

# Greene County Economic Development Corporation

## Revolving Business Loan Program

### Policy Guidelines and Operating Plan

#### Section 1. GENERAL

1.1 Policy Guidelines and Operating Plan. The Policy Guidelines and Operating Plan (the "Plan") is adopted by the Board of Directors of the Greene County Economic Development Corporation (the "GCEDC") and is intended to serve as the primary administrative document for the Revolving Business Loan Program (the "Program"). Any changes to the Plan must be adopted by the GCEDC Board of Directors and approved by the Greene County Director of Economic Development, Tourism & Planning.

1.2 Source of Funds. The Program is capitalized exclusively with Community Development Block ("CDBG") funds derived from grants made to Greene County (the "County") by the United States Department of Housing and Urban Development ("HUD"). The funds are made available to the GCEDC for implementation of the Program pursuant to a Subrecipient Agreement between the County and the GCEDC dated May 1, 2019.

1.3 Objectives. The primary objectives of the Program are to facilitate the expansion and retention of business activity within the County, create employment opportunities, expand the County's tax base, and increase property and sales tax revenues.

1.4 Form of Assistance. The Program will provide assistance only in the form of secured loans.

#### Section 2. ELIGIBILITY REQUIREMENTS

##### 2.1 Eligible Activities.

- (a) The principal business activity that will be primarily impacted by the Program financing must be located within Greene County.
- (b) The business activity to be undertaken with assistance from the Program must primarily involve one of the following:
  - (i) A manufacturing endeavor - to be defined as manufacturing, fabrication, assembly, processing, growing, packaging, or other enterprise that directly involves the production of an end product;
  - (ii) Warehousing - where such activity is an integral part of a manufacturing endeavor;

- (iii) Wholesale distribution; or
  - (iv) Retail or service trade - where it can be determined on a case-by-case basis that the establishment, expansion, or retention of the retail or service enterprise will not negatively impact other retail or service trade within Greene County to such an extent that it substantially offsets the public benefit of the proposed project.
  - v) Any other form of business activity that the GCEDC Board determines is consistent with the purposes of the Program.
- (c) The business activity to be undertaken with assistance from the Program must directly result in the creation or retention of employment positions consistent with the Federal regulations governing the CDBG program.

2.2 Eligible Borrowers. Eligible borrowers include sole proprietorships, partnerships, corporations, limited liability companies, limited partnerships, and any other legally recognized form of business. Not-for-profit corporations or other non-profit entities shall not be eligible for loans. Loans may also be provided to individuals acting as principals of an eligible entity and who will rent or lease assets to an otherwise eligible borrower.

2.3 Eligible Uses of Program Funds. Program funds may be used for any justifiable business purpose including, but not limited to fixed assets, current assets including inventory and receivables, permanent working capital, and refinancing of existing debt where such refinancing is a required element of the project financing as determined by the GCEDC. The use of Program funds must also be eligible pursuant to the Federal regulations governing the CDBG program.

### Section 3. PROGRAM STANDARDS

3.1 Employment/Cost Ratio. The maximum amount of Program financing may not exceed the ratio of \$35,000 for each employment opportunity to be created or retained. For the purposes of calculating employment opportunities, the following will apply:

- (a) Only permanent jobs will be counted; temporary and construction jobs will not be counted.
- (b) Jobs of 35 or more hours per week will be considered as one full-time job. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 40.
- (c) Seasonal jobs will be considered to be permanent jobs if the duration of the working period is long enough to classify the job as the employee's principal occupation.
- (d) Projected employment must be reasonably expected to occur as a direct result of the expanded business activity, and such projection may in no instance extend beyond 24 months from the completion of the expansion.
- (e) The limit of \$35,000 of Program financing per employment position may be

exceeded in instances where the GCEDC Board determines that the expanded business activity will result in an extraordinary degree of other public benefit, but in no instance may exceed limits established by HUD for the CDBG program.

3.2 Program Financing Amount. Consistent with the Federal regulations governing the CDBG program, Program assistance must be no greater than the minimum amount necessary to effect the business activity. Applicants must therefore demonstrate that all other private and public sources of debt and equity have either been maximized or are inappropriate, unaffordable, or otherwise unavailable.

3.3 Minimum Amount of Program Assistance. Program assistance will not be considered where the amount of such required assistance is less than \$10,000.

