CITY OF LA VERNE

JOB CREATION AND BUSINESS INCENTIVE POLICY

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SECTION A | POLICY OVERVIEW

This section provides a basic overview and introduction of the two programs within the Job Creation and Business Incentive Policy

I. INTRODUCTION

The Policy is intended as a guide in making credit decisions regarding applications for Community Development Block Grants (CDBG) or Economic Base Enhancement Program (EBEP) considerations regarding those businesses located within the City of La Verne (City). The Policy is written to allow flexibility as credit needs change, and should be used as a tool to provide some consistency for Project selection. Projects will be considered for funding on a case-by-case basis, until available funding is exhausted. Only Projects which fall within the scope of the Policy guidelines will be considered for funding. Depending on funding amount, successful Applicants will be determined by the Program Administrator and/or the Economic Development subcommittee. The final approval would be through City Council.

II. PURPOSE

The funding Policy is not equated with a loan program available through banking or financial institutions. As a public lender, the source of funds is interested as much in the social benefits as return in investment, and preservation of capital. The return to the City is multiple as either program would perform as follows:

1. Increase investment in the business community;
2. Provide additional jobs;
3. Increase business activity; and
4. Increase tax revenues and quality of life for our residents.

The CDBG and EBEP funds allocated will support business development. The CDBG funds allocated will increase employment for low- and moderate-income residents of La Verne.

The goals are structured to promote La Verne as a positive place for quality business, promote business expansion and attraction to enhance local economic growth, and ensure government regulations promote a favorable business climate. The purpose of the economic development assistance is identified within the following goals:

1. Job creation for affordable income persons;
2. Generating increased sales tax for the community;
3. Creating opportunities for business expansion for existing La Verne businesses; and
4. Creating opportunities for recruiting new businesses to fill commercial vacancies.

III. DEFINITIONS

The following definitions apply to the Job Creation and Business Incentive Policy:

“City” means the City of La Verne.

“Community Development Director” means the Director of the Community Development Department of the City of La Verne.

"Economic Development Subcommittee" means a two member committee of the La Verne City Council, which meets periodically to discuss and provide direction on various economic activities throughout the City.

"Full-Time Equivalent" (FTE) means a minimum of forty (40) hours of paid full-time work in a seven-day period.

"Loan Agreement" or "Agreement" means a contract between a Participant/Applicant and the City which regulates, in writing, the mutual promises made by each party.

"Participant" or "Applicant" or "Borrower" means any person, entity, group, company, business owner, or property owner who takes part in, or enters into an Agreement regarding said action, activity, policy, incentive, agreement, or program.

"Program Administrator" means the La Verne City Manager or designee, who markets, solicits, reviews, and processes potential applications for credit and funding through one of the City programs; with the ability to decline or refer any Project application or request to the Economic Development subcommittee from any Participant who does not appear to qualify under the eligibility standards provided within the Policy.

"Project" means a business endeavor which meets the eligibility criteria outlined in Subsection XVIII (Eligible Projects) of this policy.

"Policy" means the Job Creation and Business Incentive Policy.

SECTION B | PROGRAM PROCEDURES

This section provides the framework and foundation for each program from a procedural standpoint.

IV. PROGRAMMATIC PROCESS

An application or request for either program is subject to analysis to determine risk. Funding for either program will be awarded to a Project which demonstrates the service provided in commensurate with the risks incurred. In return for public funds provided, the business will generate increased investment, jobs, business activity, and/or thus increase the City tax revenues.

A. An Applicant meeting one of the eligibility requirements identified in Subsection XVIII (Eligible Projects) of the Policy shall complete an application or request with all accompanying information and requirements.

    1. Applications or request will be accepted on a continuous basis; and

    2. Applications or request will be funded as funds are available for either program.

B. Applications will be reviewed on the following merits:

1. Eligible Project (Subsection XIX);
2. Eligible Activities (Subsection XX);
3. Proposal Rating (Subsection XXI);
4. General Credit Criteria (Subsection XXII);
5. Undesirable Credit Applications (Subsection XXIII);
6. Non-eligible Projects (Subsection XXIV); and
7. Financial Information (Subsection XV).

C. The application or request shall be reviewed by the Program Administrator for completeness and eligibility. Participant(s) which are eligible, and have provided a complete application shall be reviewed by the Economic Development subcommittee to determine Project funding source.

