GEORGIA MOUNTAINS REGIONAL COMMISSION

REVOLVING LOAN FUND PLAN

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REVOLVING LOAN FUND PLAN

I. THE REVOLVING LOAN FUND STRATEGY

A. Economic Adjustment Program Overview

The Georgia Mountains Comprehensive Economic Development Strategy (CEDS) is designed to bring together the public and private sectors in the creation of an economic roadmap to diversify and strengthen the economy of the Region. The Georgia Mountains CEDS analyzes the Regional economy and serves as a guide for establishing regional goals and objectives, a regional plan of action, and investment priorities and funding sources. The CEDS also identifies the lead organizations assigned responsibilities for its execution. As a performance based plan, the CEDS serves a critical role in the Region's efforts to defend against economic dislocations due to global trade, competition and other events resulting in the loss of jobs and private investment. The CEDS is the result of a continuing economic development planning process, developed with broad based and diverse public and private sector participation.

The organization responsible for the development of the CEDS is the Georgia Mountains Regional Commission (GMRC). As a recipient of Planning Investment funds from the U.S. Department of Commerce, Economic Development Administration (EDA), the GMRC serves as a designated Economic Development District (EDD). The purpose of EDA Planning Investments is to provide support to Planning Organizations for the development, implementation, revision or replacement of CEDS and project development. The counties comprising the GMRC Territory is: Banks, Dawson, Forsyth, Franklin, Habersham, Hall, Hart, Lumpkin, Rabun, Stephens, Towns, Union, and White Counties.

The CEDS outlines the methodology for cooperating and integrating a State's economic priorities, incorporating relevant material from other government sponsored plans, and ensuring consistency with applicable State and local workforce investment strategies.

The CEDS committee was developed with representation from the main economic interests of the Region including a majority of Private Sector Representatives. The Private Sector Representative is defined as an individual from any for-profit enterprise, who is a senior management official or executive holding a key decision making position in that organization. In addition, the CEDS committee also consists of public officials, community leaders, representatives from institutions of higher education, minority and labor groups, and private individuals.

The GMRC staff inventoried and analyzed (1) economic base data such as employment, earnings and weekly wages, (2) labor force data such as occupation, unemployment and commuting patterns, (3) resource data such as agencies, programs, tools, education and training and (4) development factors such as trends in existing businesses, etc. The inventory and analysis of the Region's economic base was used as the "where are we today" portion of the planning process for developing the "where do we want to be" and "how are we going to get there" portions of the process. The list of Regional Needs, Issues, and Opportunities included the following:

- Independent county and city economic development groups and authorities need to establish an "inter and intra" regional strategy, so local, regional, state, and international economic development organizations maintain on-going coordination and cooperation.
- Coordination and cooperation between local, regional and statewide economic development groups cannot exist without adequate communication technologies and there needs to be basic communication equipment (computers, internet connection, teleconferencing, GIS databases, etc.) available at the local level and shared through multi-county/regional connections.
- Marketing the availability of regional resources via geographic information systems and other multi-media techniques needs to be undertaken or continued.
- Marketing the availability of local and state-wide programs and tools at the regional level to existing and prospective businesses needs to be enhanced.
- Capitalization for business and industry start-up and/or expansion is available on a limited basis and new fund sources need to be identified, obtained and made available throughout the Region.
- Regionally significant existing industries need to be surveyed and/or studied to identify commonalities that might exist for recruitment of satellite businesses or industries.
- A closer working relationship needs to be developed between regional economic developers to utilize the new technologies in business and industry recruitment.
- Recent trends in small business need to be examined carefully for potential economic development projects either as joint local/regional efforts or private sector efforts.
- "Established" and "planned economic activities" need to be studied for potential economic development, marketing or satellite expansion.
- Each of the implementation activities identified in the thirteen (13) local comprehensive plans should be examined and considered for economic development ideas and potential projects.
- Workforce mobility impacts need to be understood, especially concerning employment declines in the manufacturing sector and the gains projected in retail and service sectors.
- Per capita income is low in relation to the state and the nation. High wage industries need to be targeted for recruitment. The trend toward less manufacturing jobs, and more service and retail jobs could be counter-productive to improving the Region's per capita income.

The organization responsible for maintaining the CEDS, evaluating results and updating as needed is the Georgia Mountains Regional Commission.

B. Business Development Objectives

Considering the continuing need for business development of the area, the Georgia Mountains Regional Commission has adopted the following strategy and major goals from the Comprehensive Economic Development Strategy for the GM Revolving Loan Fund project:

1. The objective of the business development strategy is to encourage industrial and commercial diversification through capital formation, and to create new job opportunities in order to increase per capital income, to reduce unemployment, and to increase the tax

base derived from economic activities. In addition, in the area of manpower development, the objective is to improve the opportunities of the unemployed, underemployed, and minority persons.

2. The pertinent characteristics of the businesses and prospective businesses in the economic sectors targeted are varied. Any business that is by definition “small” i.e. has a net worth of $8.5 million or less and an average net income of $3 million over the last two years is a targeted business. In addition, any business that creates or saves jobs, is a target business for the GMRC development strategy. Funds will be provided for industrial, retail, service, or any other commercial usage operating as private corporations, sole proprietorships, or partnerships that will provide the highest number of jobs.

3. The types of assistance needed by these businesses and would-be entrepreneurs to take advantage of the opportunities identified are credit availability because terms of credit available may prevent the establishment or expansion of businesses which could employ and train persons from the distressed groups of unemployed or underemployed.

4. The programs/activities being undertaken by the public sector and development organizations to address the identified needs are technical colleges. In the private sector, the Chambers of Commerce in the 13-county Region and Development Authority’s promotes information exchange and technical support as well.

The GMRLF staff utilizes other state and federal program funding whenever feasible either in lieu of or in conjunction with GMRLF funds, as with the SBA 504 program, the USDA-RD Intermediary Relending Program, USDA-RD Rural Business Development Grant, CDBG-Employment Incentive Program (EIP) Direct Loan Funds, OneGeorgia Authority – Equity Direct Loan Funds, and Local EIP-RLF programs where available in the Region.

Marketing Strategy

The GMRC staff will be responsible for publicizing the availability of the GMRLF program through the news media, flyers and promotional brochures. Visits and meetings will be scheduled with area bankers, accountants, chambers of commerce personnel, industrial development authority personnel, local government officials, and local business associations. Industrial development authority/chambers of commerce staff will assist in the process of publicizing and soliciting eligible applicants.