3.4 Maximum Amount of Program Assistance. Except as otherwise provided herein, total Program assistance provided to a single business or to any owner of a business shall not exceed the aggregate amount of \$200,000. Loans in excess of this limit may be approved by the GCEDC Board where the GCEDC Board determines that the loan or loans will result in an extraordinary degree of other public benefit.

#### Section 4. LENDING POLICIES

4.1 Term of Loans. For fixed asset loans the Program loan term will generally be consistent with the life of the assets being financed, with such periods being consistent with standard commercial lending policies and in no instance exceeding fifteen (15) years. For term working capital loans, the loan term may not exceed seven (7) years. For all loans, the term will be determined by the GCEDC based upon such factors as the structure of other related loans, the nature of the collateralized assets, and the borrower's projected ability to repay the loan.

4.2 Interest Rate. The interest rate on all loans shall be fixed at a rate equal to 100 basis points plus one-half of the Wall Street Journal Prime Rate, as determined on the date of the loan approval. The "Wall Street Journal Prime Rate" shall mean the Prime Rate as published from time to time in the "Money Rates" section of The Wall Street Journal or any successor publication, or in the event that such rate is no longer published in The Wall Street Journal, a comparable index or reference selected by GCEDC.

4.3 Repayment Terms. The GCEDC will determine the schedule of loan repayments on a case-by-case basis based on the applicant's projected ability to repay the loan, the projected value of the collateral and other security, and the overall risk assumed by the Program. Repayment terms may involve standard forms of loan amortization, periods of accruing interest or interest only payments, extended amortization schedules with balloon payments of principal, and/or such other terms as may be determined by the GCEDC to be appropriate. A late fee of \$50.00 will apply to all loans.

4.4 Security. The GCEDC will determine the required security for each loan on a case-by-case basis based on such factors as the risk of default, the nature and value of the security, and the position of the Program in relation to other lenders. In determining the appropriate security, the

following will apply:

- (a) The GCEDC will generally require a security interest in all assets financed with Program funds. Other assets of the borrower may be required as additional security at the GCEDC's option.
- (b) For loans to corporations, limited liability companies, or partnerships, the GCEDC will require the personal guarantee of all owners of at least 20% of the voting stock, membership, or partnership interest of the company. The personal guarantee of other shareholders, officers, principals, members, or partners may also be required at the discretion of the GCEDC.
- (c) For loans to closely-held corporations or limited liability companies, the GCEDC may require as additional security selected personal assets of one or more of the owners.
- (d) For loans to individuals, partnerships, limited liability companies, or corporations that have affiliated interests and/or identities of ownership with other business entities, the GCEDC may require additional guarantees.
- (e) For loans to businesses that have a dependence upon specific individuals for their continuing viability, the GCEDC may require an assignment of insurance on the lives of those persons.

#### 4.5 Subordination.

- (a) The GCEDC will generally allow a subordination of Program collateral interests to institutional lenders where necessary to facilitate the maximum financial participation by the institutional lenders.
- (b) The standing of the GCEDC's financing relative to other public or quasi-public lenders will be negotiated on a case-by-case basis.
- (c) The GCEDC will generally require a subordination to Program financing of notes payable to any officer, owner, or similarly affiliated party to the borrower where such subordination is appropriate and feasible.
- (d) The GCEDC may require the execution of intercreditor agreements in instances where multiple lenders exist. The use and form of such agreements shall be the responsibility of the GCEDC Attorney.

### Section 5. APPLICATION PROCESSING

5.1 Loan Applications. Applications for Program financing must include all of the information required by the Program Application Form (attached hereto as Appendix A), and any additional information as may be reasonably requested by the GCEDC.

5.2 Application Fee. No fee will be charged for the submission of a GCEDC loan application.

5.3 Application Processing. The processing of loan applications will generally consist of the following:

- (a) Review for completeness and procure appropriate additional information.
- (b) Review for Program eligibility criteria and eligibility pursuant to federal CDBG regulations.
- (c) Determine economic feasibility, perform credit analysis, and assess risk.
- (d) Determine the amount and terms of Program financing, including appropriate security.
- (e) Perform an underwriting review in a manner consistent with the federal regulations at 24 CFR 570.209.
- (f) Prepare a written report to the Program Loan Review Committee summarizing the review process and providing recommendations as appropriate.