SECTION C | CDBG PROGRAM REQUIREMENTS AND LIMITATIONS

The Policy has several requirements as well as limitations, which are part of one or both of the programs with limiting regulations either federally or locally. The below information provides regulatory measures specific to the CDBG Program.

V. CDBG PROGRAM

Community Development Block Grant (CDBG) Program | the program is available for the use of the Participant within the scope of the requirements of the United States Department of Housing and Urban Development; concurrent with the Policy and the Agreement.

Participant of the program shall rely upon their own judgement with respect to development of the Project and any review, exercise of judgement or information supplied to Participant or to any third party by the City in connection with any such matter is for the public purpose of carrying out the Policy.

VI. FEDERAL AND COUNTY REQUIREMENTS

The City, as a member of the Los Angeles County Urban County, and as a recipient in the CDBG program, funded by the United States Department of Housing and Urban Development (HUD), will require the Participant to comply with all standard CDBG regulations and the Participant will agree to so comply. The Agreement(s) to be executed between the City and the Participant will specifically incorporate the federal and county requirements. In the event of any conflict between the CDBG program parameters outlined in the Policy and federal and county requirements; the provisions of the federal and county requirements shall control. After the City has disbursed the funds to the Participant, the Participant may not terminate the Agreement.

VII. PROHIBITION AGAINST CHANGE IN OWNERSHIP MANAGEMENT AND CONTROL OF PARTICIPANT

The qualifications and identity of Participant in the CDBG program are of particular concern to the City. The qualifications and identity are the determining factors as to whether the City will enter into an Agreement with Participant. No voluntary or involuntary successor in interest of Participant shall acquire any rights or powers under the CDBG program except as expressly set forth within an executed Agreement under the Policy. A change in ownership, management and control shall be subject to the approval of the City, but such approval shall not be unreasonably withheld.

The Participant shall not assign all or any part of any Agreement or Promissory Note(s) (Note) under the CDBG program without the prior written approval of the City, which approval shall not be unreasonably withheld.

VIII. JOB CREATION REQUIREMENT

A. Number of Jobs Created

Participants in the CDBG program agree to create one permanent full-time equivalent job for low- to moderate-income persons per $25,000 loaned/granted. In meeting the requirement, funds loaned/granted may be forgiven over each year of participation and compliance with the program, as outlined in subsection D below (Job Count Start Date).

Participant shall comply with the terms and conditions of subsection D (Job Count Start Date) for creation of permanent jobs during the term of the program.

B. Created Jobs

If a CDBG loan or grant is awarded, it will be based on job creation for low- to moderate-income persons. For purposes of being considered a created job, a job must be a new job (full- or part-time) for the person, or the CDBG assistance must enable an existing income-producing “sideline” activity to become the person’s principal occupation. The following policies apply:

1. Part-time jobs must be converted to full-time equivalents.
2. Only permanent jobs count—temporary jobs may not be included.
3. Seasonal jobs may be counted only if the season is long enough for the job to be considered as the employee’s principal occupation.
4. All permanent jobs created by the activity must be counted even if the activity has multiple sources of funding.
5. Jobs indirectly created by an assisted activity (i.e. trickle-down jobs) may not be counted.

In order to qualify, the person hired must be from a low- to moderate-income household as established through the State of California Income Limits for Los Angeles County Urban County. In order to qualify as low- to moderate-income, information must be obtained on family size and income so it is evident the family income does not exceed the low- to moderate-income limit.

C. Base Number of Job Positions Required

Participants agree the jobs created will be cumulative and will not replace any jobs existing prior to participation in the CDBG program. The City Council wishes to promote job creation; consequently, it is essential the number of existing employees prior to application for the grant/loan be clearly determined and established as the benchmark in identifying the total number of employees required by CDBG program regulations. Adequate documentation for employee number for the ending quarter prior to application for the program must be provided. The Program Administrator will provide the employee number information to the Economic Development subcommittee with a recommendation for the benchmark.

D. Job Count Start Date

Job count start date will be based on an event which occurs after the execution of the Agreement document. The start date will vary depending on the structure of the financing for each particular economic development Project.

The job count date should start when the funding of the Project is complete, and the business has begun/resumed operation.