The GMRC will secure at least one article a year on its activities in local newspapers and/or in its GMRC regional Newsletter.

C. The Financing Strategy

The specific financing strategy for the GMRLF includes the following:

1. To stabilize and diversify an area's economy by providing employers with capital for start-up and/or expansion of locally owned businesses;

2. To create new jobs and retain existing jobs;

3. To retain existing businesses;

4. To redevelop and/or recycle blighted or vacant land and facilities in order to put them to

productive uses;

5. To achieve modernization and rehabilitation of existing industrial or manufacturing facilities;
6. To provide capital for the use of new technologies, growth industries and/or high-tech firms;
7. To aid businesses owned and operated by minorities, women, or by persons who are socially or economically disadvantaged;
8. To complement other state and federal economic development loan programs;
9. To overcome specific gaps in local capital markets that restricts firms from obtaining suitable credit;
10. To leverage the minimum amount of public dollars with the maximum amount of private dollars;
11. To identify potential sources of additional capital for sustained growth and viability of the fund;
12. To increase the per capita income; and
13. To increase the tax base.

The financing strategy of the GMRLF program will be to meet the overall economic development goals for the area by encouraging the development of new industries and the expansion of established industries which will provide jobs for the unemployed, underemployed, and minority persons in the area. This encouragement will be in the form of loans to prospective entrepreneurs, especially those who have not been able to secure total financing from conventional sources because of financing problems.

The long-term economic deterioration in the Georgia Mountains Region can only be alleviated by the attraction of stable industries to the area which can make use of its available land and labor. The essential element missing to stimulate such industry is venture capital. While local banks may have adequate loan funds, potential businessmen often do not have sufficient equity to secure a business loan. There is a lack of wealth in the area, and there is a serious shortage of industrialist and commercial business entrepreneurs who are generating their own venture capital. Thus, the capital formation necessary for new industry is still lacking.

The use of the GM Revolving Loan Fund as a catalyst will address itself to the needs of the area. The fund will encourage the establishment of businesses and industries which would provide unskilled, semiskilled and/or skilled positions for the area unemployed and underemployed. By helping to solve these employment problems in general, the fund will result in an increase in the per capita income and median family income. Preference will be given to industries offering maximum full-time employment opportunities.

In addition, the funding of more diversified industry will decrease the area's historic dependence on traditional cash crops and other industries which are subject to market fluctuations and foreign competition. The increase in money flow and the industrial tax digest as a result of the funding of new businesses and industries will result in the revitalization of downtown areas and improved public facilities.

The fund can also be used to alleviate the specific problems of the area's minority population by offering better employment opportunities, thus decreasing minority unemployment and increasing minority income. Potential borrowers will be made aware that they must adhere to equal employment opportunity practices. In addition, encouragement in the form of loans will be given to minority entrepreneurs who otherwise would not be able to raise venture capital.

The loan fund itself is only one way of meeting these needs; however, continued careful selection of prospects should result in the establishment of satellite industries to further dispel unemployment and underemployment problems.

§ 307.15 Prudent management of Revolving Loan Funds.

(a) *Accounting principles.*

(1) RLFs shall operate in accordance with generally accepted accounting principles (''*GAAP*'') as in effect from time to time in the United States and the provisions outlined in OMB Circular A–133 and the Compliance Supplement, as applicable.

(2) In accordance with GAAP, a loan loss reserve may be recorded in the RLF Recipient's financial statements to show the fair market value of an RLF's loan portfolio, provided this loan loss reserve is non-funded and represents non-cash entries.

(b) *Loan and accounting system documents.*

Within 60 days prior to the initial disbursement of EDA funds, a qualified independent accountant who preferably has audited the RLF Recipient in accordance with OMB Circular A–133 requirements, shall certify to EDA and the RLF Recipient that such system is adequate to identify, safeguard, and account for all RLF Capital, outstanding RLF loans, and other RLF operations.

D. Financing Policy

The GMRLF plan will relate directly to other investments being made for the redevelopment of the 13-county Region. Achievements by Federal agencies such as EDA, HUD, USDA-RD, and State and local agencies such as OneGeorgia Authority, and local RLF programs, who have invested in industrial improvement throughout the Georgia Mountains region, are being continued and expanded.

In order for policy and portfolio standards to be effective, a list of the area's financing problems were first identified:

1. Loan to value ratios too high in many cases to be affordable to the smaller businesses;
2. Lending policies that exclude loans to start-up firms or firms in their early stages of maturity, firms in certain industrial sectors that exclude certain geographic areas based on their socioeconomic characteristics;
3. Banks are reluctant to make long-term loans needed for new business or small business expansion they consider high risk;
4. A shortage of savings available in the area for investment;

5. Equity requirements for the purchase of equipment are often too high for potential borrowers;
6. Equity of company sufficient to guarantee loans for buildings, but not for equipment; and
7. Reluctance to fund "new ideas" or industries whose feasibility is yet to be concretely demonstrated.

The GMRLF loan selection process offers at least a partial solution to these financing problems in the following ways: (a) modifying repayment terms, such as deferral of initial principal or interest payments; (b) taking greater risks than local banks are prepared to take, when substantial economic development benefits will result if the borrower does succeed; (c) providing below market interest rates; (d) providing longer term loans that are available regionally for a particular type of financing; (e) processing applications with a short turnaround time; and (f) reducing the risk for commercial lenders by providing subordinate financing.

