

RESOLUTION NO. 2012-_____

WHEREAS, CITY OF LEXINGTON has been conditionally awarded a \$300,000 Rural Economic Development Grant which will establish a revolving loan fund for the purpose of sustaining rural economic development and job creation projects; and

WHEREAS, CITY OF LEXINGTON has committed \$60,000 from its economic development funds to meet the matching dollar requirements for creating a revolving loan fund and these matching funds will remain in the newly created revolving loan fund.

NOW, THEREFORE BE IT RESOLVED, that the CITY OF LEXINGTON City Council hereby adopts the City of Lexington Rural Development Plan and Scope of Work, as attached to this resolution.

PASSED AND APPROVED this 26th day of June, 2012.

CITY OF LEXINGTON, NEBRASKA

ATTEST:

BY: _____
Mayor

City Clerk

City of Lexington

RURAL DEVELOPMENT PLAN AND SCOPE OF WORK

INTRODUCTION AND OBJECTIVE:

The CITY OF LEXINGTON has played an active role in the development of Lexington, Nebraska. Through its council and staff, the CITY OF LEXINGTON has provided not only leadership but financial participation in economic and community development. Now, through the creation of a Revolving Loan Fund (RLF), the CITY OF LEXINGTON is seeking to improve the quality of life in Lexington by contributing to the long-term improvement in the economy, including job creation and retention, diversification of the economy, improving the education and skills of the Lexington workforce, and upgrading the public infrastructure to improve the health, safety, and/or medical care of Lexington residents.

POLICY STATEMENTS:

- The CITY OF LEXINGTON will accept and consider applications for loans from the RLF for projects that will significantly benefit the Lexington area, without restriction to the CITY OF LEXINGTON's service area.
- The RLF seeks to minimize its financial participation in all projects. IT is the intent of the City of Lexington that funds from the RLF will serve as seed money to generate economic development. The RLF will work with local lenders and others to maximize the leverage of the RLF dollars so that the result is the maximum possible economic development. IT is further intended that the Intermediary use the RLF program to supplement, but not compete with, capital that may already exist within the communities.
- The City Council of the CITY OF LEXINGTON is the sole authority for approval or denial of loans from the RLF and is responsible for all decisions and actions of the RLF. The RLF will be operated and maintained solely by the CITY OF LEXINGTON.
- To avoid potential conflicts of interest, or the appearance of a conflict of interest, an RLF loan will not be made to any city council member, or supervisory employee of the CITY OF LEXINGTON.
- The CITY OF LEXINGTON will not condition the approval of a loan from the RLF with the requirement that the prospective recipient purchase electrical service from the CITY OF LEXINGTON or any other electrical utility.
- Amendments to this Lexington Development Plan will require the approval of the CITY OF LEXINGTON City Council. No action will be taken to amend this plan without the prior written approval of RBS, its successors or assigns.
- The CITY OF LEXINGTON RLF is an equal opportunity lender and requires loan recipients to adhere to all equal opportunity laws.

REVOLVING LOAN FUND MANAGEMENT:

Administration of the Revolving Loan Fund

Management of the RLF will be "in house" by CITY OF LEXINGTON staff in addition to their regular responsibilities, although other community resources may be used. With prior written

approval of RBS, up to, but, not more than 10% of the grant funds received shall be used for RLF administration.

Loan Review Committee

The CITY OF LEXINGTON City Council has appointed a Loan Review Committee (LRC) to review all RLF loan applications. The LRC will perform necessary credit analysis and due diligence in order to make a written recommendation to the CITY OF LEXINGTON City Council, which has final authority regarding all actions of the RLF. The LRC will meet on an as needed basis under the terms of the application procedures listed below.

The LRC will have a minimum of 3 members and a maximum of 7 members. If a member of the LRC has a financial interest in the project being reviewed, he/she will abstain from the loan review/recommendation to the CITY OF LEXINGTON City Council. Members of the LRC will serve indefinite terms. However, the CITY OF LEXINGTON City Council has the right to replace members of the LRC in the event of resignation or other necessary circumstances.

The Loan Review Committee members were chosen, in part, because of their experience with lending and/or economic and community development projects. Initial members of the Loan Review Committee are:

	<u>Name</u>	<u>Company</u>	<u>Title</u>
1.	Joe Pepplitsch	City of Lexington	City Manager
2.	Jen Wolf	Dawson Area Development	Executive Director
3.	Dennis Burnside	City of Lexington	Asst. City Manager
4.			
5.			