E. 51% Requirement

Fifty-one (51) percent of all jobs created must be held by low- to moderate-income persons, as defined by the Department of Housing and Urban Development.

F. Pro-rated Credit for Partial Compliance

Each year of participation in the CDBG program, if a participating business fails to meet the job creation requirement in any six month period, the business will not be forgiven the annual pro-ration of the loan, and will be responsible for repayment of that portion to the City.

G. Event of Default

If the job creation requirements are not reached in any two succeeding six-month periods, the Agreement will be terminated and the balance of the loan which has not been forgiven will be called as due.

H. Reporting Requirement

The Participant is responsible for providing a quarterly report to the CDBG Division of the La Verne Community Development Department which documents jobs created by employee name, job title, hours worked per week, and hourly rate, for qualifying employees. The quarterly report will be filed each quarter for the two or three years under the loan/grant.

I. Displacement

When activities funded through CDBG cause displacement of residents and/or businesses, federal displacement regulations apply.

IX. GENERAL CREDIT CRITERIA

The Participant loan/grant applications will be analyzed for the following criteria, based on criteria specified by the United States Department of Housing and Urban Development, Office of Community Planning and Development, and by the Small Business Administration.

A. Repayment

Identify an acceptable form or ability to repay in case of default or termination of business.

B. Balance Sheet

Balance sheet must be sound before the loan/grant is made.

C. Historic earnings | Cash flow records

The applicant must provide records from verifiable sources as determined by the Economic Development subcommittee, to ensure sufficient repayment of all requested credit, and to provide the Participant with a reasonable level of personal income to satisfy personal obligations. Typically, an Applicant will have been profitable during the most recently completed year and will maintain a cash flow coverage ratio of 1:1 (defined as earnings before debt service, interest and taxes divided by debt service), with sufficient collateral. The ratio would be 2:1 without collateral is pledged, the ratio may be prorated downward.

D. Collateral

Collateral, when available in any form, may be requested by the Economic Development subcommittee. Collateral will be pledged commensurate with the amount of requested credit, as well as a security interest in newly purchased assets, or those purchased with loan/grant funds. If the Project cannot repay the loan/grant from cash flow, the City will collect payment by liquidating the asset and satisfying the specific lien securing the property. A letter of credit or bond may be accepted in lieu of collateral.

E. Commitment

Personal and corporate guarantees may be required. The Participant should sign personally for the loan/grant, and should be prepared to take out a minimum salary until the business is established.

F. Management experience

The management team must have experience in all areas of running the business includes sales, finance, operations, personnel, etc. the management team includes the principals, directors, senior management and consultants.

The management team should have direct experience in these areas or have comparable business skills which can be transferred.

G. Business plan

The traditional business plan or lean startup plan will help identify worthy ventures. The monthly cash flow statement for the first year is particularly important and must accompany the plan.

H. Character

The owners and management should have favorable credit histories, a reputation for treating customers fairly, no bankruptcy in the past five years, and a clean criminal record. Good character will be determined by credit reports, payment history with verified vendors, personal interviews, or other means as determined necessary.

I. Niche

A small firm may find it difficult to compete with much larger companies on price

All of the above criteria are important, and the absence of any one may be sufficient to deny a loan/grant request.

X. PARTICIPATION PERIOD REQUIRED

The required period of time for the CDBG program being granted in compliance, and fund forgiveness/repayment is contingent upon the amount loaned/granted. The following schedule applies:

Amount of Loan/Grant	Forgiveness/Reporting Period
Up to $50,000.	.2-years
Greater than $50,000; not to exceed $100,000.	.3-years

XI. CITY RESPONSIBILITY

The City is providing funds through the Community Development Block Grant Program for the use of the Participant within the scope of the requirements of the United Statement Department of Housing and Urban Development. Participant and all third parties shall rely upon its or their own judgement with respect to development of the Project and any review, exercise of judgement or information supplied to participant or to any third party by City in connection with any such matter is for the public purpose of carrying out this Policy.

SECTION D | EBEP PROGRAM REQUIREMENTS AND LIMITATIONS

The Policy has several requirements as well as limitations, which are part of one or both of the programs with limiting local regulations. The below information provides regulatory measures specific to the EBEP.

XII. ECONOMIC BASE ENHANCEMENT PROGRAM

Economic Base Enhancement Program (EBEP) | the program provides the authority to appropriate funds through the City of La Verne's General Fund in compliance with the requirements identified within the Policy and the Agreement.

