



**C**ITY OF  
**CHOWCHILLA**  
CALIFORNIA



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# Community Development Block Grant (CDBG)

# Economic Development Loan Program Guidelines





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## 1. INTRODUCTION

In response to economic hardships experienced by small businesses due to the COVID-19 pandemic, the City of Chowchilla (City) has established a business assistance program using Community Development Block Grant (CDBG) funding received from the U.S. Department of Housing and Urban Development (HUD). The COVID-19 Response Small Business Assistance Program (the Program) will provide short-term assistance to small businesses affected by the COVID-19 pandemic with a focus on support for job retention for low- and moderate-income persons and microenterprise businesses. These guidelines are intended to establish the Program and are subject to review and amendment as needed to respond to the evolving economic environment resulting from the pandemic.

*All federal requirements for CDBG funded assistance to for-profit entities will be followed unless waived or otherwise exempted by HUD.*

### 1.1 Purpose

The Program will provide financial assistance to small businesses with a physical location in the City of Chowchilla to minimize staff reductions resulting from the economic impacts of the COVID-19 pandemic.

The Program is designed to promote economic stability by providing relief in the form of a one-time forgivable loan for essential operating expenses and supplies to Chowchilla small businesses negatively impacted by COVID-19.

### 1.2 Definitions and Abbreviations

- **CARES Act** – Coronavirus Aid, Relief and Economic Security Act.
- **CDBG** – Community Development Block Grant funding received from HUD.
- **City** – The City of Chowchilla, City staff, or agents designated by the City to act on its behalf.
- **Full Time Equivalent (FTE) Job** – Equals at least 1,750 hours annually (approximately 34 hours per week). A total of two jobs may be added together to equal one FTE.
- **HUD** – The U.S. Department of Housing and Urban Development.
- **Low/Mod person** – A low- and moderate-income person is defined by HUD as a person whose family income does not exceed 120% of the HUD median income, adjusted for family size, for the Chowchilla area (see Appendix A for current income limits).

For COVID-19 related job creation or retention activities, a Low/Mod person may also be a person holding a job with annual wages that do not exceed 120% of the HUD median income limit for a one-person family (see Appendix A for current income limits).

- **Microenterprise** – The CDBG program defines a Microenterprise as a business with five or fewer employees, one or more of whom own the business.

## 2 TYPE OF ASSISTANCE AVAILABLE

The maximum funding will be \$35,000 per job created and/or retained upon approval, not to exceed \$105,000 per applicant. If the business meets the requirements in Section 9 below, the loan may be forgivable.



### 3 MEETING A CDBG NATIONAL OBJECTIVE

All CDBG funded activities must meet one of the three CDBG National Objectives:

- Provide benefit to Low/Mod income persons or neighborhoods;
- Prevention or elimination of slums and blight; or
- Addressing an unplanned urgent need that poses a serious and immediate threat to the health and welfare of the community.

At least 70% of the City's annual CDBG expenditures must meet the Low/Mod income National Objective.

COVID-19 funds give priority to Low/Mod Job Retention and Microenterprise activities. Business Assistance Forgivable Loans must meet a National Objective in at least one of the four following methods:

#### 3.1 Low/Mod Income Owner Microenterprise – Priority Activity

Available to Microenterprise businesses with five or fewer employees, one of which must be an owner with family income under the federal CDBG income limits (Appendix A). The City will verify owner's family income using HUD approved methods.

#### 3.2 Low/Mod Job Retention – Priority Activity

Available to all eligible businesses, including Microenterprise businesses. CDBG funds are used to support a business that would lose job(s) without assistance. The business must employ at least one full time equivalent (FTE) job. At least 51% of the retained jobs must be held by or made available to Low/Mod Persons.

#### 3.3 Low/Mod Job Creation

Available to all eligible businesses, including Microenterprise businesses. The business must create at least one new full time equivalent (FTE) job and at least 51% of the jobs created must be held by or made available to Low/Mod Persons.

