

# Monterey County Revolving Loan Fund Administrative Plan



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## PART I. THE REVOLVING LOAN STRATEGY

Since 1989 the U.S. Department of Commerce, Economic Development Administration has awarded Monterey County three grants to capitalize Small Business Revolving Loan Funds. Each of these RLFs had slightly different target areas or beneficiaries.

- **Rural RLF – (RRLF [EDA Award #07-39-03105])** This is the County’s first RLF grant and was targeted for the Salinas Valley south of the City of Salinas and the unincorporated communities of Castroville, Moss Landing and Pajaro. The \$300,000 loan pool was capitalized using \$200,000 from EDA and local contributions totaling \$100,000.
- **Countywide RLF (CWRLF [EDA Award #07-49-02640])** This was the County’s second RLF grant and was made in response to the economic dislocation associated with the closure of Fort Ord. The \$1,426,500 loan pool was capitalized using \$1,000,000 from EDA and \$416,500 from the Community Development Block Grant (CDBG) program. The CWRLF may also be identified as CDBD/CWRLF or EDA/CWRLF to denote specific funding restrictions.
- **Contractors RLF (CRLF [EDA Award #07-49-02640.01])** This grant was to recapitalize the CWRLF and establish a loan pool for contractors competing on projects associated with the conversion and reuse of Fort Ord. This \$695,982 recapitalization included \$350,000 from EDA, \$252,956 from the CDBG program and \$93,026 from the California Defense Adjustment Matching Grant program.

### A. ECONOMIC ADJUSTMENT PROGRAM OVERVIEW

#### **1. Nature and Scale of Economic Adjustment Problems**

##### **a. Why area is eligible for EDA grants**

Monterey County continues to experience economic distress as seen in its high annual average unemployment rate. Throughout the 1990’s Monterey County’s average unemployment rate was 11.3% compared to the U.S. average of 5.7%<sup>1</sup>. During 2001 the U.S. unemployment rate averaged 4.8%, while Monterey County averaged 9.3%, almost 2 times the national rate. The two basic economic engines in the County, agriculture and tourism, both employ large, seasonal workforces. Because of the seasonal nature of these industries, the County’s unemployment rate is subject to dramatic seasonal variations. For example, in January 2001 the unemployment rate was 15.8% but in August and September the unemployment rate was 5.4%.

In addition to the chronic high unemployment rate, the County has also experienced a number of natural disasters and military base closures over the last eleven years. These events, including the 1989 Loma Prieta earthquake, the closure of Fort Ord in 1992, flooding in 1995 and 1998, and the closure of the US Army Test and Evaluation Center and realignment of Fort Hunter Liggett in 1998 have also contributed to the County’s eligibility for Title IX funding.

#### **2. Process That Was Used to Develop Economic Adjustment Strategy**

In February and March of 1992, the County of Monterey, in conjunction with more than 120 community leaders, went through a strategic planning process to develop a vision for the County. The Vision calls for a life of abundant quality with all the opportunities for individuals to

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<sup>1</sup> Does not include 1999 or 2000. California has not adjusted unemployment for these years to reflect the March 2001 benchmark.

develop their full potential and pursue their dreams. The Vision focuses on protecting and enhancing the County's educational opportunities, the economy and the environment. Based on the County's vision, the Board of Supervisors continued to work with the community and developed a 15- point Economic Development Strategy. The County's Economic Development Strategy was adopted in June 1996. Since the Strategy was adopted in 1996, the Board of Supervisors has sponsored three Economic Strategy Forums to continue the process of refining the County's economic development policies.

The Monterey County Overall Economic Development Commission is charged with preparing the Comprehensive Economic Development Strategy Reports (CEDS). The CEDS is updated as needed to evaluate the County's progress toward implementing the County's Economic Development Strategy and to identify areas of the strategy that need to be amended.

### **3. Area Resources/Assets**

#### **a. Industries:**

Monterey County's economic development strategy supports continued development and diversification of the County's two major industries, agriculture and tourism. At approximately \$2.6 billion, agriculture is the mainstay of Monterey County's economy. Uniquely rich soils, mild climate, abundant rainfall and water resources, progressive land use policies, a highly skilled farming community and major food processing plants and facilities which have operated in the area for generations help to form the most important single economic resource in the area. The County is actively working to develop more facilities that add value to the raw agricultural products.

This includes adding new product lines to existing food processors and developing new products. This strategy will create more permanent manufacturing jobs without endangering or ignoring our great natural agricultural strengths. One example of the County's efforts to capitalize on these economic sectors is the current planning effort to develop the marine and agricultural biotechnology industries.

At approximately \$1.5 billion, tourism is the second major component of the Monterey County economy. The spectacular coastline, mild weather, accessible beaches, wooded mountains, historic landmarks and world class hotels, restaurants and wineries, all in close proximity to several northern California metropolitan areas have made Monterey County an important recreational area and vacation destination. The County is working with the industry to develop additional destinations and develop the County's agricultural tourism assets, such as boutique wineries and farm stay opportunities. This industry also offers the opportunity to further diversify the County's economic base by attracting businesses that provide goods and services to them.

#### **b. Natural resources**

Monterey County's two largest industries, agriculture and tourism, exist largely because of the County's natural resources. These industries benefit from the mild climate, dramatic geography and rich soil. The County is currently working to develop policies and programs that will help link these industries together. Examples of these projects include farm stays and enhancing the tourism aspects of the wine industry. The large amount of produce grown in the County also provides the opportunity for the County to support development of additional value-added processing facilities such as those producing salads in a bag.

c. Work Force

Monterey County's had an average of 195,800 people in its labor force during 2001. However, just as the County experiences large, cyclical unemployment, the labor force expands and contracts depending on the season. In 2001, the County's labor force ranged from 191,000 to 201,400, a 5.3% change. The County's 2001 labor force changes were not atypical.

Based on information from the 1990 Census, more than 26% of the County's residents 25 years or older, and therefore the potential labor force, had less than a high school education. The low educational attainment makes economic diversification into new industries challenging.

d. Other Resources

The Monterey Bay region (Monterey, San Benito and Santa Cruz counties) is home to more than 15 research facilities, community colleges and state universities. The County is actively exploring ways to capitalize on the economic development potential these organizations represent. The County recognizes these institutions represent an excellent source of untapped potential, however the dominant economic sectors, agriculture and visitor servicing businesses do not provide sufficient opportunities or compensation to entice people to stay in the area once they complete their education.

e. Opportunities to Expand and Strengthen Existing and New Economic Activities

In terms of available land and labor force, the reuse of Fort Ord represents the greatest opportunity for Monterey County to create new economic activity and support the existing economic base. Since the closure of Fort Ord, the community has worked together to develop a Base Reuse Plan. This document, which is essentially a CEDS for base reuse, was developed to be consistent with and supportive of the County's economic development strategy. The Base Reuse Plan includes the following six areas of focus:

- Agricultural Center - The Agricultural center would include food processing and distribution with value added components for export. A global competitive state-of-the art Agricultural Center will be an advantage to the region's agricultural industry by providing coolers, processing distribution and packaging facilities;
- Educational Conference Center - To provide facilities for business and professional meetings with an emphasis on maximizing productivity and capitalizing on the wealth of information available from the nearby university/research complex that is proposed in the base re-use plan;
- High Technology Manufacturing - A scientifically oriented university that focuses on marine sciences, aquaculture, environmental sciences, agriculture and other related disciplines would develop theory in those areas. A local high tech manufacturing cadre of businesses would produce the instruments or other products to support industries in those related disciplines;
- Aquaculture - The Central Coast already has a number of these businesses, some of which may expand and consolidate their activities at Fort Ord. The opportunity to locate production operations adjacent to research facilities provides an incentive for businesses that rely on innovative techniques to improve productivity and profitability;
- Telecommunications - Certain types of telecommunication activities may be pursued, including international trade (particularly agriculture) and oceanographic activities;

- International Trade Resource Center - A resource center that can provide a full spectrum of services necessary to exploit the potentially large international market for local products and services.

Some of these activities may be appropriate for other areas within the County and will be pursued as opportunities present themselves.

#### 4. Strategic Adjustment Goals & Objectives

The Economic Development Strategy for Monterey County stresses the importance of retaining and expanding existing businesses while attracting new compatible businesses that create quality jobs and a diverse and stronger economy. This is based on the County's vision statement, which outlines the County's economic goals. The central economic development themes are to maintain the high quality of life while increasing economic diversity and the income generation potential within the Community. To accomplish these objectives the vision statement places a premium on developing and retaining businesses that are compatible with the unique natural resources and environment of the County.

The County's economic development goals are defined in Section II of the County's Comprehensive Economic Development Strategy (CEDS). Four of the key policies to achieving these goals are:

- The County shall support the retention, expansion and development of industries that preserve the environmental quality of the region and have national and global market potential including, but not limited to, agribusiness, tourism, retail trade and education.
- The County shall effect the coordination of federal, state and local, public and private resources to enhance the economic base and to promote economic diversification.
- The County shall encourage utilization of the available labor force and promote the retraining of workers to meet the needs of the County's changing economy.
- The County shall cooperate with the cities and private enterprise to promote economic development.

The primary objective of the RLFs is to diversify and strengthen the economic base of the local area and promote economic diversification by assisting businesses that are unable to secure necessary private financing for start up and expansion projects. The RLFs will be used to stimulate new investment in plant and equipment purchases and the retention and creation of private sector jobs. Revolving loan funds will be used to provide funding for a variety of small firms that are unable to finance some or all of their start-up or expansion plans through conventional financing resources for a variety of reasons, including a short operating history or inadequate collateral.

Once a RLF loan has been repaid, it is expected that the individual business will be eligible for SBA funding or private financing. At that point, the overall goals of increasing access to capital resources will have been accomplished.

#### 5. Implementation Programs & Activities

##### a. Current

The Office of Economic Development (OED) is responsible for implementing the County Economic Development Program. OED contracts with a Community Development Corporation to all day-to-day management activities for the RLF programs. The OED also provides a variety

of business development and retention services including site location assistance, permit assistance and, under contract with the Small Business Development Centers, business counseling.

b. Planned

The OED continues to develop programs that will contribute to the overall success of the County's Economic Development Strategy. These programs include enhanced support for business retention, expansion and attraction. Key elements in these programs include the establishment of a "red team" that can quickly respond to businesses in danger of relocating to another area or closing and becoming more actively involved in the Central Coast Marketing Team. The CCMT is a regional marketing program that represents cities in areas of six Central California counties on the Internet and at trade shows.

**6. Organizational Structure & Responsibility for On-going Adjustment Program**

a. Agency responsible for evaluating and updating strategy as necessary

The Monterey County Board of Supervisors is responsible for adopting the County's Economic Development Strategy and Policies. The Board has charged the Monterey County Overall Economic Development Commission (OEDC) with developing economic development strategy and policy recommendations for the Board's consideration. The Monterey County Office of Economic Development provides staffing to the OEDC and is responsible for the day-to-day implementation of the County's Economic Development Strategy and policies.

The OEDC annually reviews the Comprehensive Economic Development Strategy to ensure that it is continuing to meet the needs of the County. Part of the OEDC's annual review includes developing recommendations for new or revised economic development policies and strategies to address the changing economic conditions within the County. The OEDC reviews the County's business development strategy and the RLF Administrative Plan to ensure that they remain consistent with amendments to the County's CEDS. The Monterey County Board of Supervisors annually reviews the RLF portfolio to ensure that the goals of the RLF Administrative Plan are being met.

b. Agencies that manage or coordinate implementation of strategy with emphasis on business development strategy that RLF is part of

The Office of Economic Development (OED) is the County's lead agency for managing and implementing the County's Economic Development Strategy. Part of OED's responsibility is the coordination and management of all economic development grant programs in the County, including the Revolving Loan Funds. The County contracts with the California Coastal Rural Development Corporation to provide the day-to-day program administration of the RLF programs, including marketing, loan packaging and servicing.