A current and up to date roster of the members of the LRC will be attached to this Lexington Development Plan as new members are appointed. These committee appointments do not reflect an amendment to the RLF Plan and therefore do not have to be approved by USDA.

LENDING PARAMETERS

Initial Loan

The initial loan of "Federal Funds" can be made to eligible entities for qualifying community development or community facility projects in Lexington and/or rural areas of the State of Nebraska.

Eligible entities for initial funds include: non-profit organizations, public bodies, or Federally-recognized Indian Tribes.

Qualifying projects include community development or community facility projects which correspond to one or more of the following targets:

- o Create or save employment; are open to and serve all Lexington residents; and are owned by the ultimate recipient of funds.
- o Business Incubators.
- o Facilities and equipment which provide education and training to residents of Lexington areas which will facilitate economic development.
- o Facilities and equipment to provide medical care to residents of Lexington areas.

- Projects that utilize advanced telecommunications or computer networks to facilitate medical or education services or job training.
- Project feasibility studies and technical assistance.

Interest Rate: The initial loan of the Federal Funds will be made at zero percent.

Administration Fee: An annual loan servicing fee of up to 1% of the unpaid principal loan balance may be charged for loan administration.

Subsequent Loans / Revolved RLF Funds:

In general, eligible projects for subsequent loans can include any business venture, governmental public body, or non-profit entity involved in a community or economic development project that creates or saves jobs and/or provides needed community facilities that benefit Lexington areas in the State of Nebraska.

Eligible Applicants include:

- Corporations
- Limited Liability Companies
- Partnerships
- Sole Proprietorships
- Cooperatives
- Nonprofit Entities
- Governmental Units, including: Local Townships, Municipalities, County Government, Regional Authorities, School Districts, and City or County Hospitals
- Federally-recognized Tribal Authorities

Application projects must create or retain employment or provide needed community facilities and services such as:

- Industrial/Commercial Development
- Small Business Expansion or Startup
- Business Incubators
- Community Infrastructure
- Community Facilities
- Medical Facilities
- Training/Educational Facilities
- Tourism

Loan Purposes

Working capital loans will only be considered in conjunction with the purchase of other assets as previously specified. Uses of RLF loan proceeds may be for land, buildings, manufacturing machinery and equipment, office and work equipment or infrastructure improvements.

Types of Projects/Activities In-Eligible for RLF Funding:

- Refinancing of existing debt, or payment to business owners or partners;
- Projects without any supplemental financing;
- Activities determined to be for investment purposes;
- General improvement loans related to normal replacement needs of a business and unrelated to business expansion/job creation;

- Projects that would result in the transfer of existing employment or business activity more than 25 miles from its existing location;
- Agricultural production costs (i.e., cultivation, production, harvesting); except where the project is a farmer-owned cooperative or similar, and the agriculture production is part of an integrated business that processes the agriculture products, and the agriculture production portion of the loan will not exceed 50% of the loan amount;
- Projects that are primarily working capital with limited security and/or without other capital purchases as part of the project;
- Construction projects of an individual residential nature;
- Vehicles used for general purposes or that may be considered for personal use;
- Illegal activities and legalized activities (e.g. gambling casinos) that in the opinion of the City council adversely affect RLF interests;
- Projects in which any council person, officer, general manager, or supervisory employee of the Intermediary, or close relative thereof, has a financial interest; projects in which any subsidiary or affiliated organization of Intermediary has a financial interest; or projects which, based on the judgment of the city council, would create a conflict of interest, potential for conflict of interest, or any appearance of a conflict of interest.

Minimum / Maximum Loan Amounts

The minimum RLF loan will be \$25,000 and the maximum RLF Loan will be the total amount of funds available in the RLF.

Supplemental Financing Requirements

RLF loans are limited to financing 50% of RLF projects. RLF projects must include a minimum of 50% funding from other sources. Evidence of availability of supplemental financing will be required prior to advance of RLF funds. Greater leveraging of outside resources will enhance the approvability of an RLF loan request.

Interest Rate

Interest rates on all subsequent RLF loans will not exceed the prevailing prime rate as published in the Wall Street Journal on the day of loan closing and will be determined based on the evaluation of the applicant’s ability to repay and the necessity of below market financing to advance the project. Interest earned on any RLF loan must stay in the fund for use in making additional RLF loans. The minimum interest rate will be (2%).

