

ORDINANCE NO. 2021 - 085

AN ORDINANCE AUTHORIZING THE AMENDMENTS OF THE CITY OF KENT ECONOMIC DEVELOPMENT ADMINISTRATION REVOLVING LOAN FUND PLAN (EDA RLF PLAN) TO BE SUBMITTED TO THE EDA FOR APPROVAL, AND DECLARING AN EMERGENCY.

WHEREAS, on January 16, 2019, Council approved a five year update to the City's U.S. Department of Commerce Economic Development Administration (EDA) Revolving Loan Fund Plan; and

WHEREAS, the EDA does allow for amendments to be made to the Plan and with the City proceeding with the request for release of EDA federal interest in the City's economic development RLF program, staff reviewed the current Plan and identified three (3) proposed amendments that will facilitate greater flexibility in assisting businesses seeking to locate or expand in the community; and

WHEREAS, the amendments are designed to increase access to the RLF and to provide short term relief to borrowers in times of severe economic distress and include:

- 1) Raise the allowable amount to loan from \$10,000 to \$25,000 for every job retained or created;
- 2) In certain instances, allow the jobs to be retained or created either by the owner applicant or a tenant of the owner;
- 3) Formalize the moratorium process to allow for interest only payments for a period up to six months.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, that:

**SECTION 1.** Kent City Council does hereby authorize the amendments of the City's Economic Development Administration Revolving Loan Fund Plan (EDA RLF Plan), and is more fully set forth in Exhibit "A", attached hereto and incorporated herein.

**SECTION 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: August 18, 2021  
Date

Fiala  
Jerry T. Fiala  
Mayor and President of Council

EFFECTIVE: August 18, 2021  
Date

ATTEST: Amy Wilkens  
Amy Wilkens  
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF RESOLUTION NO. 2021-085, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON August 18, 2021.

Amy Wilkens  
AMY WILKENS, CLERK OF COUNCIL

## 7. Terms

- a. Because of the nature of the RLF fund, it should suffice to say that the shorter terms are preferred. The term, however, for repayment will basically match the life of the asset to be financed. The maximum number of years to repay a fixed asset loan would be fifteen (15) years. Exceptions may be made to accommodate other public financing agencies or commercial lenders. In most cases, the term of the RLF must be compatible with that of the conventional lender or other public financial assistance agency. The reason for this is that the RLF is subordinate to conventional loans and to public financial assistance agencies. The term of a working capital loan generally will be 12 months. In some cases, due to factors unforeseeable, the RLF Loan Review Committee will make loans at terms which best fit the deal and make it work.

## 8. Fees

- a. A non-refundable application fee of \$100.00 is to be submitted with the formal application for loan funds. If the loan is approved by the Loan Review Committee, then the borrower will be billed for the full amount of the administrative costs to the City. The application fee of \$100.00 will be applied to the administration costs. Costs include; title searches, recording costs, appraisals and credit bureau reports. Fees are payable at the time of the loan closing.
- b. The loan servicing fee as charged by the bank servicing the loan will be paid by the borrower to the bank on a monthly basis.

## 9. Equity and Collateral

- a. A 10% minimum of owner equity, as defined by Generally Accepted Accounting Principles, is required for each project.

## 10. Moratoria

- a. A moratorium on the required minimum monthly principal payment will ~~be~~ be decided on a case-by-case basis by the Loan Review Committee, but is typically not considered as the first mechanism utilized for managing a loan repayment. No moratorium will be granted for the required minimum monthly interest payment. ~~The Committee would consider adjustments to term length prior to moratoria.~~ The Loan Review Committee may authorize a moratorium on the required minimum monthly principal payment for a period not to exceed six (6) months, provided the borrower can document a definite need for interest-only payments. Any borrower seeking a moratorium must provide a copy of the most current financial statements, outstanding debt(s) and debt service payment status, detailed cash flow report, and financial projection for the upcoming 12-month business operations cycle prior to the principal moratorium request being presented to the Loan Review Committee.

- b. If a moratorium for the required minimum monthly principal payment is approved by the Loan Review Committee, the City of Kent staff will notify the financial institution servicing the loan that the borrower has been approved for interest-only payments on the loan for the term specified by the Loan Review Committee.
- c. Upon the expiration of the moratorium period, the principal balance will be re-amortized for the remaining term of the loan to calculate the adjusted required minimum monthly principal payment and new monthly payment (principal + interest).

#### **11. Start-ups**

- a. Projects of merit submitted by a new company demonstrating a high probability of success will be considered for RLF financing.

#### **12. Working Capital**

- a. Working capital and inventory may be funded up to a maximum of 50% of the total RLF loan amount.