OED also works closely with a variety of community and economic development organizations throughout the County to coordinate economic development activities and advocate for policies that support economic development. The public sector agencies that OED works with include the various city and County land use departments, i.e. planning, public works and environmental health, and the economic development coordinators from the twelve cities in the County. OED also works with the Chambers of Commerce and Cabrillo and Gavilan College Small Business Development Centers to provide direct business assistance.

## **B. THE BUSINESS DEVELOPMENT STRATEGY**

### **1. Objectives of Business Development Strategy**

The core objectives of the County's Economic and Business Development Strategies are to support the retention, expansion, and attraction of businesses that will create quality jobs and economic diversification without compromising the County's high quality of life or the natural environment. The County's Economic and Business Development Strategy recognizes that existing businesses are the County's best economic development asset. These businesses provide the best opportunity to create new job opportunities and economic growth. Consequently, the County has developed a number of programs to help meet these businesses' financial, business planning, regulatory, and work force needs.

While existing businesses offer a tremendous opportunity for economic growth it is necessary for the County to continue to encourage new business start-ups and to attract compatible businesses expanding into the County. Many of the programs that are available for existing businesses can also be adapted to meet the requirements of these new and expanding businesses.

### **2. Pertinent Characteristics of Businesses Targeted by the Strategy**

The County's Business Development Strategy targets businesses that have national and international market potential, including, but not limited to, agribusiness, retail trade, education, manufacturing, visual arts, film making, language arts/publishing, technology and marine science. Since more than 60% of the businesses in the County employ fewer than five people, most businesses that receive assistance, as a result of this strategy, will fall into this category. In these businesses, the owner is frequently handling a wide variety of tasks. The work required to meet existing regulatory requirements while maintaining the existing level of customer service does not always leave time for the small business owner to improve their business or learn about programs that could help them capitalize on growth opportunities. The Economic Development Strategy seeks to create linkages between these business owners and the multitude of small business resource programs that are available to help them grow.

### **3. Types of Assistance Needed by Businesses Targeted by the Strategy**

Most of the small businesses that are targeted by the County's Economic Development Strategy can benefit from some form of business counseling or financial assistance. Business needs can be grouped into three broad categories; management counseling, regulatory assistance and financial assistance. To ensure that these needs are met, OED works closely with the Central Coast and Gavilan Small Business Development Centers to connect businesses with the appropriate services. In order to ensure that these services are available to businesses in Monterey County, the County provides funding for the SBDC's.

### **4. Programs and Activities Undertaken to Meet Business Needs**

There are a wide variety of programs that have been undertaken by public sector and development organizations to assist businesses. Some the programs are:

#### **a. Business Assistance**

- Office of Economic Development – The lead organization charged with reviewing, recommending changes to and implementing the County's economic development policies and programs. OED provides site location and permit processing assistance to businesses interested in doing business in Monterey County. OED also acts as a referral service

directing businesses to agencies that can help businesses address a wide range of issues including business planning, financing and labor force needs.

- Monterey County Redevelopment Agency – The RDA provides many of the same functions as OED but to areas that have been designated as redevelopment areas under California law. The RDA also administers a variety of programs for community improvement in these areas.
  - California Technology, Trade & Commerce Agency – The CTTCA has a variety of programs including business retention assistance, providing leads to local economic development officials, technical assistance for economic development program development and identification of state and federal funding sources.
- b. Permit Assistance
- Monterey County One Stop Permit Center - The Permit Assistance Center supports the economic development effort of the County of Monterey primarily by being a center for dissemination of technical and procedural information regarding land use development.
- c. Financial Assistance
- County RLF programs
  - California Coast Rural Development Corporation – The CCRDC administers twelve different direct loan or loan guarantee programs, including the County’s three RLFs. Because CCRDC administers so many programs they can frequently meet the financing needs of most businesses.
  - Industrial Development Bonds - IDBs are the lowest-cost and most flexible financing alternative available to companies with manufacturing operations who need to expand, renovate or relocate their facilities.
  - SBA loan programs – The SBA has a number of programs, including the 7a, 504, and the Export Working Capital Program to help meet the financial needs of the small business community.
- d. Business & Financial Counseling
- Central Coast SBDC – operated as part of Cabrillo Community College in Aptos (Santa Cruz County)
  - Gavilan SBDC – operated as part of Gavilan Community College in Gilroy (Santa Clara County)
  - Service Corp. of Retired Executives (SCORE)
  - The SBDCs and Score provide a wide range of services, including management and technical assistance and training and advice on business planning, marketing, finances, production and organization.
  - BAYTRADE provides assistance to local businesses interested in accessing international markets.
- e. Training & Employee Recruitment
- Employment Development Department – EDD administers the state’s unemployment insurance program and provides employee placement services.
  - Employment Training Panel – Assists businesses in acquiring and retaining skilled workers by subsidizing employer-training costs for individuals hired by eligible businesses.
  - Hartnell Community College
  - Monterey Peninsula Community College
    - Community Colleges provide a variety of technical and general education programs for people entering the work force, changing careers or upgrading their skills. Community

colleges work with local businesses to ensure that their curriculum is providing training relevant to industry requirements.

- Work Force Investment Board (WIB) – The WIB is responsible for administering the federal Workforce Investment Act (WIA) in Monterey County.

Additional information on these programs may be found in the Monterey County Comprehensive Economic Development Strategy.

### C. THE FINANCING STRATEGY

The County's Economic Development Financing Strategy is intended to provide public sector financial assistance that stimulates the creation of new jobs and private sector investment. The County has four tools available to support and encourage private sector job creation activities. These tools include:

- Federal and State grant programs that can be used to build the physical infrastructure, i.e. sewer, water and roads, necessary to support development or make large business loans.
- The Office of Economic Development is able to facilitate the issue of tax-exempt Industrial Development Bonds when the proceeds will be used by an industrial business to expand existing facilities. Because the bonds are tax-exempt they offer very attractive interest rates to qualified businesses.
- The County Office of Economic Development is also able to work with businesses to help them take advantage of a variety of state loan programs and tax incentives, including low interest loans to businesses that will recycle used products and the Manufactures' Tax Credit.

Because the first three programs are targeted to larger, established businesses or businesses in targeted industrial sectors, the County has developed a Small Business Revolving Loan Program Funds to assist small and start-up businesses.

The County has received a number of Federal and State grants to capitalize three distinct Revolving Loan Funds. These RLFs were established to address specific financing needs in different geographic communities and business sectors. In general, the RLF programs are designed to help businesses create long-term employment opportunities by helping businesses grow and providing access to counseling resources. The three programs also have specific geographic and/or business sectors that they are intended to target. These are:

- **Rural RLF:** The Rural RLF (RRLF [EDA Award #07-39-03105]) was originally capitalized in 1989 using an EDA grant and matching funds from the County and South County cities. The RRLF portfolio is targeted toward businesses located south of the City of Salinas in the Salinas Valley and generally north of the State Highway 183 extending west to the coast and north to the County line. Businesses in the City of Salinas are not eligible for loans through this program.
- **Countywide RLF:** The Countywide RLF (CWRLF [EDA Award #07-49-02640 & #07-49-02640.01]) was originally capitalized in 1993 using EDA and Community Development Block Grants. The portfolio was recapitalized in 1997 with additional EDA and CDBG funds. As the name implies, this program is intended to assist businesses anywhere in the County.

- The CDBG funds that are included in this portfolio may not be used for loans to businesses in any city that receives funding through the U.S. Department of Housing and Urban Development Entitlement Cities program. The ineligible cities are Monterey, Salinas and Seaside.
- **Contractor RLF:** The Contractor RLF (CRLF [EDA Award #07-49-02640.01]) was originally capitalized in 1997 with grants from EDA and California Trade and Commerce Agency and is operated as a sub-component of the CWRLF described above. The CRLF was developed as part of the County's response to the Fort Ord closure. As a result of the closure and the process of developing the CRLF, the County has found that local contractors face significant barriers to achieving long-term success:
  - They frequently do not have access to the "mobilization" capital they need to demonstrate the financial ability to complete projects when bidding on projects.
  - Many use high interest credit cards or take out additional home mortgages to finance project costs until the first payment is received from the contracting agency or general contractor. This erodes their ability to make long-term plans or build their business.
  - Many neglect the basic business and financial planning necessary to allow them to become stable and make a long-term contribution to the local economy.

The CRLF is designed to address these issues by making short-term loans that are repaid out the contract proceeds and requiring the contractor to participate in intensive business counseling and financial planning with the local Small Business Development Center. The County hopes that as a result of their participation in the CRLF, small contractors will lay a business foundation that will allow them to successfully bid on and complete projects that will in turn create more opportunities for the contractor and skilled laborers they employ, as well as increase local wealth.

Contractors bidding on projects anywhere in Monterey County are eligible for the CRLF program, however contractors bidding on projects on the former Fort Ord will be given funding priority. All contractors receiving RLF loans must be domiciled in Monterey County. Contractors domiciled in San Benito or Santa Cruz Counties may apply for loans through the CRLF with approval by EDA.

#### 1. Eligible Financing Uses:

- a. RRLF & CWRLF:
  - **Land & Building Acquisition:** Acquisition and owner-occupied land and facilities for existing businesses including engineering and legal fees, grading, testing, site mapping, and related costs associated with acquisition and preparation of land or construction and rehabilitation of buildings including leasehold improvements.
  - **Acquisition of machinery, equipment, furniture, fixtures and leasehold improvements:** This includes the delivery, installation, engineering, architectural, legal, insurance, and related costs (i.e. sales and use taxes) associated with acquisition and installation of machinery and equipment.
  - **Brownfield Recycling:** Other investments, which will accelerate recycling of land and facilities for creating job activity, such as assistance to firms that plan to locate or expand in such facilities.

- Working capital needs: This includes financing the non-tangible costs associated with starting and/or expanding a business, such as payroll, inventory, raw materials etc.
- Economic Development Incentives: RLF financing may also be used as an incentive, through favorable loan terms, to attract new business or a business expansion into an eligible area. The business may be credit worthy but would otherwise not locate to the area without RLF financing as an incentive. When RRLF or CWRLF financing is proposed for this type of project, the Program Administrator (PA) must sufficiently document in the credit memorandum the need for RLF assistance and should obtain certification from the company that it would not locate the proposed project at the intended location without RLF assistance.
- Business Acquisition: RLF financing may be used to purchase an existing business if it can be documented that the business will cease to exist without RLF assistance. Business acquisitions should be rare and meet the more rigorous tests for repayment ability associated with loans purely for job retention.

b. CRLF:

Generally, the CRLF may be used for any of the eligible uses listed for the RRLF and CWRLF. However, it is expected that most loans will be for short term, working capital requirements and the acquisition of equipment.

