## EXECUTIVE SUMMARY: REVISIONS TO REVOLVING LOAN FUND

The Economic Development Office is proposing changes to the County's existing Revolving Loan Fund (RLF) policy, which was written in 1993. These changes will bring the loan review process into alignment with best financing practices and current economic development goals as established by the Board of Commissioners.

### CDBG Restrictions on Eligibility and Job Creation Criteria

Because the Revolving Loan Fund was established with Community Development Block Grant (CDBG) funds, there are some restrictions that cannot be changed. These include:

- Jobs created or retained must be filled by at least 51% low- to moderate-income persons, as defined by HUD and NCDOC.
- Loans may not be made for working capital.
- Alternative uses of funds are restricted to specific activities defined by CDBG.
- Monitoring requirements are established by CDBG.
- Amendments to the policy require a public hearing.

### Proposed Changes to the RLF Policy

The changes proposed in the RLF policy include numerous spelling and formatting changes throughout the document. There are also several changes to the content and intent of the RLF. All changes are marked in red in the attached document.

*Expansion of scope and purposes for RLF loans:* The revisions include an emphasis on place-based and small business development and retention of existing jobs.

*Revised criteria and points system:* The revisions include changes to the weighting system of the criteria used to evaluate each application. The proposal lessens the importance of "Use of county utilities" from 7 to 4 points. The proposal also weights "retention of existing jobs" *as equally important* as "creation of new jobs."

*New Loan Review Board guidelines:* The revisions expand the Loan Review Board to include the Jackson County Finance Director and Economic Development Director or their designees; a representative from the Southwestern Planning Commission; and two local members appointed to two-year terms. The two local members shall include one business owner or operator and one local investment services representative, both of whom shall have principal offices or locations in Jackson County.

*New loan review process*: The revisions establish a new process for application review, which brings the application before the Loan Review Board prior to review by the bank. After written recommendations from the Loan Review Board and the review bank, the application package will be submitted to the Board of Commissioners for review.

### Next Steps

The proposal has been reviewed and forwarded to the Board of Commissioners for approval by the Business and Industry Advisory Committee (BIAC). Additional review is needed from the Finance Director and County Attorney to ensure compliance with initial CDBG funding limitations. After any revisions, *the County should schedule a public hearing on the proposed changes*. The changes may then be put forward for approval at the Board of Commissioners' meeting following the public hearing.

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# REVOLVING LOAN PROGRAM

The Jackson County Board of Commissioners hereby establish a Revolving Loan Fund (RLF) by virtue of G. S. 158-2, which specifically authorizes counties to undertake community development activities, including programs concerned with employment and economic development.

## SECTION 1: PURPOSE.

The purposes of the revolving loan fund program are:

1. The creation of new job opportunities and the retention of existing jobs within the county's planning jurisdiction, principally for persons of low and moderate income (LMI);
2. To further new business development and/or existing business expansion within the planning jurisdiction of the county, with an emphasis on small business development, the retention of existing jobs, and support for place-based and high-growth industries; and
3. To enable private business development to occur within the county's planning jurisdiction that would not occur without loan assistance from the revolving loan fund.

The RLF program works in alignment with other community and economic development programs of the Economic Development Office and the Board of Commissioners.

## SECTION 2: REVOLVING LOAN REVENUES.

The RLF shall be funded from program income for the county's CDBG activities, ~~and~~ from principal and interest payments from loans made through this program, and from interest earned on unspent RLF funds. No loan may be made unless there are sufficient funds in the RLF account to fund the loan. The Board of Commissioners ~~did adopt~~adopted a ~~R~~resolution authorizing this program on May 20, 1993 ~~authorizing this program.~~.

## SECTION 3: ELIGIBLE 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 ~~is this~~does this constitute a guarantee of a loan from the program. Where competition exists for funds, loan(s) will be selected according to the selection criteria. In addition, all loan applicants must satisfy the credit underwriting criteria.