5.4 Loan Review Committee. The GCEDC Board has established a Loan Review Committee to review loan applications and to make recommendations to the GCEDC Board. No loan application may be presented to the GCEDC Board for action without a review and recommendation(s) by the Loan Review Committee. The Loan Review Committee will also be responsible for reviewing and making recommendations to the GCEDC Board as appropriate regarding loan portfolio management issues (see Section 7).

5.5 Loan Approval. The GCEDC Board shall have sole authority to approve Program loans. Such authority shall include the commitment to lend Program funds, the repayment terms, and the requisite security for the loan. The application of other appropriate conditions of lending and covenants of the borrower shall be the responsibility of the GCEDC Attorney with input from the Loan Review Committee.

5.6 Loan Declination.

- (a) Loan applications may be declined by the Loan Committee, the GCEDC Executive Director, or the GCEDC Executive Director's designate based on a lack of application completeness or a failure to meet the eligibility criteria pursuant to Sections 5.3(a) and 5.3(b) of this Plan respectively. In such instances, the applicant will be notified in writing of the reason(s) for the declination.
- (b) Loan applications may be declined by the Loan Review Committee if the Committee determines that Program financing is clearly inappropriate based on the reviews conducted in accordance with Sections 5.3(c) and 5.3(e) of this Plan. In such instances, the applicant will be notified in writing of the reason(s) for the declination.
- (c) Loan applications may be declined by the GCEDC Board for any reason or reasons which represent a reasonable determination that the approval of the Program application would not meet the objectives of the Program and/or would not represent an appropriate or prudent use of Program funds. In such instances, the applicant will be notified in writing of the reason(s) for disapproval.

## Section 6. POST-APPROVAL PROCESS

6.1 Commitment Letter. Within 7 calendar days from the date of the GCEDC Board's approval of a Program loan, a commitment letter shall be sent to the applicant that includes, at a minimum, the following information (see sample at Appendix B):

- (a) The amount of the loan approved, the applicable interest rate, the term of the loan, the terms of repayment, and the expiration date of the commitment.
- (b) The required use of the loan funds.
- (c) The GCEDC's requirements for collateral and additional security - including guarantees, pledges of assets, assignment of life insurance, etc.
- (d) Summary information regarding employment requirements.
- (e) Any other conditions of lending.
- (f) A listing and explanation of any fees to be charged and other closing costs that will be the responsibility of the borrower.
- (g) A listing of those conditions and requirements of the borrower that must be fulfilled precedent to a loan closing.
- (h) Any other information that could reasonably be expected to influence the borrower's decision to accept the terms of the loan commitment.

6.2 Loan Closings. The GCEDC Attorney shall have the responsibility to prepare and/or require the preparation of all appropriate closing documents. The borrower shall be required to pay all closing costs incurred by the GCEDC, including attorney's fees, search charges, and filing fees. The GCEDC Attorney shall determine the appropriate closing documents to be executed based upon the terms and conditions of the loan approval and standard commercial lending policies. Such documents shall generally include the following:

- (a) A loan agreement that includes a description of the loan terms and security, appropriate representations and warranties, the conditions of lending, affirmative and negative covenants - including compliance with applicable federal laws and regulations, requirements regarding employment creation and reporting, default provisions, and any other provisions which may be appropriate (see sample at Appendix C).
- (b) A note or notes to evidence the indebtedness and the terms of repayment.
- (c) The appropriate documents to evidence and record mortgages, liens, guarantees, and such other security as may be required by the terms of the loan.
- (d) Other appropriate documents as determined by the GCEDC Attorney.

6.3 Security. The GCEDC Attorney will be responsible for perfecting the GCEDC's security interests including, where appropriate, the execution of security agreements, the filing of

financing statements, the execution and filing of mortgage documents, the execution of guarantees, and any other appropriate actions to adequately protect the GCEDC's security interests. Intercreditor agreements will be executed where appropriate to further protect the GCEDC's interests and to facilitate the processing of defaults and foreclosures.