2. Ineligible RLF Financing Uses:

Accept as otherwise noted, the RRLF, CWRLF and CRLF may not be used to finance the following types of activities:

- Relocation: Projects involving the relocation of any firm from one labor market area to another in such a manner as to cause unemployment at the location where such work previously was performed;
- Project Location: Projects that will not be located within the County of Monterey;
- Projects Not Consistent with Existing Economic Development Plans: Projects that are not consistent with; 1) Monterey County's Annual Comprehensive Economic Development Strategy (CEDS), or 2) relevant city economic development policies or strategies;
- Projects that Generate Temporary Employment: Projects that will not provide more than temporary alleviation of unemployment or underemployment within the County.
  - This provision does not apply to the CRLF because participating contractors will use the funds to complete specific, short-term, construction projects.
- Private Sector Funding Availability: Projects for which funds are judged to be otherwise available from private lenders;
- Repayment Ability Required: In general, projects that do not have a reasonable assurance of repayment of the proposed loan(s);
- Conflict of Interest: Projects which would create a conflict-of-interest for any current or former employee or officer of the PA, Board member, Loan Committee member, (or people related to them by blood, marriage or law) (Refer to section D.16 of EDA's Section 209 Revolving Loan Fund Grants Special Terms and Conditions for complete requirements);
- Private Developers: Private developers are not normally eligible for RLF assistance unless the activity financed is non-speculative, consistent with the strategic and lending objectives of the RLF, and directly benefits or will directly benefit identifiable business concerns.

- RLF capital may not be used to acquire equity or an interest in private businesses either through the purchase of stock or through the acquisition of assets, unless the need for RLF financing is sufficiently justified, and documented in the loan write-up, or credit memo.
  - Acceptable justification could include acquiring a business to substantially save it from imminent foreclosure or acquiring it to expand the enterprise with increased private investment.
- Investment: Loans for the purpose of investing in interest bearing accounts, certificates of deposits, or other investments not directly related to job creation/retention;
- Public/Quasi-Public Organizations: A public or quasi-public organization is not eligible to receive RLF financial assistance unless 1) the activity financed directly benefits or will directly benefit identifiable business concerns, and 2) there is reasonable assurance that the activity financed will result in increased business activity in the near term;
- Refinancing Existing Debt: On a case-by-case basis loan requests to refinance existing debt may be considered if: (1) there is sound economic justification and sufficient documentation in the loan write-up that the RLF is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender(s) or to lower the cost of financing to a borrower; (2) RLF funds are used to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan. This action may be undertaken only if there is a high probability of receiving compensation within a reasonable time period (18 months or less) from the sale of assets sufficient to cover expenses and a reasonable portion of the outstanding loan obligation.

### 3. Current Financing Needs of Targeted Business Sector

The County's RRLF, CWRLF and CRLF programs have been established to support job creation and business development in Monterey County. These programs have been designed to provide financing for businesses that have a solid business plan and financial projections but are unable to finance their start-up or expansion plans through sources of conventional financing for a variety of reasons, including, but not limited to, inadequate collateral, lack of operating history, derogatory credit histories, etc. The financing needs of the targeted business sector are discussed further in Part I, C, 4, i. of this Administrative Plan.

The CRLF is designed to provide mobilization capital to small contractors who have a history of successfully completing projects but are unable to demonstrate the financial strength necessary to successfully bid on larger projects. The County wants to support and retain small contractors because of their role in the local economy. The CRLF is designed to help small contractors become more profitable and to invest more capital in their businesses by providing an alternative to financing projects start up costs with high interest credit cards. The CRLF will encourage small contractors improve their business and financial practices to increase their long-term prospects for prosperity by requiring them to participate in business counseling provided by the Small Business Development Centers. The long-term goal of the CRLF program is to provide the business foundation and credit history that will enable contractors to qualify for conventional financing and compete for larger projects, as well as increase local wealth.

### 4. Current Public and Private Financing Resources

In general the following policies apply to all three of the County's RLF programs.

Prevailing commercial lending policies/restrictions: Banking resources in Monterey County remain focused on working with the major firms located in the Salinas and Monterey Peninsula

areas. Our local private financial lending institutions are under enormous competitive pressures and are often unwilling to accept the risk associated with making long-term, fixed rate loans in fast changing financial market conditions. Area banks tend to favor loans for the expansion of profitable and stable businesses rather than loans for the higher risk endeavors or start-up businesses. The region continues to experience some branch office closures, bank mergers and changes of ownership. The decision to fund a loan application is usually made in a regional office in San Francisco or Los Angeles. Often, the corporate policies of these institutions do not fully take into account the needs and situations unique to our community.

Like almost all banking institutions in rural California, the area's commercial banks prefer to make short-term loans and, particularly for small loans, require minimum owner equity of 50% in a business. There is a need for longer term loans, for loans with lower equity requirements, for loans in the \$15,000 to \$50,000 range, for start-up capital, and for expansion capital for firms without existing banking relationships (i.e., firms that have been capitalized primarily by the owner's equity investment or high interest revolving credit).

Through its careful screening of applicants and its creative loan structuring, the RRLF and CWRLF will work with conventional lenders to meet the credit needs of riskier, but still credit worthy firms. For example, lenders assured of an adequate collateral cushion with an RLF subordinate loan would be more encouraged to participate, or participate more deeply than they would have otherwise. These RLF programs are designed to meet the credit needs of firms that would not otherwise be served by conventional lenders and, at the same time, provide funds adequate to the needs of the particular borrower.

##### **5. Role of Public and Private Lenders in Supporting Business Development Strategy**

The RLF program is intended to encourage private lenders participation in business development loans that they might not ordinarily consider, by accepting junior lien positions. The expectation is that once a business has successfully performed on a RLF loan, the business will achieve a level of stability that will allow it to qualify for conventional financing.

##### **6. RLF's Financing Niche**

**RRLF and CWRLF:** These programs have been developed to provide funding when conventional financing (bank, SBA, etc.) is either not available, available in amount insufficient to meet the needs of the business or is cost prohibitive for the small business. Frequently, funding through these programs will be used to augment conventional financing.

**CRLF:** This program was developed to provide mobilization capital for small contractors. This business group identified a need for short-term financing necessary to enable them to demonstrate that they have the financial resources required to successfully complete a variety of projects. These projects are primarily in the construction trades, i.e. building rehabilitation, plumbing, electrical, etc. The primary use for this program is to provide funding for short-term requirements (inventory, bonding, etc.) that cannot be funded through conventional financing sources because there are few assets available to secure the financing.

##### **7. Types of Businesses**

**RRLF and CWRLF:** These programs may be used by any business that will create or retain jobs in Monterey County. The County has identified certain, broadly defined business sectors for

targeting under the business development strategy. These business sectors are described in Part I, B. 1 and 2 of this Administrative Plan.

**CRLF:** The Contractors Revolving Loan Fund is specifically targeted to assist women-owned business enterprise (WBE), disabled veteran-owned enterprise (DVE); minority-owned business enterprise (MBE); or small disadvantaged business enterprise (SDBE) obtain non-conventional loans, to facilitate initial costs related to construction or services and/or materials contracts. Businesses that will benefit from this program could be involved in any of the construction trades, landscaping, building maintenance or supply construction and/or maintenance services and supplies. The following criteria govern eligibility for the CRLF program:

- Be a Monterey business applying for financial assistance to complete a project in Monterey County;
- Be licensed by the State of California, or appropriate agency, to conduct business and be in good standing with the State of California Contractor's Licensing Board or appropriate issuing agency;
- Be able to verify business income for periods required by the CRLF. This requirement will be to verify banking relationships, evaluate financial statements, bank deposits and credit rating(s).
- Other relevant information may also be required by the PA to determine the extent to which the business has the financial capability to complete a contract and meet all obligations including repayment of the proposed CRLF loan;
- Be unable to obtain all or part of the proposed RLF financing from conventional private sources as determined by the PA, based on information supplied by the contractor.
- Contractors from San Benito and Santa Cruz Counties are eligible for this program if they agree to work with the One-Stop Career Development Center to make a good faith effort to fill new jobs created as a result of CRLF financing with Monterey County residents and are approved by the US Department of Commerce, Economic Development Administration (EDA) prior to the loan being presented to the loan committee.

#### 8. Types of Financing

The County's three Revolving Loan Funds (RRLF, CWRLF and CRLF) provide essential financing for small business start-up and expansion when conventional lenders cannot or will not finance the entire project and the RLF may be the sole funding source for businesses that are unable to qualify for any conventional financing. These programs will accept subordinate liens to encourage conventional lenders to participate in financing these business ventures.

Since banks are generally not willing to take the risks associated with fixed term loans to the small contractor community, the CRLF program is the only source of financing available for inventory acquisition, bonding and related mobilization expenses.

#### 9. Standard Loan Terms

**RRLF & CWRLF:** The terms for all three RLF programs (RRLF, CWRLF and CRLF) are intended to be flexible enough to provide borrowers with terms that will allow them to become stable business ventures. These programs will help entrepreneurs take advantage of start-up and/or expansion opportunities by minimizing monthly debt service requirements during the initial start-up or expansion phase when the potential return on investment is smallest. To accomplish this goal, loan terms will be determined on a case-by-case basis to balance the goal

of supporting the small business creation and growth while maximizing the rate at which funds revolve. Terms may include longer repayment periods, stepped payments and the use of balloon payments. In general, loan terms will not exceed the useful life of the equipment financed or five (5) years in the case of working capital loans.

**CRLF:** The CRLF program is intended to provide short term, low interest loans to small contractors to help carry them through receipt of the initial progress payment. The length of the contract that qualified the contractor for the CRLF program will determine the length of the loan. It is anticipated that most loans made through this program will not exceed six (6) months.

#### 10. Impact of RLF on Accomplishing the Economic Adjustment Objectives

##### a. Restructuring/strengthening the local economy:

The County's primary objective is to support the enhancement of the economic base and promote economic diversification that will utilize the County's available labor force and promote the retraining of workers to meet the needs of a changing economy. The County will focus on business retention, expansion and development of industries that preserve the environmental quality of the region and have national and global market potential including, but not limited to, agribusiness, tourism, retail trade and education. The RLF will encourage entrepreneurs to start businesses that will provide basic services that are currently not available in the County and to the agriculture and tourist-related industries to attract visitor dollars into the County.

##### b. Stimulating Private Investment

The RLF programs will stimulate private sector investment by:

- Providing gap financing and accepting subordinate lien positions to leverage conventional financing
- Helping to reduce debt service requirements for small businesses by providing a more affordable means to finance business start-up and expansion than high interest revolving credit

##### c. Enhancing Job Opportunities:

To ensure that the displaced worker and the long-termed unemployed will be linked with the jobs created through the RLF, the County will work with the local Workforce Investment Board (WIB) and Department of Social Services. Companies that receive RLF assistance will be encouraged to use these resources to fill new jobs. Large loans, more than \$150,000, will generally be required to enter into a first source hiring agreement with these agencies.

The RLF will target permanent full-time jobs in the industrial, commercial, retail and tourism areas. Loans solely for saving of jobs will be approved only when it is clearly evident, and documented, that the jobs will be lost in the imminent future without RLF assistance. Firms receiving assistance primarily to save jobs must be integral to the functioning of the local economy.

- Loans involving CDBG matching funds must meet HUD's Targeted Income Group (TIG) benefit requirement that 51% of the jobs created will be filled by persons earning 80% of the County's median income.

## **D. FINANCING POLICIES**

### **1. Standard Lending Terms, Concessionary or Special Financing Techniques to Achieve Business Development Strategy**

RRLF & CWRLF: The RLFs will generally seek to fully collateralize (i.e. book value) all small business loans and to obtain the maximum amount of collateral available to minimize losses in event of liquidation. In order to better protect the RLF, the County may take a superior position on selective collateral or attempt to enter into co-lender agreements with private lenders in order to share collateral and provide a pro-rata distribution formula for disposing of assets in the event a loan defaults. However, the RLF may accept a subordinate collateral position or accept less than full collateralization in order to further the economic development objectives of the RLF.

