

Introduction

The Community Development Block Grant (CDBG) – Economic Development Program, administered by the Wisconsin Department of Commerce, provides local governments with funding for economic development. More specifically, this program assists business start-up and expansion. Funds provided by the US Department of Housing and Urban Development (HUD) are used to provide grants to local communities which in turn loan the money to businesses. The business, in return for the use of public funds, provides investment in the assisted activity, and more importantly, creates job opportunities, principally for the benefit of low and moderate income persons.

When a business repays the loan to the community (both principal and interest), these funds are used to capitalize a local revolving loan fund, from which the community can make additional loans to businesses.

The Village of Mukwonago received a state grant in 1989 that provided the initial capital for the Economic Development Loan Program. The first loan from this program was awarded to Buell Motor Company on June 20, 1989. Repayments on the Buell Motor Company loan helped establish a low-interest revolving loan fund (RLF) that is currently available for businesses interested in locating to, or already operating within the Village.

This manual contains the policies adopted to govern the use of the Village Economic Development Loan Program.

1 General Provisions

1.1 Purpose

The purpose of the policies and procedures contained in this manual, hereafter referred to as the Economic Development Loan Program Manual, is to present the criteria governing activities assisted through the Village of Mukwonago's Economic Development Loan Program.

1.2 Objectives

Economic Development activities assisted with funds made available through the Economic Development Loan Program are intended to meet the following objectives:

1. To encourage the creation and retention of permanent jobs that provide a wage appropriate to the skills and experience of the local work force. A minimum of fifty-one percent (51%) of jobs created will be made available to persons with low to moderate incomes.
2. To encourage the leveraging of private investment into the Village in the form of fixed asset investment, particularly in land and buildings.
3. To perpetuate a positive and proactive business climate which encourages the retention and expansion of existing businesses and helps to attract desirable new businesses.
4. To maintain and promote a diverse mix of employment opportunities and to minimize seasonal or cyclical employment fluctuations.
5. To encourage the development and use of modern technology and create safe work environments.
6. *Micro-Loan Program- The intent of this program is to encourage new business formation and expansion of small businesses, particularly those located in the downtown business district. Loans under this program may not exceed \$15,000. Façade improvements are eligible under this program.*

1.3 Amendments

The Village of Mukwonago Economic Development Committee may propose amending policies and procedures contained in the Economic Development Loan Program Manual. The proposed amendments will then be considered by the Village Board for approval.

2 Administration

2.1 Loan Review Committee

Three members of the Economic Development Committee (EDC) of the Village of Mukwonago will be appointed to serve as a Loan Review Committee. Currently, the EDC designates that any three voting members can serve in his capacity.

The loan review committee shall have the authority to review, select and recommend loan applications to the Village Board for final approval.

2.2 Loan Program Administrator

The Loan Program Administrator shall be the Economic Development Director, or designee.

The Loan Program Administrator explains the program to prospective applicants, provides written information, assists applicants in completing applications, and processes requests for financing. The Administrator, when necessary and appropriate, will counsel or guide applicants to other more appropriate technical or financial resources when the loan applicant has needs beyond those which may be met through the Economic Development Loan Program.

The Loan Program Administrator will periodically review all financial statements and loan amortization schedules of loan recipients, review and approve documentation of business expenditures financed with Economic Development Loan Program proceeds, record Economic Development Loan Program security instruments, maintain the Economic Development Loan Program accounting records, **which must be segregated from other EDC and Village accounts**, and report annually to the Wisconsin Department of Administration regarding the use of Economic Development Loan Program funds.

The Loan Program Administrator will maintain all records for the Economic Development Loan Program, particularly those related to the expenditure of Economic Development Loan Program funds for administrative purposes.

The Village of Mukwonago's attorney will prepare loan agreements, review promissory notes and mortgage or lien instruments, and counsel the EDC on default matters.

2.3 Meetings

Loan Review meetings shall be held on an as needed basis. Pursuant to section 19.84, Wisconsin Statutes, all Loan Review Committee members will be given prior notice of each meeting. A majority of the Loan Review Committee in attendance at a meeting will

constitute a quorum which is required for official action. Official actions must have the support of a simple majority of the full membership of the Loan Review Committee.

2.4 Records

Written records of all program activities, including minutes of Loan Review Committee meetings, minutes of the meetings of the EDC Board at which action is taken with regard to the Economic Development Loan Program, loan applications, and all related documents, will be maintained in appropriate files. Files are to be maintained in a secure place with limited access only by authorized personnel. The EDC's legal counsel will be consulted in regard to compliance with state and municipal open records laws.

A master file must be established for each loan recipient. These files are to be maintained in a locked, fireproof file cabinet. The master file must include the following sub-files and contents (as appropriate). Refer to Section 10.6 for additional information.