The financing policies and techniques that will be used to address the financial problems of the area and to achieve the goals for the GMRLF project include the following projections:

1. *General rule.* An RLF Recipient may make loans to eligible borrowers at interest rates and under conditions determined by the RLF Recipient to be appropriate in achieving the goals of the RLF. The minimum interest rate an RLF Recipient may charge is four (4) percentage points below the lesser of the current money center prime interest rate quoted in the *Wall Street Journal*, or the maximum interest rate allowed under State law. In no event shall the interest rate be less than the lower of four (4) percent or 75 percent of the prime interest rate listed in the *Wall Street Journal*.
2. *Exception*. Should the prime interest rate listed in the *Wall Street Journal* exceed fourteen (14) percent, the minimum RLF interest rate is not required to be raised above ten (10) percent if doing so compromises the ability of the RLF Recipient to implement its financing strategy.
3. The equity or cash injection to be provided by the GMRLF borrower is a minimum of 10%.
4. The policy for established businesses will be more lenient than for new businesses.
5. Deviations will be allowed for working capital loans.
6. The standard repayment terms for both working capital and fixed asset loans and any deviations are as follows:

   Real estate - up to 20 years

   Machinery and equipment - up to 15 years

   Working capital - up to 2 years
7. Moratoriums will be allowed on principal payments. The GMRLF will have a lenient payback policy. Upon the recommendation of the loan selection committee, the GMRLF Loan Committee may approve a temporary moratorium on principal payments in exceptional cases, such as when an industry is experiencing temporary difficulties. The maximum moratorium period is 5 years.
8. The GMRLF Loan Committee has the authority to implement special financing, such as re-amortizing an outstanding loan amount because of temporary difficulty or extenuating circumstances which a deserving industrial project may be experiencing. The terms of

existing loans may be modified or restructured to enhance the capability of the GMRLF in achieving program objectives. GMRLF loans will only be restructured if the restructuring improves the borrower's ability to repay the loan. The GMRLF Loan Committee has the authority to implement special loan terms designed to encourage early repayments and/or provisions for the sale of loans to accelerate the recycling of capital.

9. In the determination of collateral requirements the grantee may consider the merits and potential economic benefits of each request. When appropriate and practical, GMRLF financing may be secured by liens or assignments of rights in assets of assisted firms as follows:

    a. In order to encourage financial participation in a direct fixed asset loan project by other lenders and investors, the GMRLF loan may be repayable after other loans made in connection with the project have repaid in full. The lien position of the GMRLF may be subordinate and made inferior to lien or liens securing other loans made in connection with the project.

    b. In projects involving direct working capital loans, the GMRLF will normally obtain collateral such as liens on inventories, receivables, fixed assets and/or other available assets of borrowers. Such liens may be subordinate only to existing liens of record and other loans involved in the project.

    c. In projects involving guaranteed loans in the revolving phase, the lending institution ordinarily will be required to maintain a collateral position, to which the GMRLF is subrogated, in the assets of the borrower and/or principals of the borrower such as by taking liens on inventories, receivables, fixed assets and/or other available assets of borrowers.

    d. In addition to the above types of security, the GMRLF may also require security in the form of assignment of patents and licenses, the acquisition of hazard, and other forms of insurance as may be necessary, and such other additional security as the grantee determines is necessary to support the GMRLF's exposure.

    e. GMRLF loan requests submitted by closely held corporations, partnerships, or proprietorships dependent for their continuing success on certain individuals will ordinarily be expected to provide and assign to the GMRLF life insurance on these key persons. Personal guarantees will also be required from principal owners with twenty percent or more ownership, as appropriate.

10. The minimum size of loan from GMRLF will be approximately $15,000. No individual loan will be made for more than $150,000. In anticipation of making large loans relative to the size of our GMRLF Capital base, the GMRC will maintain a capital utilization percentage greater than twenty-five (25) percent, but no more than thirty-five (35) percent.

11. All proceeds from interest payments will be returned to the GMRLF for additional loans with the exception of that amount used for administrative purposes. (Reference §307.12, Page 18)

12. Loan origination fees and other such charges may be waived to encourage participation.

13. Borrowers are eligible for GMRLF financing only when credit is not otherwise available and on terms and conditions that permit the completion or successful operation of the activity to be financed. Documentation will be required from outside financial sources such as a bank rejection letter, borrowers certification that credit from other sources are not in their business plan and is not going to meet their needs or a referral from Georgia Small

Business Development Center. In addition, the GMRC staff will provide written analysis in each loan file documenting the basis for the determination that the borrower meets this requirement.

§ 307.10 Pre-loan requirements.

(a) RLF Recipients must adopt procedures to review the impacts of prospective loan proposals on the physical environment. The Plan must provide for compliance with applicable environmental laws and other regulations, including parts 302 and 314 of this chapter. The RLF Recipient also must adopt procedures to comply, and ensure that potential borrowers comply, with applicable environmental laws and regulations.

(b) RLF Recipients must ensure that prospective borrowers, consultants, or contractors are aware of and comply with the Federal statutory and regulatory requirements that apply to activities carried out with RLF loans. Accordingly, RLF loan agreements shall include applicable Federal requirements to ensure compliance and RLF Recipients must adopt procedures to diligently correct instances of noncompliance, including loan call stipulations.

(c) All RLF loan documents and procedures must protect and hold the Federal government harmless from and against all liabilities that the Federal government may incur as a result of providing an RLF Grant to assist directly or indirectly in site preparation or construction, as well as the direct or indirect renovation or repair of any facility or site. These protections apply to the extent that the Federal government may become potentially liable as a result of ground water, surface, soil or other natural or man-made conditions on the property caused by operations of the RLF Recipient or any of its borrowers, predecessors or successors

§ 307.15 Prudent management of Revolving Loan Funds.

Prior to the disbursement of any EDA funds, the RLF Recipient shall certify that standard RLF loan documents reasonably necessary or advisable for lending are in place and that these documents have been reviewed by its legal counsel for adequacy and compliance with the terms and conditions of the Grant and applicable State and local law. The standard loan documents must include, at a minimum, the following:

Loan Documentation:

The standard loan documents must include, at a minimum, the following:

(i) Loan application;

(ii) Loan agreement;

(iii) Board of directors' meeting minutes approving the RLF loan;

(iv) Promissory note;

(v) Security agreement(s);

(vi) Deed of trust or mortgage (as applicable);

(vii) Agreement of prior lien holder (as applicable); and

(viii) Signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed. EDA will accept alternate documentation only if such documentation is allowed in the RLF Recipient's EDA-approved RLF plan.

E. <u>Portfolio Standards and Targets</u>

In order to achieve the economic objectives of the GMRLF and address the financial problems of the area, certain standards have been adopted. These standards include the following:

1. The anticipated percentage of GMRLF investments in:

   a. Industrial, Commercial, and Service sector businesses are difficult to quantify in terms of exact percentages. In 30 years of lending, a "balance" between making loans to all three of the identified business sectors has been targeted as a goal of the GMRLF program rather than identifying specific percentages for each sector.

   b. New Business – 35% and Expansion/Retention 65%

2. Less than 50% of GMRLF funds were used for working capital loans in the first round of lending. Subsequently, the working capital limit may be adjusted depending upon the quality of the GMRLF loan portfolio and the needs of the area.

