s☆h draft of April 28

JACKSON COUNTY NORTH CAROLNA -- REVOLVING LOAN PROGRAM

The Board of Commissioners of Jackson County (the "County") hereby establishes a Revolving Loan Fund ("RLF") by virtue of General Statute 153A-376, which specifically authorizes counties to undertake community development activities, including programs concerned with employment and economic development. In addition, the RLF is an economic development program of the County, and the County believes the implementation of the RLF as described below will enhance the County's taxable property, employment, and business prospects. The County Board adopted a resolution authorizing this program on May 20, 1993, and then adopted a resolution amending the program on May 5, 2020.

SECTION 1: PURPOSE.

The purposes of the RLF program are as follows:

1. The creation of new job opportunities and the retention of existing jobs within the County's planning jurisdiction, with emphasis on persons of low to moderate income ("LMI").

2. To further new business development and/or existing business expansion within the County's planning jurisdiction, with an emphasis on small business development, the retention of existing jobs, and support for place-based and high-growth industries,

3. To enable private business development to occur within the County's planning jurisdiction that would not occur without loan assistance from the RLF.

The RLF program works in alignment with other community and economic development programs of the County Board and the County's Office of Economic Development. RLF funds will be administered in accordance with all applicable State and Federal guidelines.

SECTION 2: REVOLVING LOAN REVENUES.

The County will fund the RLF from program income from the County's Community Development Block Grant (CDBG) activities, from principal and interest payments from loans made through this program, from interest earned on unspent RLF funds, and from any other funds the County Board may designate from time to time for the RLF. No loan may be made unless there are sufficient funds in the RLF account to fund the loan.

SECTION 3: ELIGIBLE PROJECTS AND APPLICANTS.

All RLF funded activities must be eligible activities permitted under Title 12 of the Housing & Community Development Act of 1974, as amended. The minimum standards of eligibility are listed below. The meeting of these standards will enable the business to apply, but in no way does this constitute a guarantee of a loan from the program. Where competition exists for funds, loan(s) will be selected according to the stated criteria. In addition, all loan applicants must satisfy the credit underwriting criteria, as set forth in Section 8, Credit Underwriting Standards.

All loans are subject to review by the Revolving Loan Review Committee and the County. The County is not obligated to make any particular loan. Because no policy can be written to cover unforeseen circumstances, the Revolving Loan Review Committee and the County reserve the right to reject any loan for any reason whatsoever, regardless of the satisfaction of any or all criteria listed herein.

A. Minimum Eligibility Requirements for Projects and Applicants. The project is the money for which the borrower intends to use loan proceeds. Projects and applicants must meet the following minimum eligibility criteria:

1. The project must be located within the County’s planning jurisdiction.

2. The project must be a private development project, preferably creating or retaining at least three (3) new permanent full-time jobs. Temporary jobs, such as construction on a site with a time-restricted employment, will not be included in the job creation standard. All references in this policy to jobs created or retained shall mean permanent full-time employment.

3. The applicant must intend to meet or exceed a threshold that 51% of permanent jobs created (or existing jobs retained) by the project will be provided to low-and moderate-income persons. A low- or moderate-income person is defined as a person who is a member of a family whose gross family income does not exceed 80%/ of the median family income for the respective family size as established by the federal Department of Housing and Urban Development (HUD) for Jackson County. The date when the person's income is determined is the most recent twelve months from the date the person applies for employment. (In case of job retention projects, income shall be the gross income the family to which the employee belongs at the time of the RLF application). A family is defined as one or more related persons living in the same household.

4. Job retention projects will only be considered if the applicant clearly demonstrates that jobs will be lost without assistance from the RLF program and the applicant has set a schedule for layoffs.

5. Applicants must clearly demonstrate that the project cannot and will not take place as described within the eligible area without RLF program participation (i.e., "but for participation by the RLF program this project cannot take place in the eligible area"). This policy exists to meet the needs of those projects which cannot secure other financing. Examples of demonstration of need include:

a. Project pro-forma shows that the project will not have sufficient income to pay total debt service projected at current market rates or equity investors do not receive a reasonable return on investments.

b. Applicant can document that maximum available private lending combined with available equity financing is not sufficient for the project.

c. Applicant can demonstrate that without RLF participation, the project will not be located within Jackson County.

6. The RLF loan amount requested must be reasonable and must account for no more than what is unavailable from other lending sources at rates which can economically accommodate the needs of the project. Loans for

more than 40% of project capital costs shall not be made except under unusual circumstances.

