

CITY OF BEATRICE, NEBRASKA

**CDBG Revolving Loan Fund
Reuse Plan**

Adopted July 1, 2013

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**CDBG REVOLVING LOAN FUND REUSE PLAN
GUIDELINES AND PROCEDURES
CITY OF BEATRICE, NEBRASKA**

**SECTION I.
PURPOSE**

The purpose of the City of Beatrice's CDBG Revolving Loan Fund (RLF) program is to provide financial assistance for start-up businesses, existing businesses, and to attract new businesses within the City of Beatrice service area.

The City of Beatrice faces tense competition in the recruitment of businesses to the community and in the retention of businesses currently operating within the community. A RLF program can assist the City of Beatrice contribute to economic development projects, creating and retaining jobs, expanding existing businesses, and recruiting new businesses.

The National Objective is that fifty-one percent (51%) of the jobs created or retained must be held by or available to low to moderate income persons.

**SECTION II.
SERVICE AREA**

The RLF program is available to every eligible business within the corporate limits of the City of Beatrice and the two (2) mile zoning jurisdiction of the City of Beatrice.

**SECTION III.
ELIGIBLE BUSINESSES**

A. Eligible Business - Definition

An eligible business shall mean any corporation, partnership, limited liability company, or sole proprietorship that derives its principal source of income from any of the following:

1. The manufacture of articles of commerce;
2. The conduct of research and development;
3. The processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce;
4. The sale of services in interstate commerce;
5. A business that derives its principal source of income from retail trade;
6. Headquarters facilities relating to eligible activities as listed in this section;
7. Telecommunications activities including services providing advanced telecommunications capability;
8. Manufacturing assembling, fabrication or processing of tangible personal property;
9. Storing, warehousing, distributing, transporting, or selling of tangible personal property;
10. Conducting research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

11. Performing data processing, telecommunications, insurance or financial services;
12. Transportation, retail, service and tourism that are for profit and/or not for profit;
13. The administrative management of any activities, including headquarter facilities relating to such activities; or
14. Food processing or agricultural processing.

B. Eligible to Receive Program Benefits Multiple Times

Eligible businesses may apply more than once and receive program benefits more than once.

**SECTION IV.
ELIGIBLE ACTIVITIES**

The RLF program may include, but should not be limited to, the following activities:

1. Direct loans or grants to eligible businesses for fixed assets, working capital, or both;
2. Loan guarantees for eligible business;
3. Grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, an eligible business;
4. Grants or agreements for job training;
5. Purchase of real estate, land, or building, options for such purchases, and the renewal or extension of such options;
6. Payments for salaries and support of City staff or the contracting of an outside entity to implement any part of the RLF Program;
7. Provisions of technical assistance to businesses, such as preparation of financial packages, survey, engineering, legal, architectural or other similar assistance and payment of relocation or initial location expenses;
8. Expenses related to business recruitment, promotional activities, and related administrative expenses, and could include, but not limited to, such costs as salaries, travel, office expenses, advertizing, legal, and related costs;
9. Interest buy down agreements or loan guarantees;
10. Commercial/industrial recruitment and promotional activities;
11. Tourism Related Activities;
12. Construction, renovation, remodeling, and site preparation of real estate or buildings either leased or owned;
13. Acquisition of machinery, equipment, property, or services;
14. Equity Investment;
15. Miscellaneous activities that continue to support economic development as approved by the City Council; and
16. Administration costs related to servicing the CDBG ED Revolving Loan Fund Program.

**SECTION V.
TYPES OF ASSISTANCE**

The types of financial assistance available shall include, but not limited to direct loans, deferred loans, performance based loans, loan guarantees, and grants.

The financial assistance given to any eligible business shall be consistent with the regulations established by Nebraska Department of Economic Development.

SECTION VI. AMOUNTS OF ASSISTANCE

RLF assistance shall not exceed \$35,000 for every job created or retained by a project.

The amount of funds available for any single project shall not exceed the amount of funds available in the RLF program. The City of Beatrice will consider the number of jobs created or retained, the fixed assets of the project, the amount of private leveraging, and the potential benefits to the business and community.

SECTION VII. TERMS OF ASSISTANCE

The right is reserved to negotiate the terms and conditions of the financial assistance with each applicant, which terms and conditions may differ substantially from applicant to applicant.

A. Interest Rate, Term, and Security

The interest rate shall be established on a project by project basis. The term shall not exceed the useful life of the assets financed or fifteen (15) years. Examples of useful life include one (1) to three (3) years for working capital, three (3) to seven (7) years for machinery and equipment, and up to fifteen (15) years for land and buildings. Security for loans may include, but will not be limited to, Promissory Notes, a Deed of Trust, UCC filings and personal and/or corporate guarantees as appropriate and may be in a subordinate position to the primary commercial or government lender.