#### 3.4 Urgent Need and Low/Mod Area Benefit

As noted above, the focus of the Program is to support job retention for Low/Mod income persons. However, in rare circumstances, business assistance may qualify under the Urgent Need or Low/Mod Area Benefit National Objectives. Funds must be used to prevent, prepare for, or respond to the COVID-19 pandemic.

Urgent Need requires that the City certify and document the following:

- The activity is designed to alleviate existing COVID-19-related conditions;
- The conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent; and
- The City and the business are unable to finance the activity and that othersources of funds are not available.

Low/Mod Area Benefit may be used for businesses that provide necessary goods or services to persons living in an area with 51% or more low/mod income residents.



## **4 ECONOMIC DEVELOPMENT PUBLIC BENEFIT STANDARD**

*The Public Benefit Standard is not applicable to Microenterprise businesses or to activities approved under the Urgent Need National Objective.*

### **4.1 Low/Mod Job Retention and Job Creation National Objective Activities**

Businesses must demonstrate that with the assistance of Program funds, they may be expected to retain or create at least one permanent full time equivalent (FTE) job for every \$35,000 in funding received. This will be determined using the underwriting criteria below.

Only permanent jobs may be counted. If part time positions are used for the Public Benefit Test, no more than two positions may be added together to create the one FTE. Seasonal jobs normally may not be counted. Seasonal jobs may be counted only if the job season lasts long enough to provide sufficient hours and pay to be considered the employee's main source of income.

### **4.2 Low/Mod Area Benefit National Objective Activities**

The service area of the business must be 51% or more Low/Mod based on HUD census mapping data.

## **5 HUD CDBG REQUIREMENTS FOR ASSISTANCE TO A FOR-PROFIT ENTITY**

*All federal requirements for CDBG assistance to for-profit entities will be followed unless waived or otherwise exempted by HUD.*

### **5.1 Restrictions on Duplication of Benefits**

CDBG funds may not be used to supplant or duplicate private, federal, State, or local government funding.

The Applicant must disclose any funds received in response to the COVID-19 pandemic from private sources, and from any federal, State, or local government programs. Acceptance of other funding will not disqualify an applicant from the Program but may affect the amount of funds available or eligible costs. Applicants will provide personal and business bank statements. The City will review the statements to identify any unreported influx of cash.

If a Borrower receives funds from any source for the same costs that are funded under this Program, the Borrower must repay the duplicative funding. Either the CDBG business loan or the other funding source may be repaid. Other sources may include, but not are not limited to:

- Private sources including bank loans;
- Small Business Administration (SBA) Paycheck Protection Program (PPP), Economic Injury Disaster Loan Program (EIDL) or Economic Adjustment Assistance Program (EAA);
- State of California iBank Small Business Disaster Relief Loan Guarantee Program;
- State of California Pandemic Unemployment Assistance; or
- Any other federal, State, or local government program providing funding for items noted



as eligible costs for this Program.

## **5.2 Prohibition of Job Pirating Activities**

CDBG funds may not be used to facilitate the relocation of a for-profit business from one labor market to another if the relocation is likely to result in a significant job loss to the original labor market.

## **5.3 DUNS Number**

The business must provide an active Data Universal Numbering System (DUNS) number.

## **5.4 Debarment or Suspension**

The Applicant and all business owners may not be under debarment or suspension in the federal System for Award Management (SAM).

# **6 EQUAL OPPORTUNITY MARKETING**

Marketing of the Program will be accomplished through a variety of modes to provide alleligible small businesses within the City of Chowchilla with an opportunity to access funding. At a minimum, the Program will be announced in the local newspaper, with marketing brochures, information posted on the City website and social media, marketing through business-related newsletters, and other business venues.

# **7 APPLICANT ELIGIBILITY**

## **7.1 Eligible Applicants**

Eligible applicants include locally owned restaurant, retail, and service businesses with a physical storefront/office location in the City of Chowchilla. Applicant businesses may be private for-profit business concerns, corporations, partnerships, or sole proprietorships.