3. *Private leveraging*. (1) RLF loans must leverage private investment of at least two dollars for every one dollar of such RLF loans. This leveraging requirement applies to the RLF portfolio as a whole rather than to individual loans and is effective for the duration of the RLF's operation. To be classified as leveraged, private investment must be made within twelve (12) months prior to approval of an RLF loan, as part of the same business development Project, and may include:

   (i) Capital invested by the borrower or others;

   (ii) Financing from private entities; or

   (iii) Ninety (90) percent of the guaranteed portion and 100% of non-guaranteed portion of any federal loan program.

4. Private investments shall not include accrued equity in a borrower's assets.

. The GMRLF plan calls for a cost of $15,000 per job ratio.

F. <u>GMRLF Loan Selection Criteria</u>

Borrowers are eligible for GMRLF financing only when credit is not otherwise available. Documentation will be required from outside financial sources in the form of bank rejection letters or other outside documentation substantiating that credit is not otherwise available on terms and conditions which would permit completion and/or the successful operation or accomplishment of the project activities to be financed. In addition, the GMRC staff will provide written analysis in each loan file documenting the basis for the determination that the borrower meets this requirement.

The GMRLF program will continue its attempt to fulfill a goal of directing 15 percent of new jobs created to the long term unemployed. Use of coordination with other training programs and vocational-technical schools will continue.

Priority will be given to loan applicants who meet the needs of the target population by providing large numbers of permanent jobs and training opportunities for unskilled and semiskilled workers in industry. Manufacturing industries also offer more training opportunities for movement to skilled positions than others normally do.

Industries and businesses which provide permanent jobs and training opportunities for the target population of unemployed, underemployed, and minority citizens, and meet the established GMRLF criteria, can be considered eligible for a loan. Borrowers may either be expanding or establishing a business which will address the Region's need by providing employment for the target group.

The GMRLF has as a goal to target a portion of its funding toward minority-owned or minority controlled businesses or toward women's business development.

§307.17 Uses of capital.

(a) *General*. RLF Capital shall be used for the purpose of making RLF loans that are consistent with an RLF Plan or such other purposes approved by EDA. To ensure that RLF funds are used as intended, each loan agreement must clearly state the purpose of each loan.

(b) *Restrictions on use of RLF Capital*. RLF Capital shall not be used to:

(1) Acquire an equity position in a private business;

(2) Subsidize interest payments on an existing RLF loan;

(3) Provide for borrowers' required equity contributions under other Federal Agencies' loan programs;

(4) Enable borrowers to acquire an interest in a business either through the purchase of stock or through the acquisition of assets, unless sufficient justification is provided in the loan documentation. Sufficient justification may include acquiring a business to save it from imminent closure or to acquire a business to facilitate a significant expansion or increase in investment with a significant increase in jobs. The potential economic benefits must be clearly consistent with the strategic objectives of the RLF;

(5) Provide RLF loans to a borrower for the purpose of investing in interest-bearing accounts, certificates of deposit or any investment unrelated to the RLF; or

(6) Refinance existing debt, unless:

(i) The RLF Recipient sufficiently demonstrates in the loan documentation a "*sound economic justification"* for the refinancing (e.g., the refinancing will support additional capital investment intended to increase business activities). For this purpose, reducing the risk of loss to an existing lender(s) or lowering the cost of financing to a borrower shall not, without other indicia, constitute a sound economic justification; or

(ii) RLF Capital will finance the purchase of the rights of a prior lien holder during a foreclosure action which is necessary to preclude a significant loss on an RLF loan. RLF Capital may be used for this purpose only if there is a high probability of receiving compensation from the sale of assets sufficient to cover an RLF's costs plus a reasonable portion of the outstanding RLF loan within a reasonable time frame approved by the EDA.

G. <u>Performance Assessment Process</u>

Annually, the Council of the Georgia Mountains Regional Commission certifies through a resolution that they have reviewed the performance of the Revolving Loan Fund program for the preceding year relative to the "Area's Adjustment Strategy" and the "GMRLF Plan". In addition, an outside accounting firm audits the EDA loan program annually. The GMRLF Plan is the standard to which our portfolio is held to determine regulatory compliance. Changes to the GMRLF Plan and a review of its performance, are recommended by the Georgia Mountains Regional Commission Council.

II. REVOLVING LOAN FUND OPERATIONAL PROCEDURES

A. <u>Organizational Structure</u>

The Georgia Mountains Revolving Loan Fund program is administered through the Georgia Mountains Regional Commission. GMRC was incorporated July 2009 under the name Georgia Mountains Regional Commission for the sole purpose of "operating a revolving loan fund program by making loans to eligible business applicants for economic development creation of new or improved job opportunities in the Georgia Mountains area under the auspices of the Georgia Mountains Regional Commission."

Effective July 1, 2009, the Georgia Mountains Regional Development Center (RDC) dissolved and was reconstituted as the Georgia Mountains Regional Commission (RC) which assumed all assets, liabilities, etc. of the former GMRDC. This action was a direct result of the passage and enactment of State of Georgia House Bill 1216. All assets of the former RDC are now assets of the "Georgia Mountains Regional Commission.

The Board of Directors, now called Council, of the corporation consists of thirteen county representatives appointed by the Council of the Georgia Mountains Regional Commission. Representatives are one county official, one city elected official, one private sector representative, three appointees from current Governor, one appointee from Lt. Governor, and one appointee from Speaker of the House.

The Council has the following responsibilities with regard to the lending activity of the GMRC:

1. To carefully consider the general direction and philosophy of lending desired for this agency.
2. To establish policies in sufficient detail to clearly define that direction and philosophy. The lending policy shall be adopted by resolution as an official act of the board.

3. To charge senior management of the GMRC with responsibility for effective communication and implementation of policy.
4. To ensure that the GMRC's loan portfolio is managed in compliance with approved policy and all applicable Federal and State laws and regulations.
5. To reconsider and approve the lending policy on a biannual basis.
6. To provide approval of all Revolving Loan Fund loans.

Staff Capacity

The GMRC Council operates the GMRLF through staff, the GMRLF Loan Committee, and finally, through the GMRC Council.