- 1) Loan Application File. All applications, business financial statements, personal financial statements, credit reports, business plan documents, and other supporting loan information submitted to the CDA, including all applicable correspondence, will be placed in this file.
- 2) Loan Recommendation File. This file will contain a summary of the analysis, recommended actions for the application, and a copy of the minutes of the Loan Review Committee meeting and Village Board meeting summarizing the action taken on the loan request.
- 3) Loan Closing File. This file contains copies of all loan-closing documents. This file contains the legal documents from the loan closing, including security instruments, the note, and other applicable correspondence. Originals of security instruments must be kept in the Village's safety deposit box. The Village attorney should be involved in helping create and complete this file to ensure complete loan documentation. Copies of the loan closing documents and an amortization schedule will be provided to the loan recipient along with an invoice, if appropriate, for loan closing and servicing fees.
- 4) "Tickler File" System. A tickler file system should be established and maintained to ensure that loan repayments, financial information, the loan agreement, Universal Commercial Code (UCC) updates, and other time-sensitive documentation is tracked and obtained or updated as required. The system should include the following:
 - a) Expiration dates for property, casualty, and life insurance policies;
 - b) Due dates for all financial statements;
 - c) Expiration dates for UCC financial statements (reminder 45 days in advance);
 - d) Scheduled dates of annual loan performance and covenant reviews;
 - e) Dates for site visits;

- f) Due dates for property tax payments and confirmation of payment;
 - g) Review dates for job monitoring; and
 - h) Dates of any scheduled changes in the loan amortization, and notification dates.
5. Financial Statement File. This file will contain the business' periodic financial statements as required by loan covenants, with a statement indicating that the Loan Program Administrator has reviewed the data.
 6. Progress Report File. Loan recipients may be required to submit periodic progress reports during the outstanding term of the loan. The Loan Program Administrator should make periodic site visits to verify information in the progress report and financial statements. These site visits shall be documented for the file.
 7. Site Visit File. Site visits should be conducted periodically to each loan recipient, the scheduling of which depends on the nature of the project. A summary of the site visits should be placed in the file, particularly highlighting any information that can help in rating the overall condition/risk of the loan.
 8. Repayment Monitoring File. This file should include the loan amortization schedule, status of payments, and the outstanding balance of the loan. Observations suggesting concerns or problems should be reported to the EDC and notations should be placed in the Tickler File to remind the Administrator of the need to provide continued monitoring.
 9. Loan Review File. All loans are to be reviewed on an annual basis, and at such other times as may be deemed necessary by the EDC. The review should follow receipt of any required financial statements, the progress reports, and site visits. A report on the loan review will be placed in the file and may address the following:
 - a) Timeliness of payments;
 - b) Condition of collateral securing the loan;
 - c) Status of security documents;
 - d) Overall financial condition of the business;
 - e) Presence of material liens or lawsuits; and
 - f) Violations of loan covenants and suggested corrective actions.

If the business is experiencing problems with any of the above criteria, the Loan Program Administrator is to work with the loan recipient to identify actions needed to correct the deficiencies, including possible restructuring of the loan to protect the EDC's interest and meet the needs of the business. If appropriate, the Administrator will arrange for business assistance through available public or private resources.

In the event that the findings of the loan review suggest serious problems, particularly if the loan is in risk of default, the account should be turned over to the Village attorney for legal action to protect the loan and to ensure the maximum repayment of the balance due.

Again, corrective actions may be achieved through restructuring or if necessary, foreclosure actions.

2.5 Administration

Reasonable administrative funds may be withdrawn from the Economic Development Loan Program to cover personnel costs and other administrative expenses. Administrative expenses may not exceed 15% of program income (defined as loan payments received during the year, plus interest on bank balances, and other income to the program). In addition to paying costs for a Loan Program Administrator, these funds may be used for the following purposes:

- 1) Legal costs;
- 2) Consulting fees for credit analysis, business plan reviews and technical assistance;
- 3) Costs associated with the advertising and promotion of the loan program;
- 4) Office supplies, copying, mailing and related expenses; and
- 5) Training costs for personnel involved in administering the program.

2.6 Application and Closing Fees

To defray administrative costs related to closing loans, the EDC may assess fees for processing an application or servicing a loan. All fees collected must be deposited into the Economic Development Loan Program accounts. The following fees will be assessed:

Either upfront or at the time of closing, as determined by the EDC on a case-by-case basis, loan recipients will be assessed a 2% fee for administrative expenses, along with the actual legal fees related to loan origination.

3 Eligibility Considerations

3.1 Eligible Area

Projects must be located within the corporate limits of the Village of Mukwonago in order to be eligible for loans made through the Economic Development Loan Program.

3.2 Eligible Applicants

Applications may be submitted by any business wishing to establish a new operation or expand an existing operation located within the Village of Mukwonago.

No member of the EDC Board of Directors, Loan Review Committee, or any other official, employee, or agent of the Village of Mukwonago who exercises decision-making functions or responsibilities in connection with the implementation of the Economic Development Loan Program is eligible for financial assistance under this program.

No program loans will be made in conflict with section 946.13 Wisconsin Statutes (Private Interest in Public Contract Prohibited).

Applicants may not be disqualified based on age, race, religion, color, handicap, sex, physical condition, or development disability as defined in s. 51.01 (5), sexual orientation or national origin.