Businesses must employ at least one full-time equivalent position (FTE), not counting the Owner. Businesses may have no more than 100 employees.

Applicants must have been financially viable prior to the advent of the COVID-19 pandemic. Financial viability will be determined based on business and personal financial information.

Applicants must have been in business and employing people for a minimum of one year prior to the COVID-19 pandemic (in business since March 1, 2019).

Applicants must have been in good standing with the City of Chowchilla a minimum of one year prior to the date of application submittal (e.g., no liens or judgments, no unresolved code violations, etc.).

Any bankruptcies must have been discharged at least 3 years.

## **7.2 Ineligible Applicants**

Federal CDBG regulations prohibit assistance to the following entities:

- Businesses or business owners are ineligible for assistance if a loan would create a



conflict of interest as defined in this document or under HUD regulations.

- Businesses or business owners that are debarred or suspended under a federal program are ineligible for assistance. Debarment/suspension status will be determined using the SAM.gov website.
- Professional sports teams.
- Privately owned recreational facilities that serve a predominately higher-income clientele.
- A business or business owner that is the subject of unresolved findings of noncompliance related to previous CDBG assistance.

## 8 USE OF FUNDS

Funds provided by the Program must be used for the prevention of, preparation for, or in response to impacts from the COVID-19 pandemic. Financial assistance needed due to loss of revenue or increased costs due to the pandemic; due to related stay-at-home order, needed to address public health concerns related to the virus; or needed to retain job are considered to be in response to the COVID-19 pandemic.

### 8.1 Eligible Costs

Use of Program funds is restricted to working capital for COVID-19 related expenses required to remain in business, to retain jobs for Low/Mod Persons; to create new jobs for Low/Mod Persons; or to address the COVID-19 pandemic. Examples of eligible costs include:

- 8.1.1 Employee salaries and benefits;
- 8.1.2 Lease, mortgage payments or insurance for buildings where employees are working;
- 8.1.3 Purchase of personal protective equipment (PPE), social distancing signage, thermometers, hand sanitizer dispensers, cleaning supplies and other items used to reduce the spread of the COVID-19 virus.

Utilities may be considered on a case-by-case basis. *HUD does not allow the Program to provide funds to pay utilities administered by the City of Chowchilla. This is considered a conflict of interest under federal guidelines.*

### 8.2 Ineligible Costs

- 8.2.1 Costs incurred prior to final loan approval *unless allowed by HUD.*
- 8.2.2 Costs incurred prior to the City's completion of environmental review *unless allowed by HUD.*
- 8.2.3 Costs already funded by private sources including private bank loans; or from federal, State, or local government programs.
- 8.2.4 Costs associated with construction or renovation.
- 8.2.5 Costs not associated with the prevention, preparation for, or in response to, effects of the COVID-19 pandemic.

## 9 BUSINESS ASSISTANCE FORGIVABLE LOAN TERMS

### 9.1 Maximum Loan Amount

Maximum loan amount shall be \$105,000 for up to three jobs created and/or retained.





## **9.2 Interest Rate**

Loans will be at zero percent interest rate.

## **9.3 Loan Term**

The loan will terminate one year from the execution date of the Promissory Note.

## **9.4 Loan Disbursement Schedule**

The City will disburse 50% of loan funds upon execution of the Promissory Note and receipt of the Request for Initial Disbursement form signed by the Borrower. The remainder of loan funds will be disbursed upon receipt of documentation that the initial disbursement was spend on eligible costs and the Request for Final Disbursement form signed by the Borrower.

## **9.5 Loan Forgiveness**

The City may forgive 100% of the maximum \$105,000 loan if:

- The borrower is in compliance with the terms of the loan;
- The borrower has met the requirements of the Program;
- The borrower has submitted payroll documentation as evidence of any Job Retention required under the Promissory Note;
- The borrower has provided evidence of payment of eligible costs to the City six months from the execution date of the Promissory Note;
- The borrower has returned any funds not expended on eligible costs one year from the execution date of the Promissory Note.; and
- The borrower has submitted a Request for Loan Forgiveness form no later than one year from the execution date of the Promissory Note.