The GMRC has staff skills in the areas of business, finance, marketing, credit analysis, loan packaging, processing, and servicing. This staff capacity is demonstrated by the management of the current GM Revolving Loan Fund program, Community Development Block Grant programs, Urban Development Action Grant programs, and other State, Region-wide and local grant and technical assistance programs.

The GMRC staff has the skill necessary for loan analysis, packaging, processing and servicing and has been delegated these responsibilities by the Council. Packaged loans are presented to the GMRC Council, via the GMRC Loan Committee for final decision-making on loans.

The individuals and committee authorized to handle funds are bonded.

§ 302.17 Conflicts of interest.

(a) *General.*

It is EDA's and the Department's policy to maintain the highest standards of conduct to prevent conflicts of interest in connection with the award of Investment Assistance or its use for reimbursement or payment of costs (e.g., procurement of goods or services) by or to the Recipient. A conflict of interest generally exists when an Interested Party* participates in a matter that has a direct and predictable effect on the Interested Party's personal or financial interests. A conflict may also exist where there is an appearance that an Interested Party's objectivity in performing his or her responsibilities under the Project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other activities or relationships with other persons or entities, an Interested Party is unable to render impartial assistance, services or advice to the Recipient, a participant in the Project or to the Federal government. Additionally, a conflict of interest may result from non-financial gain to an Interested Party, such as benefit to reputation or prestige in a professional field.

(b) *Prohibition on direct or indirect financial or personal benefits.*

(1) An Interested Party shall not receive any direct or indirect financial or personal benefits in connection with the award of Investment Assistance or its use for payment or reimbursement of costs by or to the Recipient.

(2) An Interested Party shall also not, directly or indirectly, solicit or accept any gift, gratuity, favor, entertainment or other benefit having monetary value, for himself or herself or for another

person or organization which has obtained or seeks to obtain Investment Assistance from EDA.

(3) Costs incurred in violation of any conflicts of interest rules contained in this chapter or in violation of any assurances by the Recipient may be denied reimbursement.

(c) *Special rules for Revolving Loan Fund (“RLF”) Grants*.

In addition to the rules set forth in this section:

(1) An Interested Party of a Recipient of an RLF Grant shall also receive, directly or indirectly, any personal or financial benefits resulting from the disbursement of RLF loans;

(2) A Recipient of an RLF Grant shall also not lend RLF funds to an Interested Party; and

(3) Former board members of a Recipient of an RLF Grant and members of his or her Immediate Family shall not receive a loan from such RLF for a period of two (2) years from the date that the board member last served on the RLF’s board of directors.

*__*Interested Party*__* **means any officer, employee or member of the board of directors or other governing board of the Recipient, including any other parties that advise, approve, recommend or otherwise participate in the business decisions of the Recipient, such as agents, advisors, consultants, attorneys, accountants or shareholders. An Interested Party also includes the Interested Party's Immediate Family and other persons directly connected to the Interested Party by law or through a business arrangement.**

B. Loan Processing Procedures

Standard Loan Application items required of GMRLF loan applicants are as follows:

1. A history and description of the business and/or project.
2. Amount requesting and for what purpose Amount of personal investment? (Sources & Uses of Funds)
3. Personal Financial Statement - to be completed by each owner with 20% or more ownership.
4. Resumes of the principals involved in the day-to-day management of the business.
5. A balance sheet and income statement for the previous three years, or if a new business, pro forma balance sheet complete with assumptions.
6. An interim balance sheet and income statement with an aging of the accounts receivable and accounts payable.
7. A two-year income and expense projection complete with assumptions.
8. A 12 Month Cash Flow complete with assumptions (for new businesses).
9. A debt schedule covering all existing debt on the business and affiliates.
10. A schedule of any previous government financing.
11. The names of any affiliated or subsidiary businesses (through ownership or management) as well as the last two year-end financial statements and current financial statements (if

applicable).

12. A copy of the franchise agreement (if applicable).
13. A copy of key cost documents such as real estate purchase contracts, contractor cost quotes, vendor quotes for machinery and equipment, etc.
14. A copy of existing or proposed lease agreements (if applicable).
15. An "as built" appraisal for construction projects.
16. Any other materials deemed necessary for review.

In addition, **credit reports, appraisal reports** (if applicable) and **environmental reviews** (if applicable) will be required. There may be other exhibits pertinent to the GMRLF loan application that will be filled out by the GMRC such as a standard credit analysis.

***Standard Collateral Requirements*:** Loans should never be made based solely upon the collateral which is to secure them. Collateral is intended to provide an alternate source of repayment in the event of default. The adequacy and quality of collateral should be evaluated in light of its marketability, liquidity, value, and income potential, as applicable. Additional considerations such as stability of value, ease of liquidation, degree of control, and liquidation value must also be considered. Standard collateral requirements include personal guarantees and insurance (hazard, key man life, disability, flood, and title).

***Standard Equity Requirements*:** Capital provides a "safety net" which helps sustain borrowers during difficult periods. The term is also used to refer to the borrower's equity in a transaction or venture. Both issues are important factors in the credit decision.

The capital reserves of the borrower must be evaluated in light of the nature and demands of the business in a commercial enterprise. An evaluation of capital adequacy is a crucial step in predicting the likelihood of the business' ongoing success and repayment of a loan.

Borrowers are expected to provide reasonable equity in purchases financed by GMRLF. GMRLF should never assume 100% of the risk in a venture or purchase. The greater the borrower's equity (or down payment) in a project, the greater the incentive to perform according to the loan terms and to repay the obligation. The degree of risk in a credit should be measured, in part, based upon the proportionate investment of the borrower and GMRC.

Companies starting a business should be able to inject at least 10% in cash or other assets that the business will use. Existing companies may expect to inject at least 10% in cash or other assets that the business will use. In addition, the use of proceeds may determine a larger or smaller down payment requirement. Fixed asset financing is considered less of a credit risk than working capital financing and thus a larger or smaller down payment may be required.

***Loan Write-up*:** The loan write-up must discuss how the proposed GMRLF loan is not replacing private lender funding sources. Other items will include documentation on how loan rate was determined, a summary of the firm's history, management ability, product, production capability, market conditions, financing, collateral, repayment ability, consistency with the GMRLF's financing policy, and whether there are any environmental problems associated with the project. The GMRC staff will also be responsible for reviewing and packaging loans for submission to the

GMRC Council.