B. Performance Based

If the financial assistance is approved as performance based, then a portion of the financial assistance may be deferred or recaptured as determined by the City Council based upon job creation or retention of the project.

C. Procedure for Determining Necessity and Appropriateness

The criteria and procedure to determine the necessity and appropriateness of permitting an eligible business to participate in the RLF program and for determining the time within which an eligible business must meet the goals set forth under its participation agreement shall include the review and verification of application and financial data set forth herein.

D. Loan Repayment Schedule

A loan repayment schedule providing for monthly, quarterly, semi-annual, or annual payments will be approved in conjunction with project approval. Repayments shall be deposited into the RLF program for future projects as approved.

SECTION VIII.

APPLICATION PROCESS FOR FINANCIAL ASSISTANCE TO BUSINESSES

A. Application Process and Selection of Participants:

Businesses seeking assistance will be required to:

1. Complete an application which may be obtained from the City of Beatrice.
2. Submit the completed application together with all the information as set forth below to the City of Beatrice.
3. The City Administrator or his/her designee shall make a preliminary determination as to whether (a) the Applicant is eligible; (b) the proposed activities are eligible; (c) the Applicant has any legal actions pending; and (d) all required information has been received.
4. The Citizen's Advisory Review Committee (CARC) shall review the application, provide guidance concerning any financial assistance package negotiations, and make a recommendation that (a) the application be approved, (b) the application be disapproved, or (c) the CARC is unable to make a recommendation due to a lack of information.
5. Following review by the CARC, an overview of the proposed application for assistance and the recommendation by the CARC shall be forwarded to the Mayor and City Council. The overview shall contain sufficient information in order for the elected officials to make an informed decision yet maintain confidentiality of information that, if released, could cause harm to such business or given unfair advantage to competitors. The City Council shall hold a public hearing and make a final determination on the application.
6. The City Administrator or his/her designee, shall notify any applicant whose application is not approved.

B. Information Required:

The applicant shall provide the following information before any application is considered by the CARC. Additional information requested by the CARC may include, but is not limited to contractor estimates, vendor price quotes, lease or purchase agreement, job creation/retention form, or appraisal.

Sole Proprietorship:

1. Submit a RLF program Application;
2. Business Plan that includes employment and financial projections, financing requirements for the project and total projected costs;
3. Two years complete Individual Federal Tax Returns (signed);
4. Current Year to Date Profit and Loss Statement;
5. Recent Balance Sheet; and
6. Other information as requested.

“S” Corporation:

1. Submit a RLF program Application;
2. Business Plan that includes employment and financial projections, financing requirements for the project and total projected costs;
3. Two years complete Individual Federal Tax Returns, if over 25% ownership (signed);
4. Two years complete Corporate Tax Returns (signed);
5. Current Year to Date Profit and Loss Statement;
6. Recent Balance Sheet;
7. Articles of Incorporation, By-Laws, and Minutes of last meeting;
8. Corporate Resolution authorizing loan application and execution of required documents; and
9. Other information as requested.

“C” Corporation:

1. Submit a RLF program Application;
2. Business Plan that includes employment and financial projections, financing requirements for the project and total projected costs;
3. Two years complete Individual Federal Tax Returns, if over 25% ownership (signed);
4. Two years complete Corporate Tax Returns (signed);
5. Current Year to Date Profit and Loss Statement;
6. Recent Balance Sheet;
7. Articles of Incorporation, By-Laws, and Minutes of last meeting;
8. Corporate Resolution authorizing loan application and execution of required documents; and
9. Other information as requested.

General Partnership:

1. Submit a RLF program Application;
2. Business Plan that includes employment and financial projections, financing requirements for the project and total projected costs;
3. Two years complete Individual Federal Tax Returns, if over 25% ownership (signed);
4. Two years complete Partnership Tax Returns (signed) and K-1s for all partners;
5. Current Year to Date Profit and Loss Statement;

6. Recent Balance Sheet; and
7. Other information as requested.

Limited Partnerships:

1. Submit a RLF program Application;
2. Business Plan that includes employment and financial projections, financing requirements for the project and total projected costs;
3. Two years complete Individual Federal Tax Returns (signed) and K-1s for all partners;
4. Complete copy of Partnership Agreement;
5. Current Year to Date Profit and Loss Statement;
6. Recent Balance Sheet; and
7. Other information as requested.