3.3 Eligible Activities

Program loans are available to applicants for the following activities:

1. Acquisition of land, buildings and fixed equipment;
2. Site preparation and construction or reconstruction of buildings (including leasehold improvements), provided that they are in keeping with any covenants or design guidelines imposed by the Village of Mukwonago or the EDC, and are consistent with plans approved by the Village of Mukwonago Plan & Architectural Review Commission;

3. Installation of fixed equipment;
4. Clearance, demolition, or removal of structures or rehabilitation of buildings (including leasehold improvements) and other such improvements, provided that they are in keeping with any covenants or design guidelines imposed by the Village of Mukwonago or the EDC, and are consistent with plans approved by the Village of Mukwonago Plan & Architectural Review Commission;
5. Payment of assessments or fees to a business for sanitary sewers, water mains, public streets, and other improvements if the provision of the improvements will directly create or retain jobs. The use of Economic Development Loan Program funds in this manner must be in the form of a loan to a business which is assessed for these costs. Economic Development Loan Program funds may not be used to finance public improvements paid for by the Village.
6. Working capital (inventory and direct labor costs only).

3.4 Ineligible Activities

Program loans may not be used for the following activities:

- 1) Refinancing or consolidation of existing debt;
- 2) Reimbursement for expenditures made prior to loan approval;
- 3) Specialized equipment that is not essential to the business operation;
- 4) Residential construction or reconstruction unless such reconstruction is intended to convert the use of the residential building to a business or industrial operation. Program funds may be applied to the exterior or other necessary improvements are directly attributable to the commercial enterprise operating within the building. Economic Development Loan Program funds may not be applied to conversion or rehabilitation of residential units.
- 5) Routine maintenance;
- 6) Professional services such as feasibility and marketing studies, accounting, management services, and similar activities. The cost of legal services incurred in closing the Economic development Loan Program are eligible;
- 7) Other activities that the Loan Review Committee may identify during the administration of the program.

3.5 Ineligible Businesses

Program funds may not be made available to the following entities:

- 1) Speculative investment companies;
- 2) Real estate investment companies (except for facilities from which the business operates);
- 3) Lending institutions;
- 4) Gambling operations;
- 5) Recreational facilities which do not allow access to the general public
- 6) Other businesses not serving the interests of the Village of Mukwonago;
- 7) Any government body or governmental entity (including the Village of Mukwonago EDC); and
- 8) Not-for-profit businesses or organizations.

Typically, businesses are allowed only one outstanding loan under the Economic Development Loan Program. In order to apply and be considered for a subsequent loan under the program, the outstanding balance (principle and interest) of the existing loan must be paid in full. With a supermajority vote (5 of 7), the EDC can waive this provision.

3.6 Minimum Requirements

To be eligible for funding, a project must meet all of the following minimum requirements:

- 1) Private Funds Leveraged. The applicant must leverage a minimum of one dollar (\$1.00) of private funds for every one dollar (\$1.00) of loan funds requested. Higher leverage may be required at the discretion of the Loan Review Committee.
- 2) Cost Per Job Created. At least one (1) full-time, permanent position must be created for every \$20,000 of program funds requested. The EDC may require job creation at a rate greater than one job per \$20,000 loaned, upon taking into consideration the type of jobs, hourly wage, benefits, etc.
- 3) Financial Feasibility and Business Viability. The applicant must demonstrate that the proposed project is viable and the business will have the economic ability to repay the funds.
- 4) Low and Moderate Income (LMI) Benefits. The project will provide increased permanent employment or will retain existing jobs which would have been lost locally. Of the jobs created or retained by the project, at least 51 percent must be made available to low or moderate income persons as defined by the U.S. Department of Housing and Urban Development.

- 5) Compliance with Applicable Laws. Applicants will comply with all applicable local, state, and federal laws and codes.
- 6) Project Completion. Project shall be completed within 24 months from the date of the loan approval. Applicants must provide the EDC with a project implementation time schedule not exceeding 24 months. All required jobs must be created within 24 months of the date of loan closing, and these jobs must be retained by the business for a minimum of 24 months.
- 7) Owner Equity. Applicants for the Micro-Loan Program must have a minimum ten percent equity in the business to qualify for a loan.

3.7 Job Retention

It is the intent of the Village of Mukwonago EDC to utilize its Economic Development Loan Program to foster development of new jobs in the community. Under exceptional circumstances, the EDC may consider loans to businesses for job retention. In order for retained jobs to be considered, the following conditions must be met:

- 1) The jobs to be retained must offer wages at or above the average wage;
- 2) The jobs must provide benefits consistent with those provided by a majority of area businesses; and
- 3) The business must provide convincing proof that the jobs would be eliminated or transferred outside of the Village of Mukwonago if the loan were not made available.