In addition to the basic information to book the loan, the memorandum should cover the following in detail:

A) Purpose

B) Repayment agreement

C) Collateral description/date/value/basis of valuation

D) Source of repayment

E) Secondary source of repayment

F) Strength of guarantors

G) Record of direct credit investigation

H) Current company and personal financial information.

§307.15 Prudent management for Revolving Loan Funds.

Interest rates—(1) *General rule.* An RLF Recipient may make loans to eligible borrowers at interest rates and under conditions determined by the RLF Recipient to be appropriate in achieving the goals of the RLF. The minimum interest rate an RLF Recipient may charge is four percentage points below the lesser of the current money center prime interest rate quoted in the *Wall Street Journal,* or the maximum interest rate allowed under State law. In no event shall the interest rate be less than the lower of four percent or 75 percent of the prime interest rate listed in the *Wall Street Journal.*
Exception: Should the prime interest rate listed in the *Wall Street Journal* exceed 14 percent, the minimum RLF interest rate is not required to be raised above 10 percent if doing so compromises the ability of the RLF Recipient to implement its financing strategy.

RLF Income/Expenses

§ 307.12 Revolving Loan Fund Income

(a) *General requirements.*

RLF Income must be placed into the RLF Capital base for the purpose of making loans or paying for eligible and reasonable administrative costs associated with the RLF's operations. RLF Income may fund administrative costs, provided:

(1) Such RLF Income and the administrative costs are incurred in the same six-month (6) Reporting Period;

(2) RLF Income that is not used for administrative costs during the six-month (6) Reporting Period is made available for lending activities;

(3) RLF Income shall not be withdrawn from the RLF Capital base in a subsequent Reporting Period for any purpose other than lending without the prior written consent of EDA; and

(4) The RLF Recipient completes an RLF Income and Expense Statement (the "*Income and Expense Statement*'') as **required** under §307.14 (c).

(b) *Compliance guidance.* When charging costs against RLF Income, RLF Recipients must comply with applicable federal cost principles and audit requirements as found in:

(1) 2 CFR part 225 (OMB Circular A-87 for State, local and Indian tribal governments), 2CFR part 230 (OMB Circular A-122 for non-profit organizations other than institutions of higher education, hospitals or organizations named in OMB Circular A-122 as not subject to such Circular), and 2 CFR part 220 (OMB Circular A-21 for education institutions); and

(2) OMB Circular A-13.3 for Single Audit Act requirements for States, local governments, and non-profit organizations and the Compliance Supplement, as appropriate.

(c*) Priority of payments on defaulted RLF loans.* When an RLF Recipient receives proceeds on a defaulted RLF loan that is not subject to liquidation pursuant to §307.20, such proceeds shall be applied in the following order of priority:

(1) *First*, towards any cost of collection;

(2) *Second*, towards outstanding penalties and fees;

(3) *Third*, towards any accrued interest to the extent due and payable; and

(4) *Fourth*, toward any outstanding principal balance.

C. <u>Loan Closing and Disbursement Procedures</u>

1. General Closing Requirements: Equity injection verification may take the form of cleared checks, HUD-1 closing statements, attorney certification, paid invoices, etc. Private lender financing is verified through a letter from the participating lender in the loan application or a HUD-1 closing statement.
2. Loan Closing Documentation Requirements:
   - Participation Agreement
   - Executed Note
   - Recorded Deed to Secure Debt
   - Loan Agreement
   - Guaranty(s)
   - Title Opinion
   - Estoppels Letter
   - UCC Forms
   - Security Agreement
   - Lease Agreement
   - Proof of Hazard Insurance
   - Assignment of Life Insurance
   - Corporate/Partnership Resolution to Borrow

The above list is standard. However, depending on the collateral, the ownership structure of the borrower, etc. all items may not be required and the list may not be all inclusive. Properly completed notes, deeds, security agreements, guarantee forms, UCC filings, lease assignments, and any other legally required instruments to secure or perfect GMRC's interest in collateral.

3. Loan Disbursement Requirements: A closing attorney representing GMRC and the private lender will be responsible for closing GMRLF loans properly. The GMRC provides permanent financing. The GMRC does not provide interim construction financing.

   If the GMRC is providing funds from the Revolving Loan Fund in participation with another lender (bank), the participating bank's attorney generally prepares the loan closing documents, schedules the closing, and conducts the loan closing. Most of these loans are partially or totally funded at the loan closing. It is the GMRC responsibility to review the loan closing documents, prepare and execute a participation agreement with the bank, and provide funds to purchase the pro-rata share of the participation at closing. The GMRC would obtain copies of all executed loan closing documents in addition to the participating agreement for the loan files. The bank and the GMRC responsibilities are outlined in a "Participation Agreement" executed by the two parties.

   In some cases, the GMRC will make a direct loan. Normally, this is done only to save the company or provide additional funds to projects which are already funded by the GMRC and where funds are otherwise unavailable. The loan closing and funding is done entirely by the GMRC and its attorney. The GMRC RLF attorney prepares the note and loan closing documents which are placed in the loan file and maintained in the same manner as a participating GMRLF loan. In this type of loan, the GMRC is solely responsible for servicing, whereas with bank participation loans, the bank provides the servicing function with the GMRC verifying annually that the UCC's are renewed, insurance is current and annual financial statements have been provided.

   Prior to closing and disbursement of funds, the Loan Program Staff and Executive Director of GMRC will review the loan application for completeness and review the closing instructions for consistency with the loan application and board approval. The Loan Staff will also sign off on the loan application to determine completeness.

   The Executive Director will sign off on a Pre-Closing Checklist which includes a review of:

   a. Application checklist and all exhibits indicated to be included and checked off by Loan Staff.
   b. GMRLF Loan Committee minutes for approval and special conditions with the date of the meeting and the minutes attached.
   c. Closing sheet instructions for consistency with loan application and board approval.
   d. Closing instructions to attorney and/or draft closing documents.

D. <u>Environmental Considerations</u>

The Recipient with the assistance of appropriate staff, shall assess the significance of all environmental impacts of activities to be financed in compliance with the National Environmental Policy Act of 1969 and other Federal environmental mandates, as per the Assurances (SF 424D as revised) executed with the Economic Development Administration. No activity shall be financed which would result in a significant adverse environmental impact unless the impact is to be mitigated to the point of insignificance. When necessary to ensure compliance, any required mitigation shall be made part of the loan conditions.