7. The project must be in conformance with local, state and federal laws.

8. The applicant must be a corporation or limited liability company in good standing and eligible to do business in North Carolina, a partnership of same qualifications, or a sole proprietorship.

9. The applicant must apply for and obtain all relevant permits from state, local, and federal agencies, and must be current on all property taxes owed to the County.

A. <u>Minimum Eligibility Requirements for Loans.</u>

1. Loans shall be made only for land, buildings, improvements, equipment upgrades, technology upgrades, capital equipment and related development costs.

2. RLF loans may not be used to refinance existing debt(s).

3. Loans may be made for development of commercial property to be leased; however (a) at least 60% of the total floor space must be pre-leased; (b) information from proposed lessees, together with general industry standards, will be used to project jobs; and (c) Lessees must be willing to follow Low- and Moderate-Income hiring criteria and lessees will attempt to meet all hiring goals relative to Low to Moderate stipulations.

4. RLF loans must result in the creation of 1 job per every $10,000 in loan funds awarded.

5. The loan must satisfactorily meet the credit underwriting standards described herein.

6. The application must submit evidence that private sources will provide the funds necessary to fund the portion of the project cost not funded

by the RLF loan. Firm letters of commitment are required. The only unsatisfied condition permitted will be approval of the RLF loan.

7. The applicant must furnish a letter of commitment to carry out the project if the RLF loan is made.

SECTION 4: LOAN SELECTION CRITERIA.

The following criteria shall be used to determine which loan applications will be recommended to the County Board for approval. The project will be evaluated and points will be assigned to assess the strength of the proposed project.

Criteria	**Maximum points**
Number of jobs created or retained	10
Payback period (shorter period receives higher weight)	8
Project funding coordination (multiple financing sources)	7
Positive community impact	5
Resulting in increase in County tax base	5
Total Possible Points	35

SECTION 5: LOAN APPLICATION

A loan application package shall consist of a completed loan application, supporting documentation, private commitment form, credit history form, all attachments and any other documentation the County may determine to be necessary to satisfy the program's requirements and objectives. The Economic Development Director shall provide an application form that will call for at least the following minimum information:

1. Credit history of the company (and/or owners as appropriate).

2. Information as to the market feasibility of the project.

3. Experience and past performance of company (and/or owners as appropriate) related to the project.

4. Project pro-forma (showing project's private loan and RLF loan debt service as proposed in the application).

5. Information as to the proposed security/collateral for loan.

6. Applicant's financial statements.

7. Three years of cash flow projections

The application must also be accompanied by a loan-processing fee of the greater of $250 or one (1%) of the loan amount requested, but an applicant may request that the fee be waived. The loan processing fee is not subject to refund after payment unless the County approves a waiver.

Loan applications will be accepted at any time during normal business hours and the County shall make every effort to process the application as soon as is practical. The County's Economic Development Director shall check the submitted material for completeness. The County will have up to seven days after receipt of the package to determine its completeness for acceptance. If the package is complete, the Director will forward the package to the Loan Review Committee as provided in the following Section.

SECTION 6: LOAN REVIEW PROCESS; LOAN REVIEW COMITTEE

The Loan Review Committee shall consist of the County's Economic Development Director and the County's Finance Director of Jackson County, or their designees; a representative from the Southwestern Commission; one local business owner or operator with a business based or operating in Jackson County; and a minimum of two local financial representatives with offices located in Jackson County. County staff and Southwestern Commission members are permanent members. Local members are appointed every two years by the County Board.

The Loan Review Committee shall meet on a quarterly basis to review applications, with no meetings called if no applications have been received. The Loan Review Committee may call a special meeting to consider applications in its discretion.

The Loan Review Committee shall review the application for compliance with the standards and criteria set out in Section 3. If more than one application is submitted at a time for review, the Loan Review Committee shall rate each application as set out in Section 4.

After review, the Loan Review Committee will proceed as follows:

1. If further information is needed, the Loan Review Committee shall send the application back to the applicant with a detailed memo requesting further information.

2. If a negative recommendation is forthcoming from the Loan Review Committee, the applicant will be notified and given the opportunity to withdraw the application.

3. If a positive recommendation is granted by the Loan Review Committee, the Economic Development Director shall forward the loan package to the County Board for consideration. A written recommendation from the Loan Review Committee shall accompany each loan package.

SECTION 7: COUNTY BOARD REVIEW AND APPROVAL

Approval or denial may occur at any regular or special meeting of the County Board; however, no approval/denial shall occur without the County first holding a public hearing. The public hearing shall be advertised at least once, the notice appearing in a newspaper having general circulation in the County. Normally the applicant should time the application submission to at least forty-five (45) days before County Board action is needed.