Participant of the program shall rely upon their own judgement with respect to development of the Project and any review, exercise of judgement or information supplied to Participant or to any third party by the City in connection with any such matter is for the public purpose of carrying out the Policy.

XIII. ECONOMIC BASE ENHANCEMENT PROGRAM LIMITATIONS

Any Participant, who enters into an Agreement within the funding program of the EBEP, Section XIII (Economic Base Enhancement Program), consistent with the Policy, is limited to a one-time loan. The Agreement to be executed between the City and Participant will specifically incorporate the requirements and limitations. Additional program limitations pertaining to the EBEP are provided in Section E (Requirements and Limitations for EBEP and CDBG Programs) of the Policy.

XIV. GENERAL CREDIT CRITERIA

The Participant's application or request will be analyzed for the following criteria, based on criteria specified by the Small Business Administration.

A. Repayment

Identify an acceptable form or ability to repay in case of default or termination of business.

B. Balance Sheet

Balance sheet must be sound before the loan/grant is made.

C. Historic earnings | Cash flow records

The Applicant must provide records from verifiable sources as determined by the Program Administrator, to ensure sufficient repayment of all requested credit, and to provide the owner(s) with a reasonable level of personal income to satisfy personal obligations. Typically, an Applicant will have been profitable during the most recently completed year and will maintain a cash flow coverage ratio of 1:1 (defined as earnings before debt service, interest and taxes divided by debt service), with sufficient collateral. The ratio would be 2:1 without collateral being pledged; however, the ratio may be prorated downward.

D. Collateral

Collateral, when available in any form, may be requested by the Program Administrator or Economic Development subcommittee. Collateral will be pledged commensurate with the amount of requested credit, as well as a security interest in newly purchased assets, or those purchased with loan funds. If the Project cannot repay the loan from cash flow, the City will collect payment by liquidating the asset and satisfying the specific lien securing the property. A letter of credit or bond may be accepted in lieu of collateral.

E. Commitment

Personal and corporate guarantees may be required. The Participant must sign personally for the loan, and should be prepared to take out a minimum salary until the business is established.

F. Management experience

The management team must have experience in all areas of running the business includes sales, finance, operations, personnel, etc. the management team includes the principals, directors, senior management and consultants.

The management team should have direct experience in these areas or have comparable business skills which can be transferred.

G. Business plan

The traditional business plan or lean startup plan will help identify worthy ventures. The monthly cash flow statement for the first year is particularly important and must accompany the plan.

H. Character

The owners and management should have favorable credit histories, a reputation for treating customers fairly, no bankruptcy in the past five years, and a clean criminal record. Good character will be determined by credit reports, payment history with verified vendors, personal interviews, or other means as determined necessary by the Program Administrator.

I. Business Incentive Performance

The Participant within the City has demonstrated stability or growth and continues to do so through past operations, and the selected program would continue and further their successful business ventures.

J. Niche

A small firm may find it difficult to compete with much larger companies on price.

All of the above criteria are important, and the absence of any one may be sufficient to deny a loan/grant request.

XV. PARTICIPATION PERIOD REQUIRED

The required period of time for the EBEP program being granted compliance, and fund forgiveness/repayment is contingent upon the amount loaned. The following schedule applies:

Amount of Loan	Forgiveness/Reporting Period
Up to $100,000.	10-years

Loans funded through the EBEP Program are business loans, not consumer loans.

XVI. FUNDING SOURCE

The funds appropriated for the EBEP Program are considered a loan against the City of La Verne's General Fund and are required to be repaid in full with interest. The interest amount and repayment are further detailed within the Agreement, and in compliance with the Policy.

SECTION E | REQUIREMENTS AND LIMITATIONS FOR EBEP AND CDBG PROGRAMS

Regulatory measures are identified and apply to the two programs within this Policy and further described below:

XVII. GEOGRAPHIC LOCATION/TARGET AREAS

The Policy regarding the eligibility of loans/grants will be limited geographically to the City of La Verne incorporated boundaries.

XVIII. ELIGIBLE PROJECTS

Funding will be recommended for the following eligible Projects:

A. New sales tax generating businesses; or

B. Existing sales tax generating businesses wanting to expand their gross floor area (square footage) by 50% or more at their current location, or through the relocation and expansion by 50% or more of the business within the City of La Verne's incorporated boundaries.