No project shall be approved which would result in the alteration of or have an adverse impact on any wetland or jurisdictional water without prior consultation with the US Army Corps of Engineers, and, if applicable, obtaining a section 404 permit and completing applicable mitigation requirements set forth in the section 404 permit.

No project shall be approved which would result in potential loss of federally protected species or their critical habitat. The determination regarding potential loss of federally protected species will be made by reviewing the list of federally protected species in the county of the project (available at the US Fish and Wildlife Service website) and comparing the preferred habitat of each species with the existing habitat(s) at the project site. If any potential to affect habitat of federally protected species exists, consultation shall be initiated with the US Fish and Wildlife Service (FWS). Determination for critical habitat shall be made by viewing the Critical Habitat Mapper at the FWS website. If any potential habitat *or* critical habitat exists on the proposed project site, no activity shall be financed without prior concurrence from FWS and completion of any and all mitigation recommended by FWS.

Generally, no project shall be approved which would result in new above-ground development in a 100-year flood plain. This determination will be made by reviewing FEMA Flood Insurance Rate Maps. If a detailed, written analysis of alternatives performed by the Recipient clearly demonstrates that no practicable alternative to above-ground development in the 100-year floodplain exists, the project may proceed. Flood insurance is required for federally-assisted construction or acquisition in flood-prone areas for all insurable structures.

The State Historic Preservation Officer (SHPO) shall be notified of each loan proposal that involves new construction or expansion and asked to submit comments on the effect of the proposed activity on historic and archaeological resources. The Recipient shall work with SHPO and EDA in cases where SHPO has recommended actions or has been determined an adverse impact. No construction activity shall be initiated or financed prior to concurrence from the SHPO and completion of any and all mitigation recommended by SHPO.

Recipients must comply with the provisions of the Clean Air Act (42 U.S.C. § 7401 et seq.), Clean Water Act (42 U.S.C. § 1251 et seq.) and Executive Order 11738, and shall not use a facility on the Environmental Protection Agency's (EPA) List of Violating Facilities (this list is incorporated into the Excluded Parties List System located at https://www.sam.gov/portal/public/SAM/) in performing any Award that is nonexempt under 2 C.F.R. § 1532, and shall notify the Federal Project Officer in writing if it intends to use a facility that is on EPA's List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

All loan applicants shall be requested to provide information indicating whether or not there was hazardous materials such as EPA-listed (see 40 CFR 300) hazardous substances, leaking underground storage tanks, asbestos, polychlorinated biphenyls (PCB), or other hazardous materials on site that have been improperly handled and have the potential of endangering public health. If deemed necessary, loan applicants may be required to perform or provide evidence of a Phase I site assessment to identify possible sources of contamination, a Phase II site assessment to test soil and/or groundwater samples, and a Phase III site remediation involving mitigation of applicable contaminants. In cases where there are unresolved site contamination issues, the Recipient shall work with the loan applicant and the appropriate state environmental agency to resolve these outstanding issues.

No project shall be funded for actions within a Coastal Barrier System or the National Wild and Scenic Rivers system without written permission from EDA.

No project shall be funded if it will result in a disproportionally high and adverse human health or environmental effects on low income and minority populations.

Written records of the determinations and consultations described above shall be maintained in the loan file by the Recipient.

E. <u>Loan Servicing Procedures</u>

After loan closing, a Post Closing Checklist will be signed off on by the Loan Program Director, the Loan Clerk or Finance Director, and the Executive Director. The checklist will include:

1. Review of Pre-closing Checklist for any items to be obtained "at closing".
2. Review of Closing sheet instructions to verify all forms indicated were provided and all collateral to be taken was secured.

The GMRC staff is responsible for the administration, monitoring and the servicing of the loan from loan disbursement through full payment. The staff will make periodic visits to the borrower's business, monitor the loan agreement for defaults in covenants, and maintain a loan payment schedule. The loan payment schedule will be kept up-to-date with payments posted as to principal and interest. Delinquencies in payments will be addressed by mail, telephone, or personal visits from the staff. Delinquencies can be resolved by loan restructuring, moratorium on payments or other techniques upon approval of the GMRC Council. Unresolved delinquencies will be declared loan default and foreclosure procedures will be initiated according to policy.

As outlined in the loan agreement, a late fee of 4% of the payment due will be paid if installments are not received within fifteen (15) calendar days following the due date. Late notices will be sent every 15 days after an installment is considered late and telephone contact will also be made with frequency.

§307.14 Revolving Loan Fund semi-annual report and Income and Expense Statement.

(a) *Frequency of reports*. All RLF Recipients, including those receiving Recapitalization Grants for existing RLFs, must complete and submit a semi-annual report (form ED-209 or any successor form) in electronic format, unless EDA approves a paper submission.

(b) *Report contents*. RLF Recipients must certify as part of the semi-annual report to EDA that the RLF is operating in accordance with the applicable RLF plan. RLF Recipients also must describe (and propose pursuant to §307.9) any modifications to the RLF Plan to ensure effective use of the RLF as a strategic financing tool.

(c) *RLF Income and Expense Statement.* An RLF Recipient using either fifty (50) percent or more (or more than $100,000) of RLF income for administrative costs in a six-month (6) Reporting Period must submit to EDA a completed Income and Expense Statement (form ED-2091 or any successor form) for that Reporting Period in electronic format, unless EDA approves a paper submission.

F. <u>Administrative Procedures</u>

1. The following items should be included in the Loan File and will be kept in a fireproof filing cabinet:
   a. Loan Application
   b. Closing Documents
   c. Reviewed Annual Financial Statements
   d. Annual Insurance Certifications
   e. Annual Site Visit reports
   f. UCC renewals (if applicable)
   g. General Correspondence
   h. Job Reports
2. EDA Reporting Requirements: The GMRC Finance Director will receive loan payments and account for GMRLF funds, loan fees, late payments fees, and any other sources of GMRLF revenue. The Finance Director will also comply with EDA reporting requirements with the assistance of the loan staff. The GMRC will be reimbursed for administration of the GM Revolving Loan Fund program. The sources of funds for these reimbursements will include interest earned on GMRLF loans. Program income will not be used to cover administrative costs not directly related to the GMRLF. In addition, no more than 50% of program income will be used to cover administrative costs.
3. As required by law, an outside accounting firm audits the EDA loan program annually. The GMRLF shall operate in accordance with generally accepted accounting principles ("*GAAP*") as in effect from time to time in the United States and the provisions outlined in OMB Circular A–133 and the Compliance Supplement, as applicable.