Within fifteen days of each loan approval, the County shall have a public notice in a newspaper having general circulation in the County stating that a loan has been approved, the purpose of the loan, the number of jobs created, the anticipated date of job availability, the amount of the loan, the Company to which the loan was made, and other information as appropriate. No loan will be closed until 10 days' after this notice has been published.

The County Attorney shall coordinate the closing of each loan and shall review and/or prepare all loan documents for the closing. Attorney fees may be paid from RLF loan proceeds.

SECT10N 8: CREDIT UNDERWRITING STANDARDS

No loan shall be made unless the County Board determines that the project and the owner(s) are acceptable credit risks. Customary loan underwriting practices will be pursued.

However, it is understood that projects applying under this program, by virtue of being appropriate for the RLF program, may not be appropriate for financing to the extent needed by private sources. For these reasons, underwriting practices for the RLF program may differ somewhat from bank lending practices. For example, a bank may only provide 70% financing for a particular type of project. The fact that the applicant needs an additional 30% financing from the RLF program should not preclude the RLF loan from being made.

The County Board may evaluate any information in the loan application, the comments made at the public hearing and any other criteria it may determine.

SECTION 9: SECURITY FOR LOANS.

All loans will be secured by a Note and Deed of Trust on the real property owned by the applicant, with the County listed as the lien holder. There will be adequate collateral to cover the County's loan and to verify this, an appraisal may be required. In addition, if the loan is for capital equipment, a security agreement and Uniform Commercial Code statement shall also be filed.

The County will also require a personal guarantee in addition to security as identified above.

All documents shall be properly recorded. The County may also require a decreasing term life insurance policy in an amount equal to the outstanding loan balance with the County as beneficiary.

The County may require a property title opinion from the American Land Title Association. In addition the County may require Builder's All Risk, flood insurance (if needed), and hazard insurance certificates in favor of the County as lien holder. In most cases, the position of the County's lien will be junior to any private loans made for the project. After a loan is made, the County may require an annual auditor's compilation, review or appraisal.

SECTION 10: MINIMUM AND MAXIMUM AMOUNTS.

The minimum loan amount is $25,000 and the maximum loan amount is $250,000. The County reserves the right to go exceed the $250,000 maximum in appropriate circumstances.

SECTION 11: TERMS.

Due to the nature of this program, flexible loan terms are permitted to the degree needed for the project. Quarterly-level payments of principal and interest on the unpaid balance beginning with the first quarter of the loan term and ending with the last quarter shall be considered the norm. Any deviation from the norm shall be justified by the applicant through the project pro-forma and other supporting documentation. The normal interest rate may be either fixed or variable; if variable then the current prime interest rate will apply.

In order to have an adequate turnaround on loan funds, the following repayment criteria will apply unless approved by the Economic Development Director.

1. No loan shall be made for less than 50% of prime rate.
2. Principal payments shall not be deferred for a period greater than three (3) years

3. Interest payments shall not be deferred for a period of greater than two (2) years. Any interest deferred shall be added to the principal at the end of the determent period to create a new principal balance.

4. Maximum term for buildings and land shall be 18 years. Maximum term for equipment shall be 10 years. This includes any deferment periods.

SECTION 12: LOAN DOCUMENTS.

At or before closing, the following executed documents will be required for each loan:

1. Completed loan application and supporting documentation.
2. Documentation of the County's approval of loan.
3. Evidence that other funds needed to complete the project has been provided and are currently available for project use
4. Evidence that all state and local permits have been obtained.
5. Executed loan agreement between the County and borrower (employment criteria, jobs created, and private investment commitments will be included in loan agreement).
6. Promissory Note.
7. Deed of Trust.
8. Security Agreement, UCC statement.
9. Evidence that the borrower's officials and the County officials are authorized to execute (5), (6), (7), and (8).
10. A document checklist and other documents as the County may deem appropriate.

SECTION 13: TECHNICAL ASSISTANCE.

The County may, at its discretion, provide technical assistance to applicants and those interested in the program to further the purposes of the program, to determine that interested applicants are appropriate for the program, to market the program, and to assist applicants in completion of application and supporting documentation.

14: PROGRAM MARKETING.

The County will market the RLF program through notification to and contact with existing businesses in Jackson County, and to those individuals or companies with an interest in expanding to or starting a business in Jackson County, through identified channels as determined to be appropriate by the County.

SECTION 15: SOURCE AND AMOUNT OF FUNDS.