Funding priority will be recommended for Projects which meet the overall design scope and criteria for the location, create job(s) for low- to moderate-income persons, expand economic opportunities and/or generate sales tax. The following Project types will be considered for the CDBG program or EBEP program for direct funding:

A. New Retail/Commercial:
   1. General Consumer Goods;
   2. Home Improvement Stores;
   3. Consumer Appliances/Electronics;
   4. Health and Sporting Goods stores;
   5. Grocery and Import Stores;
   6. Furniture Stores;
   7. Auto Dealerships;
   8. Clothing and shoes;
   9. Kitchen equipment;
   10. Book and Entertainment stores;
   11. Gift stores;
   12. Musical Instruments and sound equipment stores; and/or
   13. Boutique Day Spa (selling taxable items).

B. Quality food establishments:
   1. Dinner houses/restaurants; and/or
   2. Upscale fast food.

C. Entertainment-related activities:
   1. Movie theaters (selling concessions); and/or
   2. Theatre (selling concessions).

XIX. ELIGIBLE ACTIVITES

Within these categories funding can be used for the following types of activities:

A. Interior and/or exterior leasehold improvements
B. Purchase of business equipment, furniture, and fixtures
C. Working Capital
D. Building renovation and construction

XX. PROPOSAL RATING

Eligible Participant loan/grant proposals will be weighted using the following rating system in order of priority:

A. The new use would fulfill a need within the community;

B. Create additional affordable income jobs within the City;
C. Increase the sales tax base for the City;
D. Encourage additional foot traffic and social activity within the proposed business location; and/or
E. Diversify the City's sales tax base

XXI. ADMINISTRATION

A. Program Administrator

The Program Administrator (Administrator) will market, solicit, review, and process potential Participants application or request for credit. The assigned Administrator will have the ability to decline or refer out to some other agency any applicant who clearly does not qualify under eligibility standards as set forth by the policy. The Administrator will recommend new credit, payment deferrals, release or substitution of collateral, waivers/amendments to loan covenants and exceptions to loan policy to the Economic Development subcommittee.

B. Economic Development Subcommittee

In order to ensure a timely review of applications, the La Verne City Council subcommittee meets periodically to discuss economic development activities. The subcommittee will be charged with considering qualifying applications or requests for recommendation to City Council; which the Program Administrator has reviewed. The subcommittee consists of two members of City Council and would provide input and direction prior to any Agreement for funding is considered by the City Council.

XXII. FUNDING LEVELS

Funding assistance of $25,000 to $100,000 per Project will be considered and awarded through approval by the City Council, with recommendations by the Economic Development subcommittee and Program Administrator.

XXIII. FUNDING AVAILABILITY

The Policy is funded on a fiscal year basis. City of La Verne fiscal year begins on July 1 and ends on June 30 of the following year. Limited funds are available to each fiscal year when each program is funded.

Funding preference will be given to first-time Applicants. After the initial approval and granting of the maximum amount of funds available ($100,000), a period of ten (10) years shall elapse between the date of the maximum CDBG program award and any subsequent application. The interim period shall apply to:

A. The business owned at the time of the first application, whether the owner is the original owner or a subsequent owner.

B. Any additional business in which the owner/partner/member/officer of the original business has a proprietary and/or financial interest.

Any business receiving a City of La Verne loan/grant shall disclose the information and details of the loan/grant upon sale or transfer of the business to any subsequent owner.

Exceptions to the ten-year interim period would include cases of involuntary relocation through no fault of the business, or other emergencies. Such unique circumstances would require additional information for review by the Program Administrator and further consideration by the Economic Development subcommittee.