Limited Liability Companies:

1. Submit a RLF program Application;
2. Business Plan that includes employment and financial projections, financing requirements for the project and total projected costs;
3. Two years complete Individual Federal Tax Returns (signed);
4. Two years complete Entity Tax Returns (signed) and K-1s for all partners;
5. Current Year to Date Profit and Loss Statement;
6. Recent Balance Sheet;
7. Articles of Organization, By-Laws, and Minutes of last meeting;
8. Resolution authorizing loan application and execution of required documents; and
9. Other information as requested.

C. Verification Process:

1. Examine information required;
2. Examine internal records;
3. Obtain oral or written verification of application information; and
4. Other investigations as may be deemed necessary.

**SECTION IX.
APPLICATION REVIEW PROCESS**

Each application shall be presented to the CARC.

The CARC shall evaluate each application according to the following criteria:

1. Eligibility under the RLF Program;
2. Soundness and creditability of the business proposal;
3. The business fits one of the priority categories for assistance as established by the CARC;
4. Track record, credibility, and credit worthiness of applicant;
5. Ability to leverage significant private financing;

6. Favorable probability the funds will be repaid by the business; and
7. Other criteria the CARC may establish for evaluating applications for direct financial assistance.

After the CARC has reviewed an application, the application shall be presented to the City Council. Prior to the City Council taking any action on an application a public hearing shall be held.

SECTION X. LOAN CLOSING PROCESS

A. Closing Process

City Administration shall prepare all necessary documents to complete the approved funding request. Standard loan or grant closing documents may include but are not limited to Promissory Note, Loan Agreement, Security Agreement, Deed of Trust, Financing Statement, Personal Guaranty, Automated Clearing House (ACH) form, Title/Lien Search, and Resolution authorizing Mayor's signature.

B. Proceeds

Financial Assistance proceeds will be provided to the applicant at the time of closing after all necessary documents have been signed.

SECTION XI. LOAN SERVICING PROCESS

A. Loan Funding Administration

The City Administrator or his/her designee shall administer the RLF program. If assistance beyond regular city employees is needed in the administration of the RLF program then the additional assistance shall be paid from the RLF program upon approval by the City Council.

B. Job Creation and Retention

The City Administrator or his/her designee is responsible for auditing and verifying job creation and retention and determines grant credits toward any loans made. No grant credits are available unless pre-approved in the initial application and no grant credits are available beyond the level initially approved.

C. Auditing Loan Fund

The RLF and its portfolio of loan funds will be audited annually by a selected firm of certified public accountants. The audits may be funded by the RLF program and the findings will be presented to the City Council.

D. City Administrator Responsibilities

The City Administrator or his/her designee will be responsible for the financing and auditing portions of the plan.

E. Monitoring

City Administrator or his/her designee shall monitor each loan by requiring annual financial statements, annual insurance renewals, conducting regular site visits to the borrowers, continuing UCC'S, job creation/retention reports, and other reports that are specific to each loan.

SECTION XII. ADMINISTRATION AND REPORT PROCEDURES

A. Late Payments

If a default occurs as specified in the Loan Agreement, the City Administrator or his/her designee shall contact the borrower to remedy the default. The City Administrator or his/her designee shall attempt to work with the borrower to assist the borrower but protect the RLF program as well. All action taken on a financial assistance package shall be documented in regular reports to the CARC and City Council.

If the default cannot be remedied the City Administrator or his/her designee shall proceed with foreclosing on the collateral secured by the City.

B. Rescheduling Agreement

Special circumstances regarding business loans may require a different repayment plan and will be structured accordingly. Some projects require special financing techniques to meet a borrower's needs. Recognizing that, a subordinate position to other lenders of record at time of the project may be taken. If a subordinate position is required, additional considerations will be taken so as to not jeopardize the RLF program. Other special financing techniques may include quarterly or semiannual payments, interest only payments during the first year, or some other method agreed up on by the City of Beatrice and the applicant.

C. Collateral Change Requests

From time to time collateral change requests may be necessary. Loan subordination requests for refinancing of existing debt may be approved by the City Council. All fees associated with any collateral change requests, shall be the borrowers responsibility.

D. Loan Write-Off Collections

The City of Beatrice may pursue bad debt any way possible to collect loans that have been written off. This may include, but is not limited to, wage garnishment and repossession of collateral.

**SECTION XIII.
CDBG COMPLIANCE PROCESS**

The City Administrator or his/her designee shall review each loan and grant to ensure compliance with the CDBG Economic Development Program Income RLF monitoring checklist. The CDBG requirements include but are not limited to: National Objective, Environmental Review, Job-Pirating exclusions, Procurement, Labor Standards, Acquisition, and Relocation. The City Administrator or his/her designee shall document that each project funded meets a National Objective.