Servicing Fee

A servicing fee may be applicable for all loans. The fee will be no more than (1%) per year of the outstanding principal loan balance on the first day of each year of the loan and will be used to cover the intermediary’s administration costs in connection with operation of the RLF. However, this fee must be specified in the Loan Agreement signed at closing.

Annual budgets will be submitted to Rural Development Business Programs setting forth the costs of operating the RLF.

Legal Fees

The loan recipient will reimburse the Intermediary for all loan closing and legal fees incurred by the Intermediary in connection with the loan. Legal fees will be limited, however, to no more than \$2,500.

Repayment Terms

The term of an RLF loan shall not exceed 10 years, and may be less than 10 years as determined by the CITY OF LEXINGTON city council. Loan deferments of up to 2 years may be considered on a project-by-project basis, but, are not encouraged.

The Loan Review Committee will make a recommendation concerning the term of the loan and payment frequency (monthly, quarterly, etc.) depending upon project need, the expected life of the security, and the applicant’s ability to repay. The term of the loan will not exceed the expected life of the asset being used as collateral.

While not mandatory requirements, the following maturities will be used as a general guideline:

Building	10 Years
Real Estate	10 years
Equipment	5 to 7 Years or depreciable life
Working Capital	1 to 3 Years

Security / Collateral

The Intermediary will work with the potential borrower to obtain security that is adequate for the term of the loan. The nature of the collateral pledged shall be determined by the loan committee on a project-by-project basis. Generally, security will consist of a first lien position on real property. If the same collateral is used in joint financing, the RLF will seek a parity position with other lenders. Types of security may include:

- o Mortgage Lien on Real Property
- o Machinery and equipment which have a developed market;
- o Letter(s) of credit from acceptable financial institution(s);
- o Securities issued by the Federal government or its agencies.
- o Accounts receivable and inventory for short-term loans; and

The loan recipient will be required to maintain fire insurance, and flood insurance if necessary, on secured assets. In some cases, credit life or key man insurance will be required with the RLF as loss payee.

Personal guarantees from partners, directors or majority stockholders may be required for all corporate or partnership borrowings.

APPLICATION PROCEDURES

All applicants for RLF funding will be required to complete an application form and provide a corresponding business plan with verifiable data which demonstrates that their proposed projects are economically feasible, sustainable, and will provide benefits to the Lexington area, either through job creation or infrastructure improvements. A copy of the application which includes a list on supporting information is attached to this plan.

1. Applications will be accepted for review when the RLF has a minimum balance of \$25,000.

2. Applications will be accepted at the CITY OF LEXINGTON office during normal business hours.
3. The City Manager of the CITY OF LEXINGTON will review applications for completeness and present complete applications to the loan review committee. An application is not considered complete until all required information has been submitted to the CITY OF LEXINGTON staff as listed on the attached application.
4. The loan review committee will analyze each project and make a written recommendation to the CITY OF LEXINGTON city council.
5. The CITY OF LEXINGTON City council will normally review RLF applications at their scheduled monthly Meeting. However, if needed and at the Council's option, the Council may call a special meeting to review a loan application.
6. The CITY OF LEXINGTON city council shall have final authority to approve or deny RLF loan requests, and to determine appropriate terms and conditions.
7. For approved loans, a loan agreement addressing all of the terms and conditions, including monitoring procedures, repayments, delinquencies, defaults and remedies for that project will be prepared by the RLF. In addition, the RLF shall have prepared all notes, mortgages, security agreements, UCC filings and other legal documents necessary to close the loan. The RLF will use appropriate note, mortgage, and other forms which are approved by the State of Nebraska Bar Association.
8. Before RLF funds can be disbursed to the loan recipient, all requirements and terms of the loan agreement must be met and supplemental financing must already be contributed or verified ready to contribute to the project.

Application Selection Process

The basis for determining the eligibility/approvability, loan amount, interest rate, and terms and conditions of a revolving loan fund request, and general RLF operational procedures, are as follows:

The loan review committee and CITY OF LEXINGTON City Council will consider the financial need of the project, the probability of success, the security offered, and the overall benefits of the project to Lexington area, including the number of jobs to be created or retained, diversification of the economy, the extent of the upgrading of the skills of the Lexington workforce, the quality of the jobs in terms of pay scale and benefit package, and, for community development projects, improvements to the community infrastructure, facilities, and/or acquisition of equipment that improves the education, health, safety, and/or medical care of Lexington residents.