#### **13. Credit Not Otherwise Available**

- a. The RLF is not meant to be a substitute for private capital. The loan administrator or Loan Review Committee member can question the applicant or ask the primary lender if they would finance the project without the use of RLF proceeds. The Loan Review Committee will request written documentation from the lender stating that its loan is contingent upon RLF approval.

### **D. Portfolio Standards and Targets**

#### **1. Target Percentages**

- a. Land Use: Industrial 40%, Commercial 60%
- b. Business Status: Start-up 30%, Expansion 60%, Retention 10%
- c. Loan Type: Fixed Asset 90%, Working Capital 10%

#### **2. Private Sector Leverage**

Each loan is expected to be leveraged on average by at least \$2 to \$1 private sector to RLF Funds, however, the leverage ratio for the whole RLF loan portfolio will be at least \$2 for every \$1 of RLF Funds. To be classified as leveraged, additional investment must be made within 12 months of approval of an RLF loan, as part of the same business development project and may include:

- a) Capital invested by the borrower or others
- b) Financing from private entities
- c) The non-guaranteed portions and 90% of the guaranteed portions of any Federal loan or
- d) Loans from other State or local lending programs
- e) Private investments shall NOT include accrued equity in a borrower's assets.

### **3. Job Cost Ratio**

Each project should create or retain at least 1 full-time job equivalent for each ~~\$10,000~~ \$25,000 that is loaned. The job cost ratio requirement can be fulfilled by either the owner applicant or a tenant of the owner applicant.

## **E. RLF Loan Selection Criteria**

1. The City of Kent RLF Loan program shall be used for purposes that are consistent with the RLF plan or such other purposes approved by the EDA.
2. City of Kent staff and the RLF Committee shall ensure that proposed RLF projects will capitalize on existing regional assets.
3. City of Kent staff and the RLF Committee will consider whether the proposed loan supports and advances innovation and increases productivity in a particular industry or emerging sector of the economy.
4. City of Kent staff and the RLF Committee will consider if the potential borrower is part of an existing industry cluster, and will provide supporting data in the credit analysis.
5. City of Kent staff and the RLF Committee will provide data to support the extent to which the project's private investment would not otherwise come to fruition without the RLF investment.
6. City of Kent staff and the RLF Committee will consider if the proposed loan will result in the creation or retention of higher-skilled, higher-wage jobs.

## **F. Performance Assessment Process**

### **1. RLF Performance Evaluation**

City of Kent staff will monitor the loan portfolio on a monthly basis at minimum to determine the level of consistency with the policies and procedures in this plan and in the strategy. Staff will advise the City Controller and the RLF Committee of actual performance with the policies and procedures, along with any changes in the plan or strategy. Staff will review all reports, EDA monitoring, and audits in assessing the need for changes.

### **2. Process for Integration**

City of Kent staff and the RLF Committee will modify procedures as indicated from the performance reviews, and will update the RLF Plan accordingly. The City will update the RLF Plan as necessary in accordance with changing economic conditions in the region and will submit an updated plan to EDA for approval every five years at a minimum.

## **Part 2: Revolving Loan Operational Procedures**

### **A. Organization Structure**

#### **1. Critical Operational Functions**

- h. Signed 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, or a fully documented conventional bank referral;
- i. Copy of private lender loan agreement (as applicable);
- j. Financial statements;
- k. Annual insurance certifications (as applicable);
- l. Annual site visit reports including jobs report;
- m. General correspondence.

The City will also 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 period from the date of final disposition of the closed loan. The date of final disposition of a closed loan is the date:

- a. Principal, interest, fees, penalties, and all other costs associated with the closed loan have been paid in full; or
- b. Final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the closed loan have occurred.

### 3. Job Creation or Retention

The initial job creation or retention claims will be reviewed to ensure the project will create or retain at least 1 full time job for every ~~\$10,000~~ \$25,000 that is lent out. The Economic Development Director will certify job data during annual site visits after the loan is disbursed in order to track employment by the borrower. The employment requirement will be documented in the loan agreement.

### 4. Defaulted Loans

- a) Once a loan payment is 15 days in arrears, a written notice regarding the missed payment and late penalty fee will automatically be generated by the loan servicer and mailed to the borrower. The loan servicer also will notify the City's RLF staff of the late payment.
- b) Once a loan payment is 30 days in arrears, the loan servicer will send a second written notice regarding the missed payment and late penalty fee and the City's RLF staff will call the borrower directly to discuss the circumstances and possible remedies to bring the loan into a current payment status.
- c) In the absence of a moratorium approved by the Loan Review Committee as specified in "Section 10 Moratoria" (see pages 14-15), any ~~Once-a~~ loan payment that is 45 days in arrears, requires the City's RLF staff generate a written notice regarding the delinquent accrued payment(s) and late penalty fee(s) and schedule a visit with the borrower, to discuss possible consequences for non-payment, in person.