**SECTION XIV.
PROCESS TO ENSURE CONFIDENTIALITY OF BUSINESS INFORMATION
RECEIVED**

In the process of gathering information about a qualifying business, the City of Beatrice, may receive information about the business that is confidential and, if released, could cause harm to such business or give unfair advantage to competitors. The City of Beatrice shall endeavor to maintain the confidentiality of business records that come into its possession.

To protect businesses applying for assistance and to encourage them to make full and frank disclosure of business information relevant to their application, the City of Beatrice shall restrict the number of people with access to the files and shall take all steps afforded by Nebraska statutes to preserve the confidentiality of said information. Any person who knowingly releases confidential information may face criminal charges.

**SECTION XV.
ADMINISTRATION SYSTEM FOR RLF PROGRAM**

The Chairman of the CARC shall advise the City Council with regards to the RLF program and to the status of ongoing projects in the RLF program. The City Council shall have final authority on the expenditure of funds in the RLF program.

**SECTION XVI.
PROCESS TO ASSURE LAWS, REGULATIONS, AND REQUIREMENTS ARE MET
BY THE CITY AND QUALIFYING BUSINESSES**

The City will assure that all applicable laws, regulations, and requirements are met by the City and the eligible businesses that will receive assistance as follows:

A. Program Review

1. The CARC shall review the functioning and progress of the RLF program and advise the City Council with regards to the RLF program; and
2. The CARC shall report to the City Council on its findings and suggestions at least once every six months after the effective date.

B. Monitor Participating Businesses

The City Attorney shall conduct reviews on a regular basis to ensure that eligible businesses are following the appropriate laws and regulations and meeting the terms and conditions of assistance.

C. Monitor Regulatory Changes

The City Attorney shall be responsible for keeping the City informed of relevant changes in the law that could affect the RLF program and shall review Agreements, Deeds, Leases, Deeds of Trust, Promissory Notes, security documents, personal and/or corporate guarantees and other documents relating to specific projects or to the RLF program as a whole.

**SECTION XVII.
PURCHASE OF REAL ESTATE OR OPTION TO PURCHASE**

If and when real estate is to be purchased or optioned by an applicant under the RLF program, it should meet the following general criteria:

1. Be properly zoned with no excessive easements, covenants, or other encumbrances;
2. Should conform and be able to be re-zoned to comply with the City or County Comprehensive Plan; and
3. Located within the corporate limits of the City of Beatrice or the zoning jurisdiction of the City of Beatrice.

**SECTION XVIII.
ADMINISTRATIVE PROCEDURES**

A separate file will be maintained for each RLF program applicant and borrower. The file will include all application documents, loan documents, insurance forms, general correspondence, financial statements, site visit reports and job creation/retention reports.

City Administration shall maintain and keep all applications as well as all other required documents, records and other evidence in conformance with the close out requirements.

**SECTION XIX.
AMENDMENT PROCEDURES**

In an ongoing effort to improve the quality of the RLF program, the City of Beatrice will accept suggestions from the public and program participants with regard to program guideline amendments. All suggestions received will be taken under consideration by the City of Beatrice. Upon approval and adoption by the City Council, the amendment will be included in the program guidelines.

**SECTION XX.
GRIEVANCE PROCEDURES**

In the event that any applicant feels he or she has been unfairly treated or discriminated against during the application process or within any other segment of the RLF program, he or she may appeal the decision of the City Administrator or CARC to the City Council for their consideration. The appeal must be submitted, in writing, within fourteen (14) calendar days of the decision of the City Administrator or CARC. The appeal shall be filed with the City Clerk at 400 Ella Street, Beatrice, Nebraska. The City Council shall take action within thirty (30) days of the receipt of the appeal. The City Council shall have final authority in the decision.

**SECTION XXI.
CONFLICT OF INTEREST**

No officer, employee, or agent of the City of Beatrice who will participate in the selection, the award, or the administration of the RLF program may obtain a personal or financial interest or benefit from the activity or have an interest in any financial assistance with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for two years thereafter. Upon written request, exception may be granted upon a case by case basis when it is determined that such an exception will serve to further the purposes of the RLF program and the effective and efficient administration of the City of Beatrice's RLF program.

**SECTION XXII.
OFFICIAL CONTACT**

The place of contact for this program shall be the City Clerk's Office of the City of Beatrice, 400 Ella Street, Beatrice, Nebraska, 68310. Any grievances, suggestions, requests for applications and information should be directed to this office. Applications are also available on the City of Beatrice's website, www.beatrice.ne.gov. This in no way shall be construed to limit other interested parties from distributing information about the program or receiving suggestions for amendments to the program.

These guidelines are hereby approved by action of the City of Beatrice this 1st day of July, 2013.