4 Terms and Conditions

4.1 Terms and Conditions

Loan terms and conditions will be structured based upon need and ability to repay. Minimum standards include the following:

1. Loan Amount. Loan amounts are subject to the availability of Economic Development Loan Program funds.
2. Interest Rate. The interest rate on all loans may be set from a minimum of 3.00% to a rate equal to 2.00% above prime (defined as the prime rate of interest as published in the Midwest edition of the Wall Street Journal plus 2.00%).
3. Loan Terms. Loan terms will be determined by the Loan Review Committee subject to the following guidance:
 - a) Working capital loans shall have a maximum of seven years.
 - b) Loans for machinery, equipment, and fixtures will have a maximum term of ten years.
 - c) Real estate loans will have a maximum term of five years which can be amortized up to a twenty-year basis with the option to refinance for an additional five years.
 - d) Loan terms will be set so that there is an approximate parity between the amortized balance of the loan and the remaining value of the collateral. Loans secured by rapidly depreciated equipment should have a shorter amortization than loans secured by real estate.
 - e) Loans may be amortized with balloon payments.
 - f) The term of any loan made under the Economic Development Loan Program may not exceed the term of private financing used to meet the matching funding requirements of the project
 - g) All loans will be written to require regular monthly payments.
4. Deferment of Principal and Interest. The Loan Review Committee may recommend deferring principal and/or interest payments on Industrial Development and Commercial Enterprise loans, on demonstration of need by the recipient. Interest will accrue during the deferral period and may be paid in one lump sum at the end

of the deferral period or added to the principal of the loan and amortized over the remaining term of the loan. Loan payments may be deferred for a maximum of twelve monthly payments (or one full year from the date the loan is originated).

5. Prepayment. There are no penalties for prepayment of an Economic Development Loan Program loan.
6. Collateral. The EDC will seek the best possible collateral position to ensure that Economic Development Loan Program loans are adequately secured.
7. Other items. As determined by the EDC. May include items such as disclosures of other funding sources, partners, etc.

5 Application Procedures

5.1 Discussion of Program Requirements

Prior to submitting an application, the applicant must discuss the program with the Loan Program Administrator. The Administrator will assist the applicant, as is reasonably necessary, in completing the application. All financial information will be kept in a secure place with limited access by authorized personnel only.

5.2 Timing of Applications

There is no proscribed funding cycle for this program. Applications may be submitted at any time.

5.3 Priority of Consideration

Applications are reviewed in the order received and based on readiness for the proposed project to proceed. In the event that the loan funds requested exceed available funds, the following criteria will be used to determine which businesses will be awarded the loan(s):

- 1) Eligibility of applicant.
- 2) Eligibility of the project to be undertaken.
- 3) Ability of the project to secure funding from other sources.
- 4) Extent to which other public funds are used to support the project.
- 5) The extent to which private funds are leveraged.
- 6) The extent to which jobs are created, type of jobs, wages and benefits.
- 7) The extent to which the loan will be secured.
- 8) Evidence of ability to repay the loan.
- 9) Size of the loan requested.
- 10) Timing of the proposed expenditures.
- 11) Completeness of the application

12) Other factors as deemed appropriate by the Loan Review Committee.

5.4 Loan Application

Applicants must submit an application using the form available for the appropriate Economic Development Loan Program and that includes the following:

1. Business Description. A written description of the business including:
 - a) A brief history of the existing or proposed business, including when it started or is to start, type of operation, legal structure, market and products;
 - b) Key customers and clients;
 - c) Resumes of each principal associated with the business including number of years' experience in the business, educational background, and role in the business; and
 - d) A financial history of the business including balance sheets, profit/loss statements, cash flow statements, and accountant notes for the previous three years.
2. Project Description. A detailed description of the sources and uses of the funds needed for the project, including Economic Development Loan Program funds, private sector funds, equity, etc.
3. Commitments from Other Lenders. Letters of commitment are required from all other public and private sector entities providing financing for the project. Lender commitments should include a description of the type of financing being offered, the term, interest rate, security, availability, repayment schedule and amounts, and any conditions placed on the financing. These commitments may be obtained concurrently with the negotiation of the terms and conditions of the Economic Development Loan Program loan.
4. Projections. Provide proformas (a balance sheet, income statement and cash flow statement) covering a three year period based on the assumption that the business will obtain the requested loan from the Village of Mukwonago.
5. Additional Information. Additional information may be requested by the Loan Review Committee or the Loan Program Administrator.

5.5 Review Process

Specific Steps in the review process include the following:

1. Preliminary Review. The Loan Program Administrator will review the application for completeness and verify that the proposed project meets the minimum requirements. If the application is not complete, the Administrator will inform the applicant of the deficiencies.
2. Formal Review. The Loan Review Committee will meet to review an application prior to the next regularly scheduled meeting of the Village Board. Once the review is completed, the Loan Review Committee will forward a recommendation to the Village Board to either approve or deny the loan, along with any recommended terms or conditions.
3. Negotiation of Terms. Upon tentative acceptance by the Village Board, the Administrator will contact the business in writing to explain the terms of the loan offer being extended.
4. Notice of Award. If the application is approved, a closing will be scheduled to execute the necessary loan documents.
5. Rejection of Award. If the applicant is not approved, the Administrator will send a letter to the applicant stating the reasons for the rejection and offering to meet with the applicant to explore ways to strengthen the loan request or to identify potential alternative sources of financing.