The RLF may negotiate with private lenders to enter into a co-lender agreement that will spell out rights and duties of all parties, their interest in business assets and how business assets will be disposed of in the event of default. This arrangement will be used whenever possible.

CRLF Program: Because the program is intended to help small contractors establish their credit worthiness, they will generally only be required to make interest payments during the loan term. The final principal and interest payment will be made by the contracting entity directly to the CRLF PA on the borrower's behalf. Since an Assignment of Contract Proceeds will secure the loans it will not generally be necessary for the CRLF to take a subordinated collateral position on other business or personal assets.

### **2. Conflict of Interest – Program Administration**

If any RLF loan (RRLF, CWRLF and CRLF) is part of a financing package that includes funds that are controlled or managed by the PA and the PA has a potential risk of loss, either from a loan or from compensation, the County RLF must have a superior or equal collateral position to the funding source. This provision is intended to help avoid the appearance that the PA has a potential conflict of interest by taking a superior collateral position, to the detriment of the County RLFs.

### **3. Loan Application and Origination Fees**

- RRLF & CWRLF Programs: Applicants will be charged a \$200 application fee and a loan origination fee equal to 2% of the loan amount.
  - The borrower shall pay any direct costs incurred in loan processing and closing.
  - When deemed appropriate by the PA and the Loan Committee, the loan origination fees may be deducted from the loan amount.
- CRLF Program: Applicants will be charged a \$100 application fee and a loan origination fee equal to 1% of the loan amount.
  - The borrower shall pay any direct costs incurred in loan processing and closing.
  - When deemed appropriate by the PA and the Loan Committee, the loan origination fees may be deducted from the loan amount.
- The PA, with the County's approval, may waive any or all fees.

### **4. Range of Allowable Interest Rates**

RRLF & CWRLF Programs: Interest rates for loans will generally be set at the prime lending rate as reported by the Wall Street Journal on the day of loan closing. The maximum RLF interest rate shall be the prime rate plus two percent quoted in the Wall Street Journal at loan

closing, or the maximum allowed under state law, whichever is lower. The minimum RLF interest rate shall be four percentage points below the Wall Street Journal prime rate quoted in the Wall Street Journal, at the time of closing, but never less than four percent.

All loan terms require prior approval by Monterey County as described in Part II, Section A. 4. The utilization of sub-prime or adjustable interest rates will be based on the following criteria:

- Linking interest rates to job creation - the more jobs the business says they are going to create the lower the rate. The interest rate should be reviewed annually to ensure that the anticipated job creation actually takes place and if it does not the rate could go up.
- Capital improvement projects may be offered a lower rate to offset the increased cost of compliance with prevailing wage requirements
- Higher rates for working capital
- Lower rates for business sectors targeted by the County's Comprehensive Economic Development Strategy

CRLF Program: A fixed Interest Rate of prime, minus 1 point based on the current Wall Street Journal rate on the day the loan closes. However, the rate may be higher, as determined by the Loan Committee depending on risk and other factors. Interest will be calculated from date the loan closes. Payment schedules will generally be monthly interest payments with the balance due upon completion of the contract.

#### 5. Requirements for Equity and/or Cash Injections by RLF Borrowers

**RRLF & CWRLF:** In general the County would like to see evidence that the borrower is committed to the project. Generally this will be demonstrated by a personal financial interest in the business venture that will be financed. The amount or percentage of capital or lien free assets that will be added to the project from borrower or investor sources (equity) will be determined by the proposed use of RLF funds and the business' operating history.

- Fixed asset loans, the standard equity requirement will normally be twenty percent (20%) of the total project cost
- Working capital loans, the standard equity requirement will be twenty percent (20%) of the total project cost
- New companies, those with less than two (2) years of operating history, the equity requirement is 20%

The County may consider deviations from these general guidelines if the proposed project is in an area that has been targeted by the County's business development strategy, there is evidence of excess security and/or the borrower has a proven history of operating successful businesses.

#### 6. Standard Repayment Terms

**RRLF & CWRLF Programs:** In general, loan terms will be based on the useful life of the assets being financed and the cash flow of the borrower. The following guidelines will be used to establish maximum loan terms:

- Real property loans will not exceed 25 years
- Machinery and equipment loans will be for the useful life of the machinery and/or equipment financed and generally will not exceed 10 years
- Working capital loans will not exceed five (5) years

Within these general guidelines, the portfolio will place an emphasis on making shorter-term loans to accelerate the reuse of the RLF dollars, to other borrowers.

Repayment will normally be accomplished in equal monthly installments, including principal and interest over the life of the loan. RLF loan terms will normally equal the loan term of the participating private lender, but may extend beyond that of the private lender if necessary.

In certain situations the RLF can be used as a tool to meet a short-term financing gap. The RLF may also employ the use of balloon loans, i.e. the loan may have a shorter- term call period, but be amortized over a longer period (not to exceed the weighted average useful life of the fixed assets or five years in the case of working capital loans.)

**CRLF Program:** Generally, CRLF borrowers will be required to make monthly interest only payments and repay the outstanding loan balance following the filing of the Notice of Completion from contracting entity (i.e. the General or Prime Contractor or other contract issuing entity) responsible for the project on which the loan was granted. One condition that will be attached to single project loans, will the execution of an Assignment of Contract Proceeds between the borrower and the contracting entity. This document will authorize the contracting entity to deduct the outstanding amount due on the CRLP loan (including fees and penalties, if any) from the borrower's final payment as specified under the loan terms enumerated in the loan documents describing the terms and conditions for repayment of the loan. The contracting entity will forward the final payment to the PA.

#### 7. Moratoria on Principal Payments & Maximum Moratorium Period

**RRLF & CWRLF Programs:** A moratorium on principal payments providing for interest only payments for up to six months will be allowed if found necessary to assist a borrower with temporary cash flow problems.

**CRLF Program:** In general, the CRLF requires interest payments during the loan period, with the full principal due from the "Prime Contractor" when the Notice of Completion is filed.

#### 8. Key Factors to Determine When Deviations will be Employed

In general, deviations from these policies will be considered only if it significantly improves the likelihood of the loan being brought current or to minimize the potential loss to the RLF. The County retains the authority to determine when a deviation should be considered. The PA shall exercise due diligence when recommending that the County consider a deviation from these policies.

#### 9. Types of Collateral Required

**RRLF & CWRLF:** Security will be required, as necessary, to adequately collateralize RLF loans, and serve as a secondary source of payment. In the case of fixed asset loans, security will usually be, at a minimum, liens on the assets financed in addition to other assets of the business or owner/investor(s). Working capital loans will normally be secured by receivables, inventory and fixed assets. A landlord's consent or similar document will normally be obtained where a borrower leases its facility in order to ensure access to inventory and equipment collateral. It will also be the general policy to require personal guarantees by the applicant's principals that may be secured, as appropriate, by liens on personal assets. Adequate insurance coverage on the business assets, required where fixed assets are primary security for the RLF loan. Key man insurance that

specifies the County as the loss payee may also be required, as appropriate. Flood insurance is required if applicable.

**CRLF:** An Assignment of Contract Proceeds executed by the contracting agency to ensure that the loan is repaid out of the contract proceeds. Additional security such as liens on equipment and business assets may also be required, if deemed prudent to protect RLF assets.

#### 10. The Minimum and Maximum Loan Sizes for RLF Program

**RRLF:** Loans made using the RRLF funds will generally be between \$5,000 and \$100,000 and average \$50,000. The maximum loan size for the RRLF is \$100,000.

**CWRLF:** Loans made using the CWRLF program will range between \$10,000 and \$200,000 and average \$125,000. The maximum loan size for the CWRLF is \$250,000 without prior EDA approval.

**CRLF:** Loans will normally be between \$5,000 and \$25,000, with discretion to make loans up to \$100,000 on a case-by-case basis. Loans for more than \$25,000 will be expected to have significant, measurable and lasting economic impact. In no event will a loan exceed \$100,000 without prior EDA approval.

### **E. PORTFOLIO STANDARDS & TARGETS**

#### 1. Anticipated Uses as a Percentage of RLF Portfolio

##### a. Small/Large Businesses:

**RRLF & CWRLF:** At least eighty-five percent (85%) of total RLF loan funds are targeted for small businesses, as defined by the US Small Business Administration. The SBA small business definition is based on the North American Industry Code System (NAICS) and either annual sales or number of employees and is available on-line at [www.sba.gov/size](http://www.sba.gov/size). Fifteen percent (15%) of the RLF may be used to assist large businesses (as defined by the SBA for the type of business), eligible for RLF funds.

**CRLF:** It is anticipated that 100% of the CRLF loans will be made to small contractors. Under the NAICS, general building and heavy construction contractors must have annual receipts of more than \$27.5 million to be considered large contractors. Special trade construction contractors have a size standard of \$11.5 million.

##### b. Commercial/Industrial:

**RRLF & CWRLF:** (70/30%): Seventy percent (70%) of all RLF loan funds are targeted for commercial projects and thirty-percent (30%) targeted to support industrial projects.

Commercial projects must meet one of the following standards:

- Must have significant job creation potential, i.e. significantly less than the portfolio standard (\$20,000:1)
- Offer services that are underserved or not currently offered in the community
- Have a significant potential for stimulating other economic development activity
- Provide vitally needed services

Because Monterey County is predominately an agricultural and visitor serving economy, there may be insufficient demand for industrial/manufacturing loans to meet this target. In order to continue supporting business and job development the County may use more than 70% of the

funds for commercial projects. In the event that the County needs to reduce the industrial portion of the portfolio below 30%, the County's first priority will be to target loans for businesses that provide services that support the agricultural or visitor-serving industries but are not currently available locally. The County will then consider other commercial projects that have significant potential to increase employment or contribute to the tax base.

**CRLF:** The County will attempt to make one hundred percent of the CRLF portfolio available to general, building, landscaping, building service (janitorial), or other contractors. However, up to 30% of the portfolio may be used to fund loans to firms that supply materials to contractors.

c. **New Business:**

It is anticipated that 60% of the RRLF and CWRLF portfolio will be made to start-up businesses. Up to 40% of the CRLF portfolio may be used to support start-up businesses.

d. **Business Expansion:**

It is anticipated that 25% of the loans will be made to support the expansion of existing businesses. Most of the loans made through the CRLF will be in support of business expansion projects.

e. **Business Retention:**

It is anticipated that 15% of the RRLF and CWRLF loans will be made to support business retention, to save jobs that would be lost without RLF financing. Loans for this purpose will require extensive review to ensure that the business will remain viable as a result of RLF financing and to maximize likelihood of repayment. The County does not anticipate making any business retention loans through the CRLF program.

f. **Anticipated Percentage of RLF Portfolio for Specific Uses:**

In general the RRLF and CWRLF portfolios will be managed so that no more than 85% of the portfolio is for working capital. The balance of the portfolio will be targeted to loans for purchasing fixed assets. It is not anticipated that a significant percentage of the portfolio will be used to purchase real property since conventional financing will use fund this activity or make tenant improvements because of the added cost of complying with prevailing wage requirements.

g. **Private Investment Leveraging Ratio for Portfolio:**

**RRLF & CWRLF:** The private sector leveraging ratio is defined as the amount of private dollars proposed as part of the finance package divided by the amount of the proposed RLF loan. The portfolio standard leverage ratio is established at two private dollars to every one RLF dollar. This ratio may vary in individual cases, so long as the loan portfolio as a whole achieves a standard ratio of 2:1 private to public dollars.