XXIV. UNDESIRABLE CREDIT APPLICATIONS/BORROWERS/GUARANTORS

Using the guidelines for the Small Business Administration and the Department of Housing and Urban Development, the following are undesirable without mitigation circumstances acceptable to the Economic Development subcommittee:

1. Applications for funding which would substantially reduce the amount of non-Federal support for the activity available in other recognized, reasonable loan programs available in the target areas;

2. Requests for credit to repay existing creditors;

3. Funds used to repay debt to applicant owner(s), partners, stockholders;

4. Requests for funding from new start-up businesses not associated with a franchise chain or not adding an additional business location;

5. Requests for funding for businesses which do not meet the criteria specified in Section XIX A through C.

6. Non-profit organizations, as designated by Charter/Bylaws, unless designated as approved Community Based Development Organizations (CBDO);

7. Lack of profitable operations, as demonstrated by sources acceptable to the designated Program Administrator and/or Economic Development subcommittee;

8. Loan/grants to restricted membership or discriminatory groups/organizations;

9. Loans/grants to uses with complete access restrictions based on age;

10. Lack of sufficient equity/highly leveraged situations as determined by the Program Administrator and/or Economic Development subcommittee;

11. Personal or business bankruptcy, or prior business failure without sufficient, documented information to mitigate, as determined by the Program Administrator and/or Economic Development subcommittee;

12. Poor personal or business credit as evidenced by many derogatory items including public record items, tax liens, judgments, or excessive existing credit as determined by the Program Administrator and/or Economic Development subcommittee;

13. Undocumented aliens;

14. History of code enforcement violations, legal issues, lawsuits, or judgments related to the Applicant;

15. Felony convictions, dishonorable discharge or "Bad Conduct" discharge from military service (each situation with be independently evaluated); and/or

16. Business active in any unlawful activity.

XXV. EXCEPTIONS TO LOAN/GRANT POLICY

If a Project does not fall within the guidelines identified in subsection XXV (Undesirable Credit Applications/Borrowers/Guarantors), but is of such special character and will complement the area in which location is proposed, the City Council may consider the Project for funding.

XXVI. PRICING AND TERMS

Considerations of loan/grant product pricing extended to the Participant will be based on a rate equal to the rate earned by the City's investment in the California Local Agency Invest Fund (LAIF) as determined on a monthly basis, but in no event to exceed ten percent (10%) per annum. Interest which accrues and is unpaid shall be added to principal on a monthly basis and thereafter bear interest as if it were part of principal. Principal and all accrued and unpaid interest shall be due and payable not later than the terms specified in the Note. Additional terms extended to Participant will be based on the amount of risk involved, and may be further clarified and described in the Agreement.

XXVII. COLLATERAL

While collateral is not a mandatory requirement, it is intended that any available collateral from the Participant and/or guarantor(s) will be required, as well as a first lien position on any assets purchased with any loan/grant funds. Junior liens on real property will be required at the discretion of the Program Administrator and/or Economic Development subcommittee. However, it will be the policy that all collateral required for loan approval will be of material value. Caution will be used whenever taking a junior lien position on collateral where there is a substantial senior lien. It will be a determination of the City Council whether to waive a collateral position when available.

Titled motor vehicles, when taken as collateral, must identify the City as mortgagee/lienholder on the certificate of title, and held in safekeeping by the City.

XXVIII. CESSATION OF BUSINESS

If Participant should cease business at the site, Participant shall repay its obligations to City as provided in the Note which shall be executed when the Agreement is signed. The term “cease business” shall mean when the site is no longer used as the principal place of business for Participant’s business. Participant shall give City written notice not less than thirty (30) days prior to cessation of business. If Participant should cease business at the site, Participant shall pay to the City, in cash, within fifteen (15) days of the Participant’s receipt of written notification from the City of the balance due on the Note.

XXIX. GUARANTORS

The City will generally follow the rules of the Small Business Administration as to qualification of guarantors:

A. Active management with any ownership equity in Participant must guaranty.

B. Shareholders/owners of twenty percent (20%) or more equity in Participant must guaranty regardless of active involvement in management.

Guarantees may be secured or unsecured as determined by the Economic Development subcommittee.

XXX. PROBLEM CREDITS

While it is the intent of the Policy to be sensitive to the Participants financial needs, and the intent to match any repayment schedule to the Participant’s ability to repay, it is inevitable there will be delinquencies and defaults. It is the responsibility of the Program Administrator to monitor all loan payments, especially those that are in arrears. It will be the stated policy, upon determination of a “problem credit” the City will pursue any and all remedies allowed by regulation or law in a professional, aggressive, and consistent manner until some resolution is reached.