6 Distribution of Funds

6.1 Loan Procedures

Prior to releasing funds, the following items shall be in place or provided at the appropriate time during the term of the loan:

1. Notice of Award. The Loan Review Committee must have reviewed and approved a complete application for an eligible applicant.
2. Loan Agreement. The Village attorney will prepare a loan agreement to be executed by the Village President and authorized representative(s) of the business.
3. Promissory Note. A promissory note will be prepared by the Village attorney and signed by the authorized representative of the business at the time of the loan closing. The note must be dated, it must reference the agreement between the EDC and the business, and it must specify the amount and terms of the loan funds delivered.
4. Security. Mortgage and/or lien instruments and/or personal guarantees provided as security for all loans will be prepared by the Village attorney and executed at the time of the loan closing. The Village attorney, or the Loan Program Administrator, must record the instrument and place a copy in the project file to include: Mortgage and/or security agreement;
 - a) UCC searches and filing;
 - b) Guarantee agreement;
 - c) Title insurance or Abstract;
 - d) Assignment of Life Insurance;
 - e) Casualty Insurance Binder;
 - f) Personal guarantees; and
 - g) Other documentation as may be appropriate.
5. Repayment Schedule. A loan repayment or amortization schedule will be prepared by the Loan Program Administrator at the time funds are disbursed. The repayment schedule will be attached to both parties' copies of the agreement.
6. Evidence of Permits, etc. Documentation must be provided by the applicant that all necessary permits, licenses, and other registrations required have been obtained by the applicant prior to the release of program funds.
7. Evidence of Program Expenditures. Documentation must be provided by the business to evidence the program expenditures. Documentation may include bills and invoices or receipts for materials, final bills of sale or cancelled checks. All documentation will be approved by the Loan Program Administrator.

8. Fixed Equipment. Fixed equipment financed with program funds must have been purchased, delivered and installed. The Loan Program Administrator will verify the installation of fixed equipment.
9. Other Documentation. As appropriate or necessary, the borrower may be asked to provide the following:
 - a) A Certificate of Status from the Department of Financial Institutions;
 - b) Articles of Incorporation and Bylaws;
 - c) A resolution of agreement to borrow funds;
 - d) Current financial statements;
 - e) Evidence of having secured other funds necessary for the project; and
 - f) An environmental assessment for real estate.

With the above documentation in place, the Loan Program Administrator will schedule a loan closing. All documents will be executed before funds are disbursed, and mortgages and UCC statements must be recorded with the Register of Deeds and the Secretary of State.

7 Post-Approval Requirements

7.1 Obligation of the Loan Recipient

In addition to the terms and conditions of the loan, all borrowers must agree to comply with the following conditions. These conditions must be written into the terms of the agreement prepared by the Village attorney.

1. Job Creation. The creation or retention of the agreed upon number of jobs within 24 months of the date of execution of the loan agreement with the EDC.
2. Non-Discrimination. Not to discriminate on the basis of age, race, religion, color, handicap, sex, physical condition, development disability as defined in s. 51.05(5), sexual orientation or national origin in an employment or construction activity related to the use of the business loan funds.
3. Use of Funds. To use the loan money only to pay the cost of services or materials necessary to complete the project or activity for which the loan funds were awarded.
4. Inspections by the EDC. To permit inspections by persons authorized by the EDC of all projects and properties assisted with the loan funds. Related project materials will also be open to inspections which include, but may not be limited to contracts, materials, equipment, payrolls, and conditions of employment. Requests for inspection must be compiled with by the borrower.
5. Records. To maintain records on the project as may be requested by the EDC. These files must be maintained as long as the loan is active or for at least three years after completion of the work for which the loan has been obtained, whichever is longer.
6. Progress Reports. To submit periodic progress reports to the Loan Program Administrator in accordance with the schedule in the loan agreement. These reports should report on project progress including the number of jobs created or retained during the loan agreement.
7. Insurance. To maintain fire and extended coverage insurance on the project property required during the term of the loan. The Village of Mukwonago must be listed as the Loss Payee, Mortgagee, or “additional” insured on the policy. Term life insurance may be required of the applicant in an amount equal to the loan balance through the life of the loan.
8. Compliance with Federal Law. To abide by all federal laws, when applicable. These include, but may not be limited to the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Davis-Bacon Act as amended, the Contract Work Hours and Safety Standards Act, the Copeland “Anti-Kickback” Act, and all regulations pursuant to these acts.

8 Performance Monitoring

8.1 Private Leverage Commitments

The Loan Program Administrator will monitor the use of funds and expenditure of private leverage commitments. Documentation may include invoices or receipts for materials and supplies, letters from lenders, final bills of sales, and cancelled checks.

8.2 Hiring of New Employees

The Loan Program Administrator will monitor the borrower's progress in meeting job creation or retention goals. Job creation may be documented using payroll records. Before-project and after-project records must be provided by the borrower to document job creation. Failure of the business to provide the targeted number of LMI jobs may be a condition of default unless the business can show it made a good faith effort to create the targeted number of LMI jobs but did not succeed due to reasons beyond its control.