6.4 Loan Disbursements. The following guidelines shall generally apply to the disbursement of GCEDC loan proceeds:

- (a) Subject to the borrower's compliance with the terms and conditions of the loan agreement (including provisions relating to job creation or other compliance with CDBG national objectives), all documents evidencing and securing the loan, and other guidelines for disbursement as described in this Section 6.4, the GCEDC may disburse loan proceeds upon the borrower's presentation of vouchers and other such evidence satisfactory to the GCEDC which represent paid or accrued expenses of the borrower and which are eligible costs as determined by the GCEDC.
- (b) Where other debt or equity financing is to be used in conjunction with the Program financing, such debt or equity must, in the opinion of the GCEDC, be firmly committed for such use. Evidence of the commitment(s) must be submitted by the borrower.
- (c) Where other debt or equity financing is to be used in conjunction with the Program financing, the GCEDC will, at its discretion, determine an appropriate draw schedule for Program funding based on such factors as the magnitude of risk assumed by the GCEDC, the nature of the activities being financed, the draw schedule for the other financing, and applicable federal regulations for the use of CDBG funds. The manner and terms of the disbursement of the Program financing should normally be included in the approval of the financing by the GCEDC Board. However, in instances where the GCEDC Board has not prescribed a draw schedule, the Loan Review Committee may approve a draw schedule.

## Section 7. LOAN MANAGEMENT

7.1 Delinquencies. The GCEDC will contact the borrower within 30 days of any delinquency of payment to inform the borrower of the delinquency and to determine if there is a need to procure additional information or to provide technical assistance. Delinquencies that continue for 60 days will be referred to the Loan Review Committee for further action.

7.2 Annual Financial Review. The GCEDC will conduct an annual financial review for all borrowers based primarily on the annual financial statements submitted by the borrower. Additional information may be procured as appropriate. The reviews will be presented to the Loan Review Committee for further action or recommendations as appropriate.

7.3 Compliance Monitoring. GCEDC staff will be responsible for monitoring the borrower's compliance with all of the conditions and covenants of the loan agreement. Such responsibility will include taking appropriate actions in the event of non-compliance. The GCEDC Attorney shall be notified by the Executive Director of any incidence of default under the terms and

conditions of the loan agreement and be provided file documentation as appropriate.

7.4 Adjustment of Terms and Conditions. Requests by the borrower for adjustment of any of the terms and conditions of the loan will be reviewed to determine whether the adjustment is in the best interests of the GCEDC. Requests will be processed in accordance with the following:

- (a) Requests to adjust the interest rate, term of the loan, or security for the loan will be presented to the Loan Review Committee for review and recommendations and presented to the GCEDC Board for action. Any such adjustments will require approval of the GCEDC Board.
- (b) Requests to accrue interest, defer principal payments, or otherwise temporarily modify the repayment schedule may be approved by the Loan Review Committee for a period not to exceed 90 days. Extensions for any longer period will require the approval of the GCEDC Board.
- (c) Requests for changes respecting any covenants or conditions of a financial nature must be approved by the Executive Director as to content and the GCEDC Attorney as to form.
- (d) Requests for any other changes to the covenants or conditions of the loan including, but not limited to such areas as reporting requirements, cost documentation, and maintenance of records may be approved by the Executive Director and/or Loan Review Committee at the Executive Director's discretion.

7.5 Fiscal Management. GCEDC staff will be responsible for maintaining all financial records associated with loans for which the following shall apply:

- (a) GCEDC staff will develop and maintain an appropriate system with which to record loan information including the borrower, initial loan amount, repayment terms, security, notable covenants and conditions, loan balance, delinquency status, amounts in arrears, and loan balance.
- (b) GCEDC staff will produce a monthly report for all outstanding loans summarizing the information detailed in (a) above relating to loan amounts, balances, and payment status.
- (c) GCEDC will maintain a Revolving Loan Fund (as such term is defined by HUD) account in which to record Program loan transactions and cash balances.
- (d) GCEDC staff will maintain a ledger detailing all account activity including, but not limited to loan disbursements, payments, balances due, and amounts past due.

## SECTION 8. Exceptions

8.1 Exceptions - Eligibility/Program Standards. In operating the Program, the GCEDC may deviate from the Eligibility and Program Standards sections of this Plan only where such deviation is determined by the GCEDC Board to result in an extraordinary public benefit to Greene County. The nature of the deviation and the nature and extent of public benefit to result must be stated in an approved Board Resolution.

8.2 Exceptions - Other. Any deviation to the Plan other than as stated in Section 8.1 must be approved by a Resolution of the Board that states the nature of the deviation and the reason(s) for its approval.

Greene County Economic Development Corporation  
Revolving Business Loan Program

Policy Guidelines and Operating Plan

**FINAL**

**Adopted by GCEDC Board on \_\_\_\_\_, 2019**

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