## **9.6 Term of Payment**

If the borrower does not meet the requirements for loan forgiveness, repayment becomes due and payable one year from the execution date of the Promissory Note.

## **9.7 Loan Fee**

There are no loan fees.

## **9.8 Prepayment Penalty**

None.

## **9.9 Collateral Requirements**

All loans shall be secured by a Promissory Note. Other collateral is not required.

## **10 CONFIDENTIALITY**

The information submitted by Applicants and income self-certification forms provided by employees will be treated as confidential by the City to the extent permitted under State and federal law. The Loan Review Committee receives a summary of business information, not detailed business, or personal information.



## 11 APPLICATION SUBMISSION REQUIREMENTS

Applications are available by contacting the City of Chowchilla Economic Development Department. Due to health concerns related to the COVID-19 virus electronic documents are preferred; however, paper loan applications are allowed.

Applications will be reviewed on a first come, first served basis until funding is exhausted or the program is terminated.

Applications must be completed in full and signed by a person authorized to execute contracts on behalf of the business. Applications must include all requested attachments to be considered complete and ready for review.

## 12 UNDERWRITING CRITERIA FOR BUSINESS ASSISTANCE FORGIVABLE LOANS

Normal business lending underwriting practices are difficult to apply in the uncertain economic climate created by the COVID-19 pandemic. The pandemic has resulted in unprecedented shelter-in-place orders, layoffs and enforced business closures. As businesses slowly are allowed to reopen, new rules and procedures are needed to ensure the health and safety of employees, customers, and the community. The Program is designed to provide financing flexibility for businesses while still meeting federal CDBG business lending requirements. Program underwriting criteria are summarized in Appendix B.

Review of applicants for CDBG assistance ensures that local economic needs are met and that the CDBG requirements are observed. The criteria below will be evaluated during the underwriting process to determine past earning record and future prospects; projected ability to pay fixed debt and expenses; and projected job retention or creation (if applicable).

### 12.1 HUD Underwriting Objectives

Program underwriting criteria are established to ensure that the following HUD required CDBG underwriting criteria are met for loans *unless waived or otherwise exempted by HUD*.

- Project costs are reasonable;
- Other sources of financing needed for business success are committed;
- Documentation of need for CDBG funds, including verification that CDBG funds are not substituted for non-Federal financial funding or support;
- Business operations will be financially feasible with CDBG assistance;
- To the extent practicable, the return on the Borrower's equity investment will not be unreasonably high; and
- To the extent practicable, CDBG funds will be disbursed on a pro-rata basis with other finances provided to the business.

HUD does not require the above criteria to be evaluated for Microenterprise businesses, however the City is required to create its own underwriting criteria for lending to a Microenterprise.



## **12.2 Program Criteria for Business Assistance Loans**

Applicant's credit will be reviewed. Applicant and the business should demonstrate the ability to pay debts and bills prior to the COVID-19 pandemic (prior to March 1, 2020). Applicant should demonstrate good credit history prior to March 1, 2020. To the extent practicable, Applicant's financial projections should demonstrate the ability, with CDBG assistance, to pay debts and bills; and to retain and/or create any required jobs for a one-year period. Applicant's financial projections should demonstrate the need for financial support as identified in the application.

## **12.3 Exceptions to Underwriting Criteria**

The underwriting criteria are general guidelines that apply to most Applicants. Additional requirements or exceptions may be warranted, depending on the creditworthiness of the Applicant, the history of the business, or other Applicant-specific considerations.

## **13 APPROVAL AND APPEAL PROCESS**

Applications will be reviewed on a first come, first served basis.