Loan Monitoring

The CITY OF LEXINGTON City Council and/or the loan review committee shall monitor all RLF loans to ensure that loan proceeds are spent as identified in the RLF application, that all other sources of financing have been committed to the project, and that the benefits of the project, such as job creation, are accomplished as stated in the RLF application. The CITY OF

LEXINGTON City Council and/or LRC shall ensure that RLF lien positions and loan collateral are secure.

This loan monitoring will require regular reporting by the loan recipient.

Annual income statements and balance sheets will be collected from the loan recipient. Depending on the nature of the project and security arrangements, the Intermediary reserves the right to require the submission of annual financial reports as audited by a certified public accountant.

The Intermediary will also conduct periodic/annual site visits to meet with the loan recipient, verify collateral and collect any information as required.

Periodic management information reports. Management reports will be required of the loan recipient. Management reports will be required on a semi-annual basis beginning six months after the advance of RLF funds and continuing semi-annually thereafter for a period of 3 years or until completion of the project, whichever is the later period. If requested, management reports will include:

- information on the number of jobs created or retained during the reporting period;
- a comparison of accomplishments during the reporting period to the objectives established for the project, and
- a description of any problems, delays, or adverse conditions which will materially affect the attainment of planned project objectives and a statement of action taken or contemplated to resolve the situation.

The Intermediary reserves the right to require these reports on a more frequent basis if it is determined to be in the best interest of the RLF.

Telephone contact and site visits. At a minimum, semi-annually, a representative of the Intermediary will initiate a phone call to the loan recipient to review performance and issues. On-site visits will be conducted annually to verify and evaluate the use of RLF funds.

An annual review and report of the outstanding loans of the RLF, including job creation totals and community benefits, will be compiled by the loan committee for presentation to the entire board of directors.

Collection Procedures

The RLF Staff position is charged with the responsibility for loan collections and related workouts, collection of charged-off loans, management and disposal of other real estate owned and any other activities related to delinquent accounts.

As part of this responsibility, the RLF Staff position shall have authority to initiate foreclosures, and collection suits after consultation with the CITY OF LEXINGTON's legal counsel. The RLF Staff position will advise the council of such action at their next regular meeting.

1. Past due notices will be generated and sent to the loan recipient according to the following schedule:
 - First notice sent on the 10th day after a note or payment is due.
 - Second notice sent on the 20th day after a note or payment is due.

2. If the delinquent account becomes 30 days delinquent, RLF Staff Position will make phone contact with the loan recipient to inquire about the situation and arrange appropriate corrective action.
 - o As a prudent lender and at the intermediary's sole discretion, a one-time corrective action/workout of a delinquent account is permitted. As part of the workout, loan terms may be modified by deferral, reamortization and/or balloon payments. However, the term of the modified loan can not exceed a 10 year period from the date of the original loan closing.
3. If the delinquent account is not taking steps to cure default and the account becomes 60 days delinquent, a written 30 day Notice to Cure will be issued and sent to the loan recipient via certified, first class mail with a return receipt requested.
4. If the delinquent account does not respond to the Notice to Cure by paying the amount stated in the cure notice, the file will be forwarded to CITY OF LEXINGTON's legal counsel to start foreclosure actions.
 - o As mentioned earlier, up to 10% of Lexington Development Grant funds may be applied toward operating expenses of the RLF over the life of the fund. Operating expenses include the costs of administering the RLF and technical assistance provided to loan recipients by independent providers. Under the authority of this section, costs of administering the RLF includes any costs related to collections and/or foreclosure of a delinquent account.
 - o The Intermediary will maintain an aggregated total of any and all related collections / foreclosure costs which are charged against this 10% allowance.

File Retention

All RLF files will be retained for a period of not less than 3 full years after the loan has been paid in full. After 2 years, the files will be destroyed by shredding or incineration. Files will be secured in a locked, safe place and access will be limited to Intermediary staff with RLF responsibilities. Other security measures will be initiated as needed to protect confidentiality of loan documents.

After review and official action, this RLF Plan is adopted by CITY OF LEXINGTON on June 26, 2012.

Mayor

Attest:

City Clerk