8.3 Relocation from the Village of Mukwonago

Economic Development Loan Program loans are made only to businesses located within the corporate limits of the Village of Mukwonago. Loans made to businesses which subsequently move jobs or facilities from the Village of Mukwonago are subject to the following actions:

- 1) The business is subject to a penalty equal to the difference in interest paid at the rate established for the loan versus the interest which would have been paid if the loan had been written at the prime rate of interest on the date of closing (defined as the prime rate of interest as published in the Midwest Edition of the Wall Street Journal) plus two percent.
- 2) Economic Development Loan Program loans become due and payable immediately.

8.4 Default

In the event the business is in default on any of the terms and conditions of the loan agreement, all sums due and owing, including penalties, will, at the EDC's option, become immediately due and payable. Loans found to be in default may be subject to a default rate of the prime rate on interest on the date of closing (defined as the prime rate of interest as published in the Midwest Edition of the Wall Street Journal) plus two percent. To exercise this option, the Village attorney will prepare a written notice to the business. The notice must specify the following:

1. The default;
2. The action required to cure the default;

3. The date, not less than thirty days from the date of notice, by which the default may be cured to avoid foreclosure or other collective action; and
4. Any penalties incurred as a result of the default, jobs, etc.

9 Use and Reporting of Payments

9.1 Use of Loan Payments

Repaid loans must be deposited into the Economic Development Loan Program account(s) and used in a manner consistent with the policies and procedures manual. A separate accounting record must be kept for each loan to account for all funds loaned.

9.2 Reporting Requirements

The Economic Development Loan Program account(s) must be audited on an annual basis and the Loan Program Administrator must report semi-annually, June 30 and December 31, to the Wisconsin Department of Administration (DOA) regarding the use of program income. Reports must be submitted on forms proscribed by DOA.

9.3 Discontinued Economic Development Loan Program

In the event the Economic Development Loan Program is discontinued, all program funds must be repaid to the Wisconsin Department of Administration as provided in the applicable contracts.

10 Loan Program Servicing

10.1 Program Monitoring

The Loan Program Administrator will monitor each loan to ensure compliance with the loan terms and conditions and to monitor the financial health of the business to ensure continued payment of the loan. The monitoring will also ensure that all record keeping requirements are met, particularly in regard to job creation and expenditures of matching funds.

The Loan Program Administrator will monitor the overall Economic Development Loan Program including all records of individual loans, funds deposited to bank accounts, use of administrative funds, and other program funds. The Loan Program Administrator will monitor the effectiveness of the Economic Development Loan Program, market the program, and recommend policy and procedures to the EDC.

The duties of the Loan Program Administrator may be delegated to be routinely carried out by any other Village employee, under the supervision of the Loan Program Administrator.

10.2 Monthly Reporting to the EDC Board

The Loan Program Administer will prepare a monthly summary report of the Economic Development Loan Program and provide this to the EDC Board. The intent of the report is to offer a snapshot of the status of existing loans and balances in the program accounts. The report will include the following information:

1. Summary information for each outstanding loan, including the starting balance, payments received during the month, current balance, and status of payments;
2. Summary information on Economic Development Loan Program accounts, including starting balance, debits and credits to the accounts, and ending balances;
3. Funds available to lend and funds committed; and
4. A written summary of any collection activity or other non-routine activity relating to the program.

10.3 Quarterly Reporting to the Village of Mukwonago

The various loan programs offered through the EDC are included in the financial information reported by the EDC to the Village of Mukwonago on a quarterly basis. Accounting for these programs occurs within the financial reporting system used by the village. The EDC will report the balances of all Economic Development Loan Program

accounts, outstanding loan balances, and all transactions that occurred during the quarter. Loan program accounts are subject to the village's requirement for an annual audit.

10.4 Program Records

The Loan Program Administrator will maintain records associated with the general administration of the Economic Development Loan Program, including:

1. Applications to the Wisconsin Department of Administration for grant funds used to establish or fund the Economic Development Loan Program;
2. Contracts with the Wisconsin Department of Administration for grant funds awarded;
3. Policy and procedures manuals or other guidance issued by the Wisconsin Department of Administration relating to administration of the Economic Development Loan Program;
4. Policy and procedures manuals and other guidance adopted by the EDC or Village of Mukwonago relating to the administration of the Economic Development Loan Program;
5. Documentation of any actions taken by the EDC or Village of Mukwonago relating to the Economic Development Loan Program;
6. General documentation and correspondence relating to the Economic Development Loan Program;
7. Bank statements, checkbook registers, deposit records, check copies, certificates, and all other documentation relating to Economic Development Loan Program funds deposited at area financial institutions;
8. Records of administrative expenses paid through the use of program funds;
9. Records of activity taken to market the Economic Development Loan Program;
10. Monthly Loan Status Reports provided to the EDC Board; and
11. Semi-annual reports filed with the Wisconsin Department of Administration.