If other public lending sources are involved in the loan package, the maximum public participation in such a package may not normally exceed fifty percent (50%) of the total project. The RLF will attempt to maximize private sector involvement in each project in order to leverage its funds and diversify risk.

When the RLF is used in conjunction with an SBA 504 loan program, 90% of the guaranteed amount and all of the unguaranteed amount will count as the private leverage part of the RLF loan ratio.

h. Source of Leverage

Private leverage for RLF funds may consist of financing from conventional lenders and/or other private sources including new cash investments made by the owners and stockholders of the business.

i. Cost Per Job for Portfolio

**RRLF & CWRLF:** In general, these portfolios will have a ratio of \$20,000 per job-created or saved. Individual loans may have job cost ratios that exceed \$20,000 per job. Self-proprietorships and owners/principals of companies are not counted towards the job creation/retention goal.

- No loan funded using CDBG may have a cost per job that exceeds \$35,000.

**CRLF:** This portfolio will also use the \$20,000 per job ratio as a target. However, because most loans will be made to support specific short-term contracts it is not realistic to expect the CRLF to create long-term job opportunities. The positive economic impact of the CRLF program is based on helping the contractors achieve long-term success, not solely on job creation and retention; this target may not always be met.

**F. RLF LOAN SELECTION CRITERIA**

**RRLF & CWRLF:** The two primary eligibility criteria for the RLF loan programs are job creation/saving jobs and stimulating private sector investment. Any loan request that meets both of these criteria will be considered for funding. In the event that there is more demand than available funds, the County will prioritize loans based on those criteria and those described below.

**RRLF & CWRLF Priority Lending Criteria:**

- Businesses in economic sectors targeted by the County’s economic development strategy
- Related to the economic revitalization of the former Fort Ord
- Greatest economic multiplier effect, i.e. industrial or commercial activities that add value to a locally produced product and result in additional money flowing into the County
- Provides a good or service that was formerly purchased outside the area.
- Creates a new visitor destination or supports additional travel spending
- Projects with the greatest potential to increase sales and/or property tax receipts

**Disaster Selection Criteria Considerations:**

- In the event that Monterey County is impacted by extraordinary natural or man-made disasters, the County may use the RLF to support business recovery, and saving of jobs consistent with this approved RLF Administrative Plan.

**CRLF:** The primary criterion for this loan program is providing business development opportunities for small contractors. In the event that there is more demand than available funds, the County will prioritize loans based on the criteria described below.

**CRLF Priority Lending Criteria:**

- Projects located on the former Fort Ord.
- Supports permanent, not project specific, job creation.

## **G. PERFORMANCE ASSESSMENT PROCESS**

Annually the Overall Economic Development Commission (OEDC) will review the County's Comprehensive Economic Development Strategy (CEDS) and the RLF's role in implementing that strategy. Based on the annual review, the OEDC may recommend changes to the County's financing strategy to make it more responsive to the community's financing needs. The OEDC will also review the RLF portfolio annually to ensure that it continues to meet the requirements of the grants and Administrative Plan.

## PART II. REVOLVING LOAN FUND OPERATIONAL PROCEDURES

### A. ORGANIZATIONAL STRUCTURE

The County will contract with a Program Administrator (PA) to handle the day-to-day operation of the County's various RLF programs including: marketing, preparing loan write-ups, presenting credit requests to a Loan Committee, loan documentation and loan payment processing, loan disbursements and collections.

The County will use a competitive Request for Proposals process to select the firm that will provide these services. The County will issue a RFP not less frequently than every three years. The firm selected to administer the County's RLF programs must meet all County requirements for employee dishonesty, automobile liability and general liability. Currently, the County requires contractors to provide evidence of General Liability and Automobile Liability insurance of \$1,000,000.

Currently the County has a contract with the California Coastal Rural Development Corporation (CCRDC) to provide program and fiscal administration for the RLF programs. In addition to the County's RLF portfolios, CCRDC administers a variety of other federal, state and private loan portfolios and has staff, and retained legal counsel, that are fully qualified to manage commercial loan portfolios. CCRDC is responsible for:

- Marketing the various RLF programs
- Working with applicants to complete loan applications
- Preparing loan write-ups and presenting them to the Loan Committee
- Preparing loan documents for approved loans
- Recording all security instruments, i.e. UCC-1, Deeds of Trust
- Disbursing loans to borrowers in accordance with the Loan Committee direction.
- Preparing monthly invoices for borrowers.
- Receiving and posting payments
- Preparing monthly account reconciliation's and drafting required grant reports.
- Working with delinquent borrowers for the first 120 days

The County is responsible for the following aspects of the RRLF, CWRLF and CRLF programs:

- General oversight of the program
- Competitive selection of the PA
- Review all loan write-ups for consistency with Administrative Plan before loans are presented to the Loan Committee
- Review and approve loan terms and conditions before they are submitted to the loan committee
- Final approval for all foreclosure actions
- County approval authority rests with the Principal Administrative Analyst for Economic Development or their designee.
- The County will send out customer satisfaction surveys to all applicants.
  - The results of these surveys will be discussed with the Program Administrator quarterly and be considered when negotiating new agreements.
  - The County may contact the Program Administrator immediately to resolve significant customer service problems.

The County has established separate, interest earning, bank accounts for each program and funding source. The use of separate accounts allows the County to segregate the different funds and ensure that they are used for the purposes that they were awarded. If the County receives additional grants, from any source, to recapitalize the RLF pool, additional accounts will be established.

### 1. Identification & Development of Appropriate Financing Opportunities

The PA shall be responsible for marketing the County's Revolving Loan Funds. The PA will promote the program using a variety of means. First, there will be media coverage of the RLF. Second, area bankers and the Small Business Development Centers will be made aware of the loan program so that they can recommend it to their clients when appropriate. Third, PA staff will make public appearances to inform local chambers of commerce, downtown business groups and other business development organizations of the availability and extent of the program.

Furthermore, specific efforts will be undertaken to inform the minority community of the RLF program. The primary method will be via the U.S. Commerce Department's Minority Business Development Center serving Monterey County. Outreach will be coordinated with Spanish language television, radio and print media.

The RLF programs will be advertised at least annually through a public notice in the newspaper or distribution of flyers provided there are funds available for lending.

### 2. Business Assistance to Prospective and Actual Borrowers

Technical assistance is also available to loan applicants from a variety of programs including the Small Business Administration, Service Core of Retired Executives and the Small Business Development Centers located at Cabrillo and Gavilan Community Colleges. These organizations are available for consultation not only on available financing but also on business plan development, marketing and other key business areas. Referrals will also be made to other agencies as deemed appropriate.

The Cabrillo and Gavilan Community College Small Business Development Centers offer regular small business management courses, individual consultations with business faculty and technical assistance with business planning. The Cabrillo and Gavilan College SBDC services are available at a very low cost to any business located in Monterey County.

### 3. Loan Management

In general, the PA will be responsible for overseeing the day-to-day management of the RLF program. These duties include, but are not be limited to:

- Marketing the availability of RLF program
- Following up with delinquent borrowers funds for the first 120 days
- Processing loan applications
- Preparing monthly financial reports, i.e. balance sheets and all required grant approved loans reports
- Document and disburse loans
- Preparing monthly invoices for borrowers
- Preparing credit analysis and loan write-ups and recommendations for the Loan Committee
- Receiving and posting borrower payments

The Monterey County Office of Economic Development will provide general oversight for the PA. Within OED, the Principal Administrative Analyst and Budget and Operations Analysts will be responsible for providing this oversight. At a minimum the County will provide the following oversight activities to ensure that the program operates in accordance with the grant terms and conditions:

- Review and approve each loan write-up to ensure that the loan requests are consistent with this Administrative Plan and grant requirements before the loan is presented to the Loan Committee.
- Acting on loans that are more than 120 days delinquent, up to and including foreclosure if appropriate
- Reviewing the PA's monthly financial reports
- Reviewing and transmitting all required grant reports to appropriate grant agency

The specific duties and how they will be carried out will be enumerated in the County's contract with the PA.

#### 4. Loan Committee

A Loan Committee shall be responsible for approving all loan requests and loan modifications. Prior to any loan package being presented to the Loan Committee, the Principal Administrative Analyst for Economic Development (or their designee) must review the loan package, proposed terms, and impact of the proposed loan on the overall portfolio and concur with the loan being forwarded to the Loan Committee for consideration.

The Loan Committee, through the PA, may make loan policy recommendations to the County Office of Economic Development. The Loan Committee may not initiate foreclosure actions without approval of the Monterey County Board of Supervisors. The Monterey County Overall Economic Development Commission (OEDC) will review loan policy recommendations and forward them to the Monterey County Board of Supervisors for final approval. The Monterey County Board of Supervisors is the only body authorized to initiate foreclosure actions.

California Coastal Rural Development Corporation (CCRDC), the County's current PA, has established a Loan Committee and Board of Directors to review and approve all loan programs administered by the organization. The County will work with CCRDC to ensure that the Loan Committee and Board of Directors meet all EDA requirements for financial experience and that it represents the ethnic diversity of the community.

According to CCRDC's By-Laws, the loan committee must have a minimum of five members, which reviews and approves all loans for less than \$50,000. All loans of more than \$50,000 are then presented to the Board of Directors for a final review and approval for loans greater than \$100,000. A quorum, including at least one member with lending experience, of the appropriate body (i.e. Loan Committee or Board of Directors) must be present to consider approving or amending any loan. A quorum is defined as 50% plus one of the membership.

Under CCRDC's Small Business Administration charter, a majority of the loan committee shall be experienced in banking and lending operations to be carried out by the Corporation. The SBA requires that the Board of Directors must include representatives from three of the four following membership groups:

- Governmental organizations responsible for economic development in the central coast counties of California, the Corporation's area of operations;
- Financial institutions that provide commercial long-term fixed asset financing in the central coast counties of California;
- Community organizations dedicated to economic development in the Corporation's area of operations such as chambers of commerce, foundations, trade associations, colleges and universities; and
- Businesses in the Corporation's area of operations; and
- At least one director, other than the President, shall have commercial lending experience in conformance with the United States Small Business Administration's rules, regulations and standards then in effect.

All members of the Loan Committee will receive a copy of this Administrative Plan and use it to determine whether a credit request meets the requirements of the Monterey County RLF programs.

Loan Committee and Board of Director deliberations for loan approval will adhere to the Conflict of Interest requirements contained in the EDA Standard Terms & Conditions dated December 1998. Members of the Loan Committee and Board of Directors must recuse themselves from deliberation process for loan approval where they have a professional interest. This would not normally apply if the banking relationship were limited to normal checking and/or savings accounts.

If the County contracts with a PA that does not have a standing Loan Committee, the County Board of Supervisors will appoint a five member Loan Committee that represents the geographic diversity of the County and meets all other EDA requirements including those of Section II.A. of EDA's RLF plan guidelines. This loan committee will have the same authority described above.

