or receipts for materials and supplies, letters from lenders, final bills of sale and canceled checks.

8.2 HIRING OF NEW EMPLOYEES

The Village Administrator and Village President shall monitor the hiring of new employees. Job creation must be documented using payroll records. Before-project and after-project payroll records should be provided by the borrower to document job creation. Failure of the business to provide the targeted number of LMI level jobs may be a condition for default unless the business can show it made a good faith effort to create the targeted number of LMI jobs but did not succeed due to reasons beyond its control.

8.3 DEFAULT

Failure by the business to make any payment of principal or interest within 30 days after the payment is due and payable shall be considered a default. In the event of a default, all sums due and owing to the Village shall, at the Village's option, become immediately due and payable. To exercise this option, the Village Attorney and shall prepare a written notice to the company. The notice shall specify the following:

- 1) The default.
- 2) The action required to cure the default.
- 3) A date, not less than 60 days from the date of the notice, by which the default must be cured to avoid foreclosure or other collective action.
- 4) Any penalties incurred as a result of the default, jobs, etc.

SECTION 9 REUSE OF FUNDS

9.1 ACTIVE PROGRAM

Repaid funds shall be deposited into a revolving loan account and used in a manner consistent with the existing Economic Development Revolving Loan Program Policies and Procedures Manual. A separate accounting record shall be kept so that a clear, auditable account can be maintained to show how funds have been used. The revolving loan account shall be audited on an

annual basis and the Administrator shall provide semi-annual reports to the Department of Commerce, June 30 and December 31, regarding the use of program income. Reports shall be submitted on forms prescribed by the Department of Commerce.