§307.13 Records and retention.

(a) *Closed Loan files and related documents.* The RLF Recipient shall maintain Closed Loan files and all related documents, books of account, computer data files and other records over the term of the Closed Loan and for a three-year (3) period from the date of final disposition of such Closed Loan. The date of final disposition of a Closed Loan is the date:

(1) Principal, interest, fees, penalties and all other costs associated with the Closed Loan have been paid in full; or

(2) Final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the Closed Loan have occurred.

(b) *Administrative records*, RLF Recipients must at all times:

(1) Maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF Income expended for eligible RLF administrative costs.

(2) Retain records of administrative expenses incurred for activities and equipment relating to the operation of the RLF for three (3) years from the actual submission date of the last semi-annual report that covers the Reporting Period in which such costs were claimed.

(3) Make available for inspection retained records, including those retained for longer than the required period. The record retentions periods described in this section are minimum periods and such prescription does not limit and other record retention requirement of law or agreement. In no event will EDA question claimed administrative costs that are more than three (3) years old, unless fraud is at issue.

***Procedures for Loan Approvals*:**

1. Meeting and interviewing the applicant to gain an understanding of the project and its parameters, the principals, and the potential structure of the deal. The goals of this initial interview are to give the applicant specific information about the GMRLF program, to determine if the proposed project is feasible, and to determine whether the proposed project meets goals of the GMRLF program.
2. Applicants determined eligible for GMRLF assistance are requested to furnish financial statements and other information necessary to complete the GMRLF application form. This application form and process allows the staff to determine the proposed project.
3. Completed GMRLF application packages are submitted to the GMRC Loan Committee and ultimately to the GMRC Council for final approval or denial.

The GMRC Council will review each application and make a funding decision based on applicant eligibility, GMRLF standards, and financial soundness. Minutes of the GMRC Council meeting will document the loan board's decisions. Notification will be provided to the borrower by staff of the GMRC.

Loan Write Off Policy

All loans which have been identified as uncollectible/loss shall be promptly charged against the loan loss reserve as provided below:

A. All reasonable efforts at collection shall be exhausted prior to charging off a loan.

B. To the extent it may be done in a timely manner, collateral shall be liquidated and the proceeds applied to the loan prior to charging any balances to the loan loss reserve.

C. Losses anticipated after the liquidation of collateral should be charged off as they are identified, not as they are realized.

D. Every effort shall be made to limit charge-offs to one transaction per loan. Multiple charge-offs of the same loan at different times should be avoided.

E. Collection and recovery of loan losses should be actively pursued by all available legal means.

F. All requests for charge-offs shall be prepared, documented, approved by the appropriate management and submitted to the comptroller by the twenty-fifth day of the month for processing by month-end. The charge-off history sheet should be used to record the factors causing the loss and proper approvals.

G. A summary of activity in the loan loss reserve including charge-offs and recoveries of the previous month shall be presented to the Council monthly.

H. Under any circumstances, monthly loans six (6) payments past due and single payment notes 180 days overdue shall be charged off. This provision may be delayed if a written request, outlining the prospects and time frame for collection, is submitted to and signed by the executive director.

RLF CHARGE OFF HISTORY REPORT

Borrower: ____

Address: ____

Guarantors: ____

Account #: ______________________ Fund: ______________________

A. Organization Form: Proprietorship ☐ Partnership ☐ Corporation ☐ Other ☐

Business Type: Manufacturing ☐ Wholesaling ☐ Retailing ☐ Service ☐
Agri-Business ☐ Contracting ☐ Other ☐

B. Summary of Account History:

Date of Loan: ______________________

Original Amount: ______________________

Unpaid Principal: ______________________

Unpaid Interest: ______________________

Estimated other costs: ______________________

Amount of charge off: ______________________

Recovery Potential: ______________________

C. Collateral:

Real Estate ☐ Equipment ☐ Receivables ☐ Inventory ☐ Fixtures ☐ Other ☐

Description: ____

____

____

1. Was collateral verified prior to disbursement? Yes ☐ No ☐

   By Whom? ______________________

2. Was collateral value monitored during the loan? Yes ☐ No ☐

   Describe the process: ____

____

____

3. Estimated liquidation value of collateral: ______________________

____

D. Documentation:

1. Was documentation property completed and filed? Yes ☐ No ☐

   If not, what was documentation weakness and what was cost to ARDA?

   ____

2. Was the loan documentation ever reviewed for correctness and completeness by someone other than the originating officer? Yes ☐ No ☐ if no, explain:

   ____

   ____

   ____

A. Loan Administration:

1. Did the credit comply with loan policy? Yes ☐ No ☐ if no, explain:

   ____

   ____

   ____

2. Was the credit initially presented to and approved by the loan board?

   Yes ☐ No ☐

B. Warning Indicators:

1. When was this loan recognized as a problem and potential loss?

   ____

   ____

   ____

2. Who discovered the problem? ______________________________

   ____

3. List adverse factors resulting in a problem loan classification.

   \`

   ____

   ____

   ____

C. Workout Situation:

1. Who handled workout effort?

   ______________________ Originating Officer

   ______________________ Another Officer

   ______________________ Attorney

   ______________________ Collection Agency

2. Were the results satisfactory? Yes ☐ No ☐

Why? ____

____

____

3. Should workout procedures been implemented sooner? Yes ☐ No ☐

Explain: ____

____

____

____

D. Reason for the Charge Off:

- ☐ Change in business
- ☐ Inadequate capitalization
- ☐ Management
- ☐ Excessive competition
- ☐ Deterioration of collateral value
- ☐ Disappearance of collateral
- ☐ Insufficient financial information
- ☐ Inadequate background investigation
- ☐ Poor loan administration
- ☐ Faulty documentation
- ☐ Other

Comments: ____

____

____

____

____

____

Prepared By: ______________________

Approved By: ______________________

Approved By: ______________________

Date: ______________________