XXXI. ACTION OCCURENCES

The following occurrences will warrant action on the part of the Program Administrator and/or City Council:

A. Delinquent payment

Whenever the terms of the Note are not being met in a timely manner (delinquent by more than 30 days);

B. Violation of Loan Covenants

The above phrase pertains to whenever the terms of the Agreement are not being met in a timely fashion. The severity and immediacy of action is dependent on the type of breach; some covenants are more serious and lead to default, while others less severe can sometimes be tolerated at the discretion of the Program Administrator;

C. Receipt of bankruptcy notice;

D. Filing of a “Notice of Default” by another lienholder on real property;

E. Legal Service, such as Writs of attachment, tax liens, or subpoenas for records;

F. Death of debtor or guarantor;

G. Notice of significant legal action against Borrower/guarantor;

H. Returned mail from Borrower’s address by Post Office; or

I. “Skip Trace” inquiry from another creditor.

XXXII. COLLECTION ACTION

When any breach of the Note, Loan Agreement, or any of the above mentioned occurrences take place it is important to be clear and specific. The circumstances of a particular situation will often dictate the method to use in taking corrective action. Telephone contact with the Participant is the most expedient and cost effective; however, some cases demand more formal notification such as “Demand Letters,” Legal Action, and Foreclosure. Personal site visits and conversations with the Borrower are warranted at the discretion of the Program Administrator and/or Economic Development subcommittee.

XXXIII. NON-ACCRUAL LOAN STATUS

Credits will be moved to a non-accrual status at the 90-day delinquency point unless otherwise directed by the City Council. At this point, many of the above-mentioned “Action Steps” should have been commenced; a collection plan, if applicable should be in process at this point. Rewriting the entire Note in an effort to provide relief to the Participant should be considered after a detailed analysis of the financial condition of the Borrower and his/her prospects for timely payments in the future. In any case, the Economic Development subcommittee would be tasked with recommending an action for City Council consideration of a re-structured Note.

XXXIV. COLLATERAL APPRAISALS

Collateral taken as security for any type of credit should be appraised if it has any significant value. In most cases, real property will be the collateral that is most needed for a third party appraisal (the City will accept “drive-by” and short-form appraisals). Since the City is not under the scrutiny of Federal and State Banking Regulators, there is more flexibility as to the extent of any appraisal and in which circumstances. It is the stated Policy that some form of valuation be used to determine the equity of any collateral take by the City, remembering the cost and time of obtaining such appraisals may have an adverse effect on the Participant considering the size of the credit involved. The Economic Development subcommittee shall use its discretion in all collateral matters, unless otherwise dictated by the City Council.

XXXV. FINANCIAL INFORMATION REQUIRED

It will be the policy of the City to require financial statements from each Applicant in the form of a balance sheet and income statement for any and all fiscal year-ends since inception of the business (up to 3-years), and within the past ninety (90) days of the application date. Current personal financial statements for each business owner and personal and business federal tax returns for the prior three years are required, including all supporting schedules and statements. The City will obtain the written permission of the applicant to verify any and all tax returns with the Internal Revenue Service for accuracy (IRS Form 4506). Month-to-Month projections covering any interim period until year-end, plus one full fiscal year is required, including the assumptions that the projections were based upon. Additional information will be requested at the discretion of the Program Administrator with direction from the Economic Development subcommittee and/or City Council:

All borrowers will be required as a covenant in the Agreement to provide ongoing financial information as follows:

A. Fiscal Year End balance sheet and income statement within ninety (90) days of each year end;

B. More frequent statements such as Accounts Receivable Aging's, work in progress reports, or any other documents requested by the Program Administrator and/or Economic Development subcommittee to assist the borrower in the monitoring of the credit; and/or

C. Payroll reports identifying employee status, on a quarterly basis.

XXXVI. FINANCIAL INQUIRIES

The City will not provide responses to inquiries regarding credit status of program Participants.

XXXVII. INSURANCE

All collateral taken as security for any credit must be insured appropriately as determined by the Economic Development subcommittee; evidence of coverage must be provided identifying the City as "Additional Insured," "Loss Payee," or "Mortgagee," whichever is appropriate for the collateral insured. The lapse of any insurance will create a default on the Agreement, and must be remedied immediately by the Participant. If necessary, the City will obtain appropriate insurance to protect its collateral and debit the premium to the Participant.

Additionally, in the case where real estate collateral is taken, a Policy of Insurance of Record Title (PIRT for short), of short form title policy will be required.