The funding for the RLF will be a loan payback from NRCD Grant #C6229 and Grant #84C6877 and certain other monies as designated by the County. RLF proceeds (principal and interest) will be turned back into the RLF for making new RLF loans.

SECTION 16: USE OF FUNDS.

The use of RLF funds shall be limited to the making of loans to private, for-profit business undertakings for capital investments in accordance with this policy. RLF funds may also be used for project administration and closing costs not paid by applicant.

SECTION 17: ALTERNATIVE USE OF RLF FUNDS FOR ECONOMIC DEVELOPMENT.

The County may, at its discretion, use funds in the RLF for public improvements that are necessary for a particular economic development project (i.e., water and sewer extensions or improvements). The improvements must be tied to a specific development project and of capacity reasonably necessary for the project. The County will fund any difference in cost for which improvements are desired by the County, but are over the capacity reasonably necessary for the project. A firm contractual commitment that a job-producing project will take place must exist prior to the use of RLF funds for economic development.

The project must generate new jobs, and this requirement must be included in the contractual commitment. No more than $10,000 per new job created shall be spent from RLF funds on such projects. Improvements serving vacant industrial land or vacant buildings for purely speculative purposes will not be funded.

SECTION 18: MONITORING OF DEVELOPMENT PROJECTS:

All projects will be monitored regularly by the County. This includes RLF projects and public improvement projects pursuant to Section 16.

During construction and initial hiring phases, the participant will submit quarterly reports on expenditures, project progress, and employment demographics (including gender, income levels, and other characteristics as required).

After construction and initial hiring is completed, annual reports will be required.
All hiring requirements will be made a part of the loan agreement. Failure to hire the agreed upon number of full-time employees will result in an immediate request to address the deficiency, with the option of calling the Note due if the deficiency is not remedied in a timely manner. The person initially hired for each job created shall be used in determining whether hiring goals have been/are being met.

Monitoring shall also be conducted to determine whether the participant has complied with all applicable requirements of Title I of the Housing and Community Development Act of 1974, as amended.

SECTION 19: DISBURSEMENTS.

Evidence of expenditures having been made or invoices due shall be required for any disbursement of loan proceeds, and it is the participant's responsibility to provide those in a timely manner. Failure of participant to invest in private funds according to the original commitment will result in a reduction in the RLF loan commensurate with the leveraging ratio (i.e. the ratio of public to private funds). If private funds are used in a project disbursement of RLF Funds to participants shall be on the same basis as the ratio of public to private funds for each particular line item.

SECTION 20: AMENDMENTS.

The County Board may amend the RLF from time to time. The following procedures will be followed for amendments:

1. Notice of public hearing and nature of amendment.

2. Public hearing on amendment.

3. Board consideration of amendment.

SECTION 21: DISCLAIMER.

Neither the existence of the RLF program or the submittal of an application creates special privileges or vesting rights which would give cause for appeal or suit if denied. No applicant or any other party has any expectancy of an award or benefit of any kind. The determination by the Loan Review Committee or the County Board is final, unilateral and it its sole discretion. The applicant waives any opportunity to dispute an unfavorable determination by the Loan Review Committee or the County, whether by administrative process, law or equity. Notwithstanding any provision of the program, the County may for any reason deny an application, refrain from forwarding a complete application to the County Board, refrain from calling a public hearing or taking any other action with respect to an application.

SECTION 22: ADDITIONAL PROVISIONS FOR COVID-19 SUPPORT LOANS.

In addition to the purposes described above, the County may use RLF program funds to fund additional loans to support local businesses throughout the County suffering or threatened from losses related to the 2020 coronavirus outbreak and related causes. These loans may be for operating as well as capital expenses, and will be intended primarily (directly or indirectly) to preserve jobs often held by persons of low and moderate income. The County may contract with a federally certified community development funding institution to administer a loan program. The terms of the administration contract will apply in the case of any conflict with these program terms.

SECTION 23: ADDITIONAL PROVISIONS IN THE CASE OF OTHER EMERGENCIES.

The County may also use RLF program funds to fund additional loans for other purposes as the County Board may authorize in the case of future states of emergency that prevent or impede the normal operation of business in the County. These loans may be for operating as well as capital expenses, may intended primarily (directly or indirectly) to preserve jobs often held by persons of low and moderate income, and may have such other features as the County Board may determine. The County Board may authorize any program of this nature by simple resolution without the need for a public hearing. The County may contract with a third-party administrator to carry out any portion of such a loan program, and the terms of the administration contract will apply in the case of any conflict with these program terms.