10.5 Program Monitoring Schedule

The Loan Program Administrator will establish a monitoring schedule to provide a reminder of the dates on which actions need to be taken to service the Economic Development Loan Program. The monitoring file should record the following dates:

1. Due dates of certificates of deposit in which program funds are invested;

2. Reporting dates to the Wisconsin Department of Administration;
3. Date upon which the terms of outstanding loans are due to be modified according to the loan agreement;
4. Dates by which loan recipients are scheduled to provide financial statements or progress reports;
5. Expiration dates of required insurance;
6. Dates upon which loans are due to be paid off, or balloon payments are due;
7. Dates by which loan recipients are required to meet job creation requirements (both to create the jobs and to maintain them for a period of at least 24 months);
8. Dates by which UCC Filings are scheduled to be renewed; and
9. Dates upon which annual loan recipient reviews are to be conducted

10.6 Individual Loan Records

A Master File will be established for each loan made through the Economic Development Loan Program. The Master File will include several sub-files, with the contents arranged as follows:

1. Loan Application File. This file contains all of the documentation relating to application for the loan. The following items will be placed in this file:
 - a) Application and related documentation;
 - b) Business financial statements;
 - c) Personal financial statements;
 - d) Credit reports;
 - e) Business plan documents;
 - f) Supporting loan information; and
 - g) Correspondence.
2. Loan Recommendation File. This file will contain a record of deliberations in considering the request for a loan under the Economic Development Loan Program. It may include the following:
 - a) Loan application analysis;
 - b) Recommended actions;
 - c) Record of recommendations by the Loan Review Committee;
 - d) Minutes of the EDC Board; and
 - e) Notice of Approval or Notice of Rejection.

3. Loan Closing File. This file includes all documentation relating to the closing of the loan. Some original documents may be kept in the Village safety deposit box for added security. Copies of these will be placed in the file along with a note indicating that the original is in the safety deposit box. This file may contain:

- a) Loan closing documents;
- b) Security instruments;
- c) Mortgage or Promissory Note;
- d) Other legal documents;
- e) Correspondence related to the closing;
- f) Amortization schedule; and
- g) Invoices for fees.

4. “Tickler File” System. The “tickler file” is a listing of time-sensitive monitoring requirements, intended to alert the Loan Program Administrator to actions which may need to be taken to adequately secure the EDC’s interests in the loan. It should include any of the following which may be applicable to the loan:

- a) Expiration dates of insurance (life or property) required in the loan agreement;
- b) Expiration dates of any UCC filings;
- c) Dates by which the business is scheduled to submit any financial statements required in the loan agreement;
- d) Dates on which the loan is to receive its annual review;
- e) Dates on which property taxes are due for which the loan recipient may be liable;
- f) Job monitoring dates (both the date by which jobs must be created, and the close of the 24-month period for which the jobs must be retained); and
- g) any scheduled changes to the amortization schedule.

5. Financial Statement File. This file contains the business’s financial statements submitted to the EDC.

- a. Periodic financial statements required to be submitted by the loan recipient; and
- b. Confirmation of review by the Loan Program Administrator.

6. Site Visit File. This file will contain a record of site visits made by the Loan Program Administrator to the project location or loan recipient.

7. Progress Report File. This file will contain progress reports submitted by the business.

8. Repayment Monitoring File. This file contains all records relating to the loan payment history of the loan recipient. It will include the following:
 - a. Business financial statements (if required);
 - b. Personal financial statements (if required);
 - c. Loan Payment Register (showing payment history to present, and the status of the loan);
 - d. Copies of checks received in payment on loans;
 - e. Correspondence related to loan repayment;
 - f. Records of any collection activities taken by the EDC; and
 - g. Records of any default or legal action taken by the EDC regarding collection of the loan.

9. Loan Review File. This file will contain the Annual Loan Review report prepared by the Loan Program Administrator.

10.7 Record Security

All files related to the various loan programs and to loans made under those programs will be maintained in a locked, fireproof file cabinet with access only by authorized personnel.

Original copies of mortgages and other recorded documents will be kept in the Village safety deposit box. Copies will be included in loan files maintained at the EDC office.

10.8 Loan Payment Register

A Loan Payment Register will be established for each loan. The Loan Payment Register will include the following:

- a) Dates on which payments are due;
- b) Starting balance;
- c) Amount paid;
- d) Allocation of principle and interest;
- e) Ending balance;
- f) Check number (or notation if cash or electronic fund transfer); and
- g) Date payment was received;

10.9 Late Payment

All loan payments must be made in a timely manner. Payments made within ten (10) days of the due date will be considered on time. If payment is not received on the due date, the actual account balance will be compared to the scheduled balance shown on the amortization schedule. In the event that past payments have been larger than required, if the current balance is less than the scheduled balance, the payment will not be considered past due. The following procedure will apply to all past due loan payments:

1. Payment less than ten (10) days past due. The date on which payment is received will be noted on the loan repayment log. No further action will be taken.
2. Payment ten (10) days past due. The loan recipient will be contacted by telephone to notify them of the past due payment and to discuss when payment will be received. If applicable, a late fee may be assessed. A record of the telephone conversation will be placed in the loan file.
3. Payment fifteen (15) days past due. If payment is not received within fifteen (15) days of the due date, written notice will be sent to the loan recipient notifying them that payment is past due and requesting immediate payment of the scheduled amount plus any applicable penalties. A copy will be placed in the loan payment file.
4. Payment thirty (30) days past due. A written notice will be sent to the loan recipient via certified mail, reminding them that payment is past due and notifying them of a potential default. The letter will include any actions that must be taken to avoid default, and the date by which action must be taken (not more than sixty (60) days from the date of the notice on which payment must be received). Notice will be given to the EDC Board at its next regularly scheduled meeting, and the Board will determine if any additional steps are warranted.
5. Payment sixty (60) days past due. An additional written notice will be sent to the loan recipient via certified mail. This notice will contain the information included in the original notice and a reminder that the loan will be considered in default if payment is late by ninety (90) days or more.