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

**Minimum Eligibility Requirements for Applicants.**

1. The project must be located within the planning jurisdiction of Jackson County.

2. The project must be a private development project 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 jobs, also referred to herein as FTEs.
    a. At least 51% of the new permanent jobs created (or existing jobs retained) by the project must 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.
3. The date when the person's income is determined is the most recent twelve months from the date the person submits an application for employment. (In case of job retention projects, income shall be the gross income of families 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.
    a. Job retention projects will only be considered if the applicant clearly demonstrates that jobs will be lost without participation in the RLF program and the applicant has set a schedule for layoffs.
    b. RLF participation must be *necessary*. Applicants must clearly demonstrate the project cannot and will not take place as described within the RLF eligible area without RLF program participation (i.e., "*but for* participation by the RLF program this project cannot take place in the RLF"). This policy exists to meet the needs of those projects which cannot secure other financing. Examples of demonstration of need include:
        i. 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.
        ii. Applicant can document that maximum available private lending combined with available equity financing is not sufficient for the project.
        iii. Applicant can demonstrate that without RLF participation, the project will not be located in the RLF area.
4. The amount of the RLF loan requested must be reasonable and shall 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.
5. The project must be in conformance with local, state and federal laws.
6. The applicant must be a corporation in good standing and eligible to do business in North Carolina, a partnership of same qualifications, or a sole proprietorship.
7. 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.

**Minimum Eligibility Requirements for Loans.**

1. Loans shall be made only for land, buildings, improvements, equipment upgrades, technology upgrades, capital equipment and related development costs. *No RLF loan may be made for working capital.*
    a. RLF loans may not be used to refinance existing debt(s).

b. Loans may be made for development of commercial property to be leases; however, the following criteria shall apply:
   i. At least 60% of the total floor space must be pre-leased;
   ii. Information from proposed lessees. together with general industry standards, shall be used to project jobs; and
   iii. Lessees must be willing to follow LMI hiring criteria and lessees will be required to meet all hiring goals (i.e., there must be a firm contractual commitment with lessees to meet all job creation and hiring commitments).
2. RLF loans must not exceed thresholds of one job created/retained per $10,000 in RLF loans.
3. The loan must satisfactorily meet the credit underwriting standards described herein.
4. 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.
5. The applicant must furnish a letter of commitment to carry out the project if the RLF loan is made.

**SECTION 4: LOAN SELECTION CRITERIA.**

Where competition for loans exists, the following seven criteria shall be used to determine which loan application will be recommended to the Board of Commissioners. The project will be evaluated and points will be assigned when one project outperforms the other. For example, if Project A is located in the city and Project B is outside the city and Project B will not petition for annexation, 5 points are awarded to Project A. If both are inside the city, no points are awarded, and if both are outside the city, no points are awarded.

| **Criteria** | **Points** |
|---|---|
| Number of jobs | 7 |
| Percentage of low- to moderate-income jobs created | 10 |
| Use of county utilities | 4 |
| Number of jobs retained | 4 |
| Result in increase in county tax base | 5 |
| Percentage of low/moderate jobs retained | 10 |
| **Total Possible Points** | **40** |

**SECTION 5: LOAN FEES.**

The loan application package shall be fully completed and submitted to the Economic Development Director. The package shall be accompanied by a loan-processing fee of the greater of $250 or one (1%) of the loan amount requested. This fee may be waived upon request. The loan processing fee shall not be refunded once the application has been processed by the Loan Review Board.

**SECTION 6: LOAN REVIEW COMITTEE AND REVIEW PROCESS.**

The Economic Development Director shall check the submitted material for completeness and forward the loan package to the review committee.

The Loan Review Committee shall consist of the Economic Development Director of Jackson County and the Finance Director of Jackson County or their approved designees; a representative from the Southwestern Planning Commission; one local business owner or operator with a business based or operating in Jackson County; and one local financial representative whose principal offices are in Jackson County. County staff and SWC members are permanent members. Local members are appointed every two years by the Board of Commissioners. 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 shall review the application for compliance with the standards and criteria set out in Section 3 of this document. 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.