## **B. LOAN PROCESSING PROCEDURES**

### **1. Standard Loan Application Requirements**

At a minimum the following information will be collected for each loan application:

- A brief history of the business
- Management resume for the borrower
- Two (2) years of business tax returns
- Debt schedule
- Business organization documents, i.e. articles of incorporation, by-laws, certificate of good standing, fictitious name statements, partnership agreements, etc.
- Personal financial statements for anyone who owns 20% more of the business operation
- Three (3) years of personal tax returns for all borrowers completing the personal financial statements
- Interim business financial statement dated within 90 days of the loan application
- Year-end business balance sheet and income statements
- Financial projections for the next three (3) years
  - This requirement may be waived for applicants to the CRLF program
- Project description including how loan proceeds will be used and sources of funding
- Copies of any permits or licenses associated with the opening and/or operation of the business

- Copy of any contracts, i.e. purchase contract, if the loan will be used to buy a business

Applicants for the CRLF will also need to supply:

- Copy of contractors license, if a contractor
- References from jobs completed in the last two (2) years. The reference should include a description of the work completed, value of the job and a contact.

The PA may request additional documentation to complete a loan application as needed.

## 2. Credit Reports

The PA is responsible for obtaining and reviewing credit reports for all loan applicants. In general, a negative credit history is not a basis for denying a loan request to the County's RRLF and CWRLF programs, but it will be considered when evaluating loan approvals and collateral requirements.

Because the Contractor RLF is based on the contractor's ability to perform, more than their credit history, the decision to grant a loan will be weighted toward past performance rather than credit history.

## 3. Appraisal Reports

The value of pledged collateral must be verified through a market analysis, appraisal or other means that are deemed appropriate for the particular project. Appraisals must be performed by qualified personal and should include a review of prior uses to determine the potential for environmental contamination.

## 4. Environmental Reviews

The County is responsible for ensuring that all federal, state and local environmental regulations are complied with when making loans through the RLF program. As stated in the contract with the County, the PA will take all necessary steps to ensure that borrowers comply with all federal, state and local requirements regarding potential impacts to the physical and human environment.

The County has developed and will implement an environmental review process in accordance with the intent of the National Environmental Policy Act of 1969, as amended (P.L. 91-190), as implemented by the "Regulations" of the President's Council on Environmental Quality (40 CFR Parts 1500-1508) as listed in Section D. paragraph. 10, Section 209 Economic Adjustment Program, Revolving Loan Fund Grants, Standard Terms and Conditions, December 1998.

Typically, the responsible regulatory agency, i.e. city planning department, local air quality management district, etc, will review the proposed project for its potential environmental impacts when the business begins seeking regulatory approval, i.e. application for a business license, building permits, etc. Copies of any required permits and licenses must be submitted with the loan application as described in Part II, Section B, 1.

The County will not approve any project that has been denied a permit or license by any regulatory agency because the project will adversely (without mitigation) impact flood plains, wetlands, significant historic or archeological properties, drinking water resources, or nonrenewable natural resources. The County will not review the environmental status of any project before the PA presents the loan package unless specifically requested to do so.

The PA must undertake an environmental review if a loan will involve the acquisition of real property or the alteration of the physical environment as in construction. In these cases all borrowers will:

- Cooperate with the appropriate city or county staff in completing an Environmental Review Record.
- Complete an environmental/hazardous waste questionnaire.
- If deemed necessary by the PA or appropriate regulatory agency, permit a Phase I or Phase II environmental site assessment by a qualified inspector.
- All loans for construction or remodeling will comply with the California Environmental Quality Act (CEQA), PRC Section 21000, et. seq. as amended.
- If a loan project requires the preparation of environmental impact assessments or reports for potential impact areas included in the National Environmental Policy Act of 1969 or local or state requirements, it will be the applicant's responsibility to see that these requirements are met.
- Projects locating within the boundaries of Fort Ord must meet the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Community Environmental Response Facilitation Act of 1992 (CERFLA) prior to receiving RLF assistance.

All reviews will be consistent with the National Environmental Policy Act of 1969 as amended and implemented at 40 CFR Parts 1500-1508 and the following acts as appropriate:

- Clean Air Act, 42 USC 7411, et. seq.
- Water Pollution Control Act, USC 33 1251, et. seq.
- Coastal Zone Management Act of 1972 16 USC 1451, et. seq.
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Endangered Species Act of 1973, 16 USC 1531 et. seq.
- Safe Drinking Water Act, 42 USC 300f- 300j-9
- Wild and Scenic Rivers Act, 16 USC seq. 1271, et. seq.
- Resource Conservation and Recovery Act of 1976, 42 USC 6901
- Coastal Barriers Resources Act, 16 USC 3501, et. seq.
- Comprehensive Environmental Response, Compensation and Liability Act of 1980 PL 96-510 and as amended
- National Historic Preservation Act, 16 USC 470, et. seq

The PA is required to ensure that all federal, state and local environmental review requirements are met by potential borrowers.

##### 5. Standard Collateral Requirements

The County will generally secure its loans to the maximum extent possible to ensure an adequate secondary source of repayment. The following types of collateral will generally be sought to secure RLF loans:

- Business assets
- If insurance is required, (i.e. business asset, flood and/or key man), the County must be named as the loss payee and/or mortgagee.
- Adequate liability and hazard insurance may be required, as appropriate.

- A landlord's consent or similar document will normally be obtained where a borrower leases its facility in order to ensure adequate access to inventory and equipment collateral.
- Real property will require a Deed of Trust and Title Insurance.
- Fixed asset loans will generally require UCC-1 on all assets financed by the loan as collateral plus existing and assets acquired with RLF assistance, as applicable
- Working capital loans will generally require UCC-1 on all accounts receivable, inventory and available fixed assets.
- Any other assets of the business and/or owner/investor(s), (i.e. personal residences), necessary to adequately collateralize the loan.
- Generally, personal guarantees will be required for all owner or affiliates controlling 20% or more of the business to fully collateralize the loan. Personal guarantees may be secured by appropriate liens on personal assets, (i.e. personal residences).

Collateral pledged for each loan will depend upon the RLF loan amount, the overall risk of the credit, and the availability of personal and business assets to be pledged as collateral. Personal guarantees of all 20% or more owners and affiliate companies will be required for each loan unless there is a sound justification given which is included in the loan write-up and thereby approved by the loan committee.

#### 6. Standard Cash Injection/Equity Requirements

General Requirement: For each individual loan the equity requirement will generally be twenty percent of the total project cost. It is the County's general philosophy that existing equity or existing cash injection into the business indicates a reasonable level of commitment to the business; therefore, consideration will be given to existing equity in determining new equity required as a result of the project being financed. Exceptions may be made on a case-by-case basis depending upon the particular project and how it helps accomplish the County's business development strategy. The equity requirements for the County's RLF programs are described in Part I, D, 5.

The PA will use a financial statement not more than 120 days old to determine existing equity. Working capital loans may satisfy the equity requirement by demonstrating an equivalent amount of net working capital.

#### 7. Loan Write-Up

The Loan Write-Up is the document that credit decisions will be based on. The Loan Write-Up must contain sufficient information for the Loan Committee to determine the credit worthiness of applicants and determine the potential impact on the overall RLF portfolio goals described in Part 1, Sections B, C, D, E and F of this Administrative Plan, if the loan is approved.

At a minimum, the Loan Write-Up must include the following information:

- A summary of how the proposed project meets the objectives of the County's business development strategy and impacts the overall RLF portfolio, (i.e. cost per job, leverage, etc.)
- The loan program, (i.e. RRLF, EDA/CWRLF, CDBG/CWRLF, CRLF) that will be used to fund the loan if it is approved
- Evidence that the RLF is not being used in-lieu of available private sector financing
  - The primary support for this will be a statement of justification, prepared and signed by the PA. The secondary support may be a decline letter from a bank or a letter stating that a bank is unable to loan the full amount requested.

- An overview of the firm including:
  - History and management
  - A description of any required licenses and permits and whether or not the applicant has applied for or received the license/permit.
  - Any environmental issues identified during the permitting process should be addressed in this section
  - Products or services it will provide
  - Marketing strategy and conditions
  - Project financing
  - How the project addresses the RLF objectives listed in Part I, Section F of this Plan
  - An analysis of the borrower's ability to repay the loan and meet other financial obligations
- Collateral recommendations presented in a table format that lists the lender and the assigned collateral and the value of the assigned collateral. The filing position and collateral value should be listed below the appropriate financing source.
  - Business assets that are being used to secure a loan will include an estimate of the market value and estimated liquidation value of the assets.
  - If business assets will be shared among the lenders (e.g. RLF and SBA loans), the assets must be individually listed with their market and resale values below the financing source they will secure.
- Loan terms including the interest rate, scheduled payment amount and all loan covenants

#### 8. Procedures for Loan Approval

The following procedures generally apply to all three of the County's RLF programs:

- The PA's staff will review loan applications for completeness, program compliance and regulatory compliance.
- Review of completed environmental review documents to ensure that the project meets federal and local environmental regulations.
- Acceptance of loan application by a staff representative of the PA
- Detailed review and final written recommendation to Loan Committee by PA's staff, based on loan criteria, strength of business and principals and all other factors
- No loan will be recommended for approval without the determination that there is a reasonable assurance of repayment and the applicant meets the program requirements. The recommendation will include the loan terms and conditions.
- Prior to any loan being submitted to the Loan Committee for consideration, the County must first review the proposal and notify the PA in writing that the loan meets the objectives of the RLF program.
  - The PA will provide a copy of the loan write up and loan cover sheet to the County to make this determination.
  - A copy of the loan cover sheet is included in this Administrative Plan as Appendix I.
- After the County has notified the PA that the proposed loan is eligible for the program, the PA may present the loan request to the Loan Committee.
- Loan Committee will decide whether to approve or decline the loan request and what terms and conditions will apply. Loans will be approved by majority approval. The PA will maintain minutes of all Loan Committee and Board of Director's meetings where loans through any of the County's RLFs are considered.

- The PA will notify applicant in writing of the Loan Committee decision within 72 hours of the decision.
- If the request is approved the notification will include the loan terms and any special conditions that must be satisfied prior to loan closing.
- If the request is declined the notification will include reasons for denial.

### **C. LOAN CLOSING AND DISBURSEMENT PROCEDURES**

The following procedures generally apply to all three of the County's RLF programs unless otherwise noted.

#### **1. General Loan Closing Requirements**

Upon Loan Committee approval of a RRLF or CWRLF loan, the PA will:

- Prepare loan-closing documents, with attorney review as necessary
- Request Uniform Commercial Codes (UCC) searches for existing liens
- Request preliminary title search, if appropriate
- Disburse proceeds according to Loan Committee instructions or terms of loan
- Complete any remaining legal, regulatory or other housekeeping matters

**RRLF and CWRLF:** The PA will use all due diligence to ensure that approved loans are closed within 30 days of approval.

**CRLF:** Upon Loan Committee approval of a CRLF loan, the PA will notify the applicant. The notice shall include the following information:

- The applicant has up to six (6) months to present the PA with: a) contract award, b) a Letter of Intent to Award, or c) a Notice to Proceed.
- Funding will be made available on a first come basis as long as funds are available.
- The loan approval date does not secure the contractor's funding position, which is determined by the contractor's receipt of a bona fide contract.
- Once the applicant presents one of the required documents, the PA must review an updated credit report and financials dated within 30 days of the proposed loan closing date to make a determination that no material changes to available collateral or credit risk have occurred since the Loan Committee initially considered the credit request.
- In these cases, the PA will reserve loan funds pending a new review and approval of the loan request by the Loan Committee.
- The Loan Committee may over subscribe the CRLF to accommodate the potential delay between loan approval and contract award. Because of over subscription, all loans will be funded on a first come basis until all funds have been lent.
- The potential for over subscription must be disclosed to all borrowers when the loan application is accepted and again when the borrower is notified that a loan has been approved.
- Pursuant to the Mechanics Lien Law, the CRLP shall be empowered to impound funds in the case of default by a borrower.
- All contracts will be structured and evidenced by an Assignment of Contract Proceeds to ensure that funds are adequate to repay the CRLP loan. This provision is to ensure collection and repayment to the CRLP of all amounts, including fees, penalties and the original loan amount. The Assignment of Contract Proceeds requires the contracting agency to obtain the

PA's signature prior to payment to the contractor to ensure that the CRLP receives full repayment.