The Village Board will be updated on the status of the loan at its next regularly scheduled meeting. The Village Board will determine if any additional steps are warranted.

6. Payment ninety (90) days past due. In the event that payment is not received within ninety (90) days of its due date, the loan may be considered in default. All sums due or owing to the EDC may, at its option, become due and payable and may be subject to a default rate of interest, if provided for in the loan agreement. The EDC Board may turn the matter over to its attorney for legal action in order to recover loan proceeds through the liquidation of collateral and/or the exercising of personal guarantees.

10.10 Troubled Loans

When loan monitoring indicates that the loan recipient may be experiencing financial or potential problems that could threaten the viability of the loan or the business, the EDC will make appropriate attempts to assist the recipient.

10.11 Accounts

Funds that are not loaned to businesses will be deposited in bank accounts. These funds should be divided among a checking account and certificates of deposit, maximizing both access to the funds to write new loans, and interest earnings. The following guidelines apply:

1. Checking account – The checking account should target a balance of approximately \$250,000. This is approximately enough to complete two new loans during any quarter.
2. Certificate(s) of Deposit – Remaining funds over the \$250,000 balance in the checking account will be placed into certificates of deposit, coming due every 91 days at the end of each quarter (i.e., March 31, June 30, September 30, and December 31).

Appendix A

Loan Application

Part I – General Information

Business Name		
Business Address		
Contact Name		
Contact Address		
Contact Phone	Contact Fax	
Contact E-Mail	Company Web Site	

Part II- Business History

Provide a brief history of the existing or proposed business, including the following items:

- Year started
- Significant markets
- Primary products
- Legal Structure
- Significant events in the company’s history
- Key Clients
- Any additional information

Part III- Project Description

Provide a summary of the proposed project including information about:

- Start and completion dates
- Real estate acquisition
- Construction activity, including estimated value of improvements
- Machinery and equipment purchases
- Product market information
- Total project cost
- Job creation

Part IV- Sources and Uses of Funds

<u>Proposed Use of Funds</u>	<u>Source and Amount of Funds</u>				<u>Total</u>
	<u>Owner Equity</u>	<u>ED Loan</u>			
<u>Total</u>					

Part V- Job Creation

Provide information about the new jobs that will be created as a result of this project. Only include information about full-time, permanent (year-round) jobs.

Job Title	Average Hourly Wage	Benefits Provided?	Number of New Full-Time Jobs Created			
			1st Year	2nd Year	3rd Year	Total
		Select One				
		Select One				
		Select One				
		Select One				
		Select One				
		Select One				
		Select One				
		Select One				
Total Jobs Created						
Current Number of Jobs in the Village of Mukwonago						
Provide information on the types of benefits provided to employees. For health, life, and dental insurance, provide information on the percentage of costs paid by the employer and employee.						
Provide information on new part-time or seasonal jobs that will result from the proposed project.						

Part VI- Collateral

Provide information about collateral available to secure the EDC's loan to the business. This may include real estate, machinery and equipment, inventory, etc.

Available Collateral	Current Value	Appraisal Available?	Equity Available	CDA in subordinate position?
				Select One
Total				

Part VII- Attachments

- The following information must be attached to the application in order for it to be considered complete.
- Resumes of each principal associated with the business, including experience, educational background, role in the business, and other relevant information.
- A financial history of the business including balance sheets, profit/loss statements, cash flow statements, and accountant notes for the past three years.
- Projections including balance sheets, profit/loss statements, and cash flow statements for three years from the date of application.
- Letter(s) of commitment from other lenders on the project (if any) describing the type of financing being offered, amount, interest rates, security, availability, and repayment schedule.
- A copy of the company's business plan, or those segments of the business plan relating to the proposed project.
- Any other documentation that reinforces the viability of the proposed project, or that helps to describe the company and its products.

Part VIII- Trade Secrets / Confidentiality

- Please review the application and indicate whether any of the information provided is considered a trade secret or considered confidential by the business. Wisconsin

State Statutes require that certain information received by the EDC and used to consider the loan application be considered public information.

Generally, certain financial, product, and market information may be considered a trade secret and may not be subject to release by the CDA.

Part IX- Certification

I hereby certify that the information provided above and in the attached supporting documentation is to the best of my knowledge true and accurate. I also authorize the Village of Mukwonago to perform both business and personal checks as a part of this application process.

Name

Date

Name

Date