**Loan Review Committee Actions**

- If further information is needed, the Loan Review Committee shall send the application back to the applicant with a detailed memo requesting further information.
- If a negative recommendation is forthcoming from the Loan Review Committee, the applicant will be notified and given the opportunity to withdraw the application.
- If a positive recommendation is granted by the Loan Review Committee, the Economic Development Director shall forward the loan package to the Board of Commissioners for consideration. A written recommendation from the Loan Review Committee shall accompany the loan package.

## SECTION 7: BOARD OF COMMISSIONERS REVIEW.

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 practical. While grossly incomplete applications cannot be accepted, a request to call a public hearing shall be forwarded to the Board of Commissioners as soon as completeness is determined.

The county will have up to seven days after receipt of the package to determine its completeness for acceptance. Notwithstanding the above, the Board of Commissioners reserves the right to not call a public hearing or delay any loan application for any reasons deemed by the Board to be in its best interest.

Approval or denial may occur at any regular or special meeting of the Board of Commissioners; however, no approval/denial shall occur without the Board 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 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 made, the purpose of the loan, the number of jobs created, the number of jobs to be available to low- and moderate-income persons, the anticipated date of job availability, the amount of the loan, the Company to which the loan was made, and other information as appropriate.

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 requirements and objectives of the RLF program.

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 balances.

## SECTION 7: CREDIT UNDERWRITING STANDARDS.

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

**The following minimum criteria shall be used in determining the soundness of a loan:**

1. Credit history of the company (and/or owners as appropriate).
2. 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. Security for loan.
6. Applicant's financial statements.
7. Other factors as may be deemed appropriate.

## SECTION 8: 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 UCC statement shall also be filed.

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 will be furnished with a property title opinion. In addition, the county will be furnished with ALTA, Builder's All Risk, flood insurance policy (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 9: MINIMUM AND MAXIMUM AMOUNTS.

The minimum loan amount is $25,000 and the maximum loan amount is $500,000.

## SECTION 10: 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 shall be the prime rate as defined herein and variable, if private loan is variable, or fixed, if private loan is fixed. Any deviation from these standards must be similarly justified.

In order to have an adequate turnaround on loan funds, the following minimum criteria shall be followed except as noted below:

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.

NOTE: *In the case of a proposed project which needs more RLF funds than available in the fund to meet the above criteria, one or more of the above criteria may be waived at the discretion of the Board of Commissioners upon recommendation of the Loan Review Board. In such case, it is expected that the leveraging ratio (i.e. percent of private money for project) would be increased accordingly. An example would be a small ratio RLF loan at zero interest repayable after 10-15 years. The RLF loan in such case would be used to "write down" the interest from the private sources thus lowering the overall debt service costs and making the project workable.*

## SECTION 11: 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 Board of Commissioners approval of loan.
3. Evidence that other funds needed to complete the project have 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, LMI 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), (7) and (8).
10. Other documents as the county may deem appropriate.

**SECTION 12: 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.

**SECTION 13: PROGRAM MARKETING.**

The RLF program will be marketed through notification to and contact with existing businesses and potential relocation companies in the Jackson County planning jurisdiction and through other means as determined to be appropriate by the County.

**SECTION 14: 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 Board of Commissioners. RLF proceeds (principal and interest) will be turned back into the RLF for making new RLF loans.

**SECTION 15: 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 16: 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, of which at least 51% will be for low- to moderate-income persons, 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 17: 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 at least 51% LMI 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 18: DISBURSEMENTS.**

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. 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. Evidence of expenditures having been made or invoices due shall be required for any disbursement of RLF loan funds and it is the responsibility of the company to provide those in a timely manner.

**SECTION 19: AMENDMENTS.**

The RLF may be amended by the county 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. ~~Review and comment on amendment by the NC Dept of Commerce.~~
4. Adoption of amendment.

**SECTION 20: ANNUAL REPORT TO HUD.**

The county shall submit an annual report each August to NCDOC covering the fiscal year's activity under the RLF program. The report shall contain such information and be on formats as required by the NC Department of Commerce.