## 2. Loan Closing Documentation Requirements

Prior to disbursing any loan the PA is responsible for ensuring that that all necessary security instruments and related documents are filed and copies placed in the borrower's file. These security instruments and/or agreements may include, but are not limited to:

- Loan Agreement
- Promissory Note
- Personal Guaranty
- Recorded UCC-1, UCC Search
- Deed of Trust, Title Insurance
- Landlord's Consent
- Agreement of prior lien holder, as appropriate
- Evidence that the borrower has applied for or obtained all insurance required as a condition of the loan
- A cancelled check for the first premium payment will be sufficient evidence that the borrower has met this requirement or Certificate of Insurance
- Because RLF loans will frequently provide gap financing for other programs, it may be necessary for collateral to be pledged to the various participating programs. In these cases the following documents will also be required:
- An Intercreditor Agreement that details how the assets are split and the rights and duties of each lien holder.

If possible, separate UCC-1s that specifically list the assets that will secure each loan should be prepared and recorded.

Additionally, loans funded through the Contractor RLF will require, at a minimum, the following document prior to loan closing:

- Executed Assignment of Contract Proceeds.
- The Assignment of Contract Proceeds must be signed by each contract awarding entity or general contractor will ensure that CRLP borrowers cannot receive all payments due under a contract until the CRLP loan is paid in full.

## 3. Loan Disbursement Requirements

The PA will make all disbursements in accordance with the Loan Committee conditions. These may include, but are not limited to:

- Requiring direct payment to vendors for equipment purchased
- Phased disbursement for working capital
- Evidence that contracts with vendors have been executed and require pre-payment

The PA is authorized to disburse loans from the appropriate RLF account in accordance with the loan conditions approved by the Loan Committee. All loan disbursement checks require two (2) signatures.

## **D. LOAN SERVICING PROCEDURES**

### **1. Loan Payment & Collection Procedures**

The PA is responsible for ensuring that borrowers meet their repayment obligations. The PA will take the following steps to ensure that borrowers are aware of their obligations:

- Prepare and mail monthly invoices to all borrowers. The invoice will indicate the amount and date that the next payment is due and late penalties that will be assessed if the payment is received after the due date.
- The County will allow borrowers a five-day grace period between the payment due date and the date late penalties will be applied.
- The PA may use a coupon books instead of monthly invoices but must be vigilant to ensure that borrowers are reminded of late or missed payments in a timely manner.
- Posting payments to the borrowers account on the day the payment was received and adjusting the outstanding principal balance accordingly.
- The PA will deposit all loan payments into bank accounts owned by the County within 72 hours of receiving the payment.

Idle loan funds will be held in federally insured, interest-bearing accounts. The interest earned on these accounts may be used to pay for administrative expenses in the year it is earned up to the maximum allowed (currently \$100 per year).

### **2. Loan Monitoring Procedures**

All loans will require borrowers to submit copies of the following documents:

- Quarterly DE-6 filings, the California payroll tax report that lists earnings and taxes by employee SSN
- Annual business and personal financial statements
- Business and personal tax returns

Depending on the credit risk of the business and the use of funds, the borrower may be required to submit monthly, quarterly or semi-annual financial statements. Loans for working capital may also require accounts receivable and payable aging reports. In addition to documentary monitoring, the PA will also make annual site visits to each borrower.

The PA is also responsible for establishing a "tickler" system to ensure that all documents are submitted in a timely manner and that all UCC-1, insurance and other security instruments and agreements are current and in force.

#### **j. Late Payment Follow-up Procedures**

Loans shall be delinquent if not paid in accordance with the loan agreement and note. When a borrower is twenty (20) days late with a payment, the PA will assess a late fee of 5% of the payment amount and send written delinquency notice to the borrower indicating the past due status of their loan. Within seven (7) working days of sending the written notification to the borrower the PA will meet with the borrower to discuss the loan repayment problem and possible remedies. The PA will also refer the borrower to the Small Business Development Center for counseling if appropriate.

The PA shall submit a monthly report to the County on all loans that are delinquent and what action has been taken to remedy the delinquency. The PA will be responsible for initiating the appropriate collection actions regarding loans that are twenty or more day's delinquent.

If a loan remains delinquent for thirty days or more, the PA shall meet with the borrower, report their findings and recommend steps to be taken to the County and file a negative report with the credit reporting agencies. Monthly delinquency notices to the credit agency will continue for as long as the loan remains in default or until a satisfactory agreement is approved and agreed to by the borrower to resolve the default or delinquency.

It is expected that there will be occasional loan defaults. The PA will assign a "risk rating" to each delinquent or defaulted loan as follows:

- Satisfactory - Acceptable management expertise, capital support, adequate primary and secondary sources of repayment, primarily "as agreed"
- Watch -Evidence of weakness of a temporary nature
- Sub-standard - Low repayment capacity and inadequately protected by collateral and the current net worth. The possibility of partial or full loss is high
- Loss - Uncollectible and inadequate collateral. Probability of any recovery are long term and highly doubtful

### 3. Procedures for Handling Loans over 120 days in arrears

The PA may continue to work with borrowers during the first 120 days a loan is delinquent, unless the PA determines as a prudent lender that the interests of the RLF are best served by taking other actions to protect the RLF's assets. After 120 days the PA will present the loan to the Loan Committee with a recommendation to continue working with the borrower or to declare the loan in default. A loan may be declared in default if the borrower refuses to work with the PA to develop a repayment plan and there is little likelihood that the outstanding principal will be recovered through the liquidation of collateral. Loans in default will be referred to the County Office of Economic Development with a recommendation for further action.

In all cases the County retains the right to initiate civil litigation collection proceedings to obtain a judgment against a borrower and/or initiate foreclosure proceedings in accordance with Title 5, Chapter 5.16, Section 5.16.030 [PROCEDURE FOR COLLECTION, COMPROMISE, AND WRITE-OFF OF CLAIMS OF THE COUNTY AGAINST OTHERS] of the Monterey County Code.

For County claims which do not exceed the Small Claims Jurisdiction limit of \$5,000.00:

In accordance with the Monterey County Board of Supervisors' authorization and approval of this Administrative Plan, as reflected in Monterey County Board of Supervisors' Resolution No. 02-340 for the collection of County Claims which do not exceed the Small Claims Court jurisdictional limit of \$5,000.00, the Principal Administrative Analyst – Office of Economic Development (PAA-OED) may elect to enter into and execute a separate agreement with the PA to implement the PA's recovery recommendations, including authorization for the PA to obtain outside legal counsel to initiate civil litigation collection and/or foreclosure proceedings on behalf of the County in accordance with MCC Section 5.16.030.A [Procedures by the County Administrative Officer], if there is a reasonable expectation of a recovery of RLF assets as determined by the PA in consultation with the PAA-OED. Any separate agreement for additional collection services and/or legal costs executed by the PAA-OED on behalf of the County, between the County and the PA, shall be in writing and shall indicate that costs for additional collection services and/or civil litigation costs, including attorney's fees, filing fees,

costs, and any overhead, shall not exceed the sum of \$1,000.00, without further Monterey County Board of Supervisors' authorization.

If the County PAA-OED enters into a separate agreement with the PA to implement the PA's recovery recommendations, the PAA-OED may authorize the PA to take any of the following steps:

- Initiate civil litigation proceedings on behalf of the County
- Initiate foreclosure proceedings on behalf of the County
- Initiate other legal remedies as necessary or appropriate on behalf of the County

For County claims which exceed the \$5,000.00 Small Claims Jurisdictional limit which are within the Superior Court Jurisdictional limit of \$25,000.00:

In accordance with the Monterey County Board of Supervisors' authorization and approval of this Administrative Plan, as reflected in Monterey County Board of Supervisors' Resolution No. 02-340 for the collection of County Claims which exceed the Small Claims Court jurisdictional limit of \$5,000.00 which are within the Superior Court jurisdictional limit of \$25,000.00, the Principal Administrative Analyst – Office of Economic Development (PAA-OED) shall simultaneously refer the matter to both the Office of the County Counsel and to the Treasurer-Tax Collector, Revenue Division, with a recommendation for additional collection services and or assignment by the Office of the County Counsel to an outside collection agency in accordance with the provisions of MCC Section 5.16.030.B.

Upon consultation, review and approval by the Office of the County Counsel and the Treasurer-Tax Collector, Revenue Division, the PAA-OED may ~~elect to~~ enter into and execute a separate agreement with the PA to implement the PA's recovery recommendations, on behalf of the County in accordance with MCC Section 5.16.030.B [Procedures by County Counsel] if there is a reasonable expectation of a recovery of RLF assets as determined by the PA in consultation with the PAA-OED. Any separate agreement (for the collection of County claims between \$5,000.00 and \$25,000.00) between the County and the PA for additional collection services, which may include the assignment of the County's claim to an outside collection agency, shall be subject to review and approval by the Office of the County Counsel consistent with MCC Section 5.16.030.B. Said agreements shall be in writing and shall be executed by the PAA-OED and by the Office of the County Counsel. Costs for additional collection services and/or assignment of County claims to outside collection agencies, (which may include but are not limited to civil litigation costs incurred by the PA, which shall at all times act as an "outside collection agency" within the meaning of MCC Section MCC 5.16.030.B, including attorney's fees, filing and service fees, other court related costs, and any overhead costs incurred by the PA) shall not exceed the sum of \$4,000.00, without further Monterey County Board of Supervisors' authorization.

For County claims between \$5,000.00 and \$25,000.00 and consistent with the provisions of the MCC Section 5.16.030 for County claims between \$5,000.00 and \$25,000.00, if the County PAA-OED enters into a separate agreement with the PA to implement the PA's recovery recommendations, the PAA-OED and the Office of the County Counsel may authorize the PA, which shall at all times act as an "outside collection agency" on behalf of the County, within the

meaning of MCC Section 5.16.030, to take any of the following steps, subject to the \$4,000.00 cost limitation set forth above:

- Initiate civil litigation proceedings on behalf of the County
- Initiate foreclosure proceedings on behalf of the County
- Initiate other legal remedies as necessary or appropriate on behalf of the County

For County claims which exceed the Superior Court Jurisdictional limit of \$25,000.00:

For the collection of County Claims which exceed the Superior Court jurisdictional limit of \$25,000.00, the matter shall be referred to the Office of the County Counsel and the Treasurer-Tax Collector, Revenue Division for collection in accordance with the provisions of the Monterey County Code, Title 5, Chapter 5.16, Section 5.16.030.B [Procedure by County Counsel].

If the County PAA-OED recommends assignment of the County's Claim to the PA, who shall at all times act as an "outside collection agency" on behalf of the County, such recommendation shall be considered by the Office of the County Counsel and the Treasurer-Tax Collector and shall be forwarded to the Board of Supervisors for approval of said assignment of the County's claim, which may include a recommendation for the retention of outside counsel by the PA, for civil litigation collection proceedings, including foreclosure proceedings and other legal remedies as may be necessary or appropriate.

#### 4. Write Off Procedures

Appropriate Authority: In all cases, write offs of defaulted RLF loans, shall be made in accordance with the provisions of the Monterey County Code, Title 5, Chapter 5.16, Section 5.16.030. Final determinations concerning write-offs shall be made by the Appropriate Authority in accordance with the applicable provisions of the Monterey County Code.

There are two situations where a loan will be considered for write-off:

- A loan is 120 days delinquent, the Loan Committee declares the loan in default and the Loan Committee determines that there is little likelihood of repayment.
- A borrower has declared bankruptcy and the courts have discharged all debts.

When a loan is to be considered for write-off, the PA will refer the loan back to the County for follow up review and action. The referral should include a range of possible alternatives. The PAA-OED will review the loan's history and reasons for writing-off the loan to make a final determination or recommendation in accordance with Section 5.16.030 of the Monterey County Code, to write-off a loan. For write-off of County Claims up to the Small Claims jurisdictional amount of \$5,000.00, County OED staff may seek additional guidance from the Office of the County Counsel, the County Treasurer-Tax Collector, Revenue Division and/or members of the Overall Economic Development Commission with commercial lending experience to determine if a loan should be written-off.

For write-offs of County claims up to the Superior Court Limit of \$25,000.00, County OED staff shall refer the matter to the Office of the County Counsel with the Loan Committee Recommendation and/or a summary of the reasons which would support a recommended for write-off by the appropriate authority in accordance with Section 5.16.030 of the Monterey County Code.

For write-offs of County claims which exceed the Superior Court Limit of \$25,000.00, County OED Staff shall refer the matter to the Office of the County Counsel with a summary of the reasons which would support a recommendation for write-off by the Monterey County Board of Supervisors. .

When a borrower declares bankruptcy the County will ensure that all required filings are made to ensure the maximum recovery possible. County OED staff shall provide timely and simultaneous notice and documentation of bankruptcy proceedings to both the Treasurer-Tax Collector, Revenue Division and to the Office of the County Counsel to ensure that both County Offices are afforded a timely opportunity to respond to and timely file Court papers or claims in bankruptcy proceedings. A loan will not be written-off until the bankruptcy court has made all payments required under the repayment plan.

When the County claim or write-off does not exceed the Small Claims jurisdictional limit of \$5,000.00, the County Administrative Officer may accept a compromise settlement and write-off the balance, file a small claims action and write off any amount in excess of the Small Claims Court jurisdictional limit or, write off the claim in full where the amount does not exceed the Small Claims jurisdictional amount (MCC Section 5.16.030.A). In cases in which the County claim or write-off does not exceed the Small Claims jurisdictional limit of \$5,000.00, County OED staff will direct the County Auditor-Controller to write-off the loan.

When directing the Auditor-Controller to write-off a loan, staff will supply the following information:

- The name of the borrower
- The amount being written-off
- The funding source for the loan
- A copy of the Loan Committee recommendation

When the County claim or write-off exceeds the Small Claims jurisdictional limit of \$5,000.00 and is within the Superior Court jurisdictional limit of \$25,000.00, the Office of the County Counsel may authorize the County Administrative Officer and or the Auditor Controller to write off the loan in accordance with MCC Section 5.16.030.B.

In such cases, County OED staff will supply the following information to the Office of the County Counsel, which shall be forwarded to the Auditor Controller:

- The name of the borrower
- The amount being written-off
- The funding source for the loan
- A copy of the Loan Committee recommendation

When the County claim or write-off exceeds the Superior Court jurisdictional limit of \$25,000.00, the Office of the County Counsel shall the matter to the Board of Supervisors for approval in accordance with MCC Section 5.16.030.B. Upon Board of Supervisors' approval pursuant to MCC Section 5.16.030.B, County staff will supply the following information to the Office of the County Counsel, which shall be forwarded to the Auditor-Controller:

- The name of the borrower
- The amount being written-off
- The funding source for the loan
- A copy of the Board Resolution approving the write off the County claim which exceeds \$25,000.00.

County OED staff will notify the PA within five (5) business days of the decision to write-off a loan. After a loan is written off, collection efforts will continue until such time as County OED staff determines that it is no longer cost effective to continue collection efforts.

## **E. ADMINISTRATIVE PROCEDURES**

### **1. Procedures for Loan Files & Loan Closing Documentation**

The County will be responsible for maintaining the original grant files, copies of all Semi-annual Reports and correspondence. In addition to the files listed above the County will also maintain records of all loan write-ups and written responses to the PA regarding applicant eligibility.

The PA will maintain all original loan files during the term of the loan. The loan files will include at a minimum:

- Loan application, any supporting documentation and a copy of the Loan Committee's terms of approval
- Executed, original, loan documents
- Correspondence

The following documents must be kept in a fireproof safe:

- Original loan agreements and promissory notes
- Collateral security agreements, i.e. recorded UCC-1, deeds of trust, auto title, evidence of insurance coverage, etc
- Updated personal and/or business financial documents, i.e. tax returns, etc
- Any documentation required by the Loan Committee as a condition of the loan

### **2. Procedures for Complying with EDA Reporting Requirements**

The PA will prepare all Semi-Annual reports required for all three-loan programs. The PA will be contractually obligated to provide copies of the reports 10 days before they are due to EDA. The County will review the reports for accuracy and if necessary request back up materials and/or corrections be made to the report. The County will submit all grant reports to EDA.

### **3. Grantee Control Procedures to Ensure Grant Compliance**

The County will monitor the loan portfolio to ensure that it is in compliance with the terms of the grant. The primary method that the County will use to monitor the portfolio is the loan cover sheet that the PA uses to transmit loan packages to the County. This form includes a summary of how the proposed loan will affect the overall portfolio. This includes the projected cost per job, leverage ratios and ratios showing what loan funds are being used for. This information will allow County staff be able to quickly assess the overall portfolio and compliance with the grant terms and RLF objectives.

In addition to the portfolio snap shot that County staff will review when considering a loan application the PA will be contractually bound to adhere to all grant agency requirements. The contract with the PA will specifically incorporate the EDA Revolving Loan Fund Administrative

Manual, Standard Terms and Conditions, Audit Standards and relevant sections of the State of California's, Department of Housing and Community Development, Community Development Block Grant - Grant Management Manual. If necessary, the County will amend the agreement to incorporate any policy or administrative manuals promulgated by the grant agencies in the future. The County will provide updated copies of all grant agency documents and policies to the PA within 30 days of receipt.

Employee Dishonesty – The County will maintain a minimum \$1,000,000 policy for employee dishonesty and crime insurance coverage. Additionally, the County will require the Program Administrator, and Fiscal Agent if different from the Program Administrator, to maintain a minimum \$1,000,000 employee dishonesty and crime policy that lists the County as additional insured. The County will evaluate the adequacy of this policy in the event that grant capitalization, from all sources, exceeds \$3,000,000.

**PART III. APPENDIXES**

**A. LOAN COVER SHEET**

Business Name & Location: \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Program loan is proposed for: (circle) Rural County EDA County CDBG Contractor

Total Project Cost: \$ \_\_\_\_\_ Amount of RLF request: \$ \_\_\_\_\_

Source & Amount of Leverage

Owner Equity \$ \_\_\_\_\_

Owner Cash \$ \_\_\_\_\_

Other Public Loan Programs (combined public participation not to exceed 50% of total project cost) \$ \_\_\_\_\_

SBA 504 (90% of the guaranteed amount and all of the unguaranteed amount will count as the private leverage part of the RLF loan ratio) \$ \_\_\_\_\_

Loan Eligibility (Small Business Programs)

(Check all that apply)

Categorical Eligibly Any loan that will create at least one job per \$10,000 loaned) and leverage private sector investment at a minimum ratio of 3.5:1.

If not categorically eligible, Project supports Economic Adjustment Strategy Goal: (check one)

- Businesses in economic sectors targeted by the County's economic development strategy
- Related to the economic revitalization of the former Fort Ord
- Greatest economic multiplier effect, i.e. industrial or commercial activities that add value to a locally produced product and result in additional money flowing into the County
- Provides a good or service that was formerly purchased outside the area.
- Creates a new visitor destination or supports additional travel spending
- Projects with the greatest potential to increase sales and/or property tax receipts

Job Creation or Retention Benefit

Current FT jobs \_\_\_\_\_ FTE jobs to be created: \_\_\_\_\_

- For RLF reporting purposes a full time job is defined as 2080 hours annually and a part-time job is defined as a minimum of 1750 hours annually.
- Self-proprietorships and owners/principals of companies are not counted towards the job creation / retention goal.
- If loan will be funded using CDBG \$, describe plan for verifying income eligibility in write up.

	<u>Use of Loan Proceeds</u>
▪ Working Capital	\$ _____
▪ Equipment	\$ _____
▪ Tenant Improvements	\$ _____
▪ Refinance of existing debt	\$ _____

Justification for refinancing existing debt (RLF Administrative Plan, Part I, C. 2, Ineligible Uses)	1) Sound economic justification and sufficient documentation in the loan write-up that the RLF is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender(s) or to lower the cost of financing to a borrower	
	2) RLF funds are used to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan	

Loan Terms

Loan Term: \_\_\_\_\_ Loan Rate: \_\_\_\_\_

Impact on Portfolio Standards

Loan \$ per job	_____	Target is \$20,000:1
Private/Public Leverage Ratio:	_____	Target is 2:1
% of portfolio for commercial projects	_____	Should not exceed 70%
% of portfolio for industrial projects	_____	Should not be less than 30%
% of portfolio for working capital	_____	Should not exceed 70%

B. FINANCIAL ACTIVITY POSTING

By the 15<sup>th</sup> of each month, County staff will prepare a Journal Voucher to post all financial activity to the County’s General Ledger system. The JV will be prepared using information and reports supplied by the Program Administrator.

When preparing the JV, the following accounting information should be used:

Fund 014 – Revolving Loan Fund

Budget Unit 576

Organization Codes

5761 – Rural RLF

5762 – Countywide EDA

5763 – Countywide CDBG

Acct Type	Account #	Description
01	1090	Cash with Paying Agent ➤ Use to report when checks are written to County for P.A.
01	1249	Other Accounts Receivable ➤ Use to record loan write-offs when written off by P.A. pending final write-off authority from County Counsel and/or the Board of Supervisors
01	1740	Long Term Receivable ➤ Record new loans as DEBIT on JV ➤ Record principal payments as CREDIT on JV
03	3299	Other Fund Balance Reserves
<b>Expenditure Accounts</b>		
22	6469	Other Professional Services ➤ Fees, appraisals, etc. paid using loan proceeds ➤ Requires an offsetting credit from 6996
22	6670	Bad Debt
22	6996	Disbursement of Loans
<b>Revenue Accounts</b>		
31	4313	Interest Earned on Account
31	4319	Interest on Loans
31	4871	State Aid for Economic Development ➤ State grant transfers
31	5099	Other Federal Aids ➤ EDA grant transfers
31	5799	Other User Fees ➤ Loan Application & Origination Fees
31	5899	Other Miscellaneous Fees ➤ Late Charges Paid
<del>31</del>	<del>5915</del>	<del>Principal Repayments</del> No longer used as of 7/1/02

Supporting materials provided by the Program Administrator must include:

- Monthly portfolio report
- Bank statements
- Balance sheets
- Income & Expense Statements
- Journal Entry Reports