Priority will be given to businesses providing Job Retention for Low/Mod Persons and to Low/Mod income Microenterprise business owners. Should any funding remain after priority businesses are assisted, businesses providing Job Creation for Low/Mod Persons will be considered.

### **13.1 Loan Advisory Committee**

Once underwriting is completed, a summary of the business and underwriting criteria will be presented to the Loan Advisory Committee, which is responsible for making recommendations for approval or denial to the Director of Community and Economic Development. The Director of Community and Economic Development or his/her designee will make the final approval or denial. The loan summary and its contents will be kept confidential to the maximum extent possible.

### **13.2 Approval/Denial**

If approved, the Applicant will be contacted to arrange to sign loan documents.

If denied, the Applicant will be provided with a written explanation of the denial and any appeal process that may be available within seven (7) days.

### **13.3 Loan Disbursement**

Initial disbursement of 50% of approved funding will proceed as soon as all required documents are executed, and Borrower submits a signed Request for Initial Disbursement to the City. Disbursement of remaining funds will be processed upon receipt of documentation that the initial disbursement was spent on eligible costs and the Borrower submits a Request for Final Disbursement to the City.

### **13.4 Appeal Process**

An appeal process is established to provide full opportunity for applicants and their business's circumstances to be considered for assistance. Applicants denied assistance may request a second review by the Director of Community and Economic Development. Requests for appeal must be in writing and may be submitted through U.S. mail to: Director of Community and



Economic Development, City of Chowchilla, 130 South 2nd Street, Chowchilla, CA 95678.  
Application denials by the Director may not be appealed.

## **14 OTHER FEDERAL REQUIREMENTS**

Federal requirements will be followed regarding anti-lobbying certification; prohibitions against payments of bonus or commissions; Clean Air and Water Act; equal opportunity; Affirmative Action; Americans with Disabilities Act (ADA) of 1990; flood disaster protection; federal labor standards provisions (also known as Davis Bacon); lead based paint hazards; federal National Labor Relations Board (NLRB) certification; procurement; program income; relocation, displacement and acquisition; and additional requirements as required by HUD.

### **14.1 Conflict of Interest**

Per State CDBG regulation §7126 (California Code of Regulations, Title 25), any activities that create a conflict of interest as defined in federal CDBG regulations at 24 CFR 570.611 are prohibited. In general, the conflict-of-interest prohibition applies to any person who is an employee, agent, consultant, officer, or elected official or appointed official of a recipient of CDBG funds, or of any public agencies, or subrecipients that receive CDBG funds. These persons who are in a position to participate in a decision-making process or gain inside information regarding CDBG funds and CDBG funded activities are prohibited from obtaining a financial interest or benefit from a CDBG assisted activity.

## **15 PORTFOLIO MANAGEMENT**

A loan file will be maintained for the period required under City and HUD file retention requirements. Loan files will be maintained for both approved and denied applications in compliance with City and HUD retention periods.

### **15.1 Ineligible Expenditure of Program Funds**

*Unless otherwise waived or exempted by HUD*, loan funds that do not meet Program requirements must be repaid.

Repayment of loan funds that were not spent on eligible costs are to be entered into the City's accounting system as a repayment of local funds rather than CDBG Program Income.

### **15.2 Loan Default Procedures**

If a Borrower defaults on loan payments, every effort will be made to develop a workout plan with the business owner.

If the Borrower cannot fulfill the terms of the loan or cannot fulfill a workout plan, the City, at its sole discretion, may exercise one or more of the following options. The City will evaluate the cost in staff time, attorney fees and other expenses to determine the most effective and efficient course of action:

- Extend the time of payment or otherwise alter the terms of the remaining indebtedness;
- Accept additional security of any kind, including USB filing on business assets, real property trust deeds or a personal guarantee from a third party; and/or



- Write off a portion or the full amount of outstanding indebtedness.

## **16 CONFLICT WITH FEDERAL LAW, REGULATION OR GUIDANCE**

If any portion of this document is in conflict with federal law, regulation, or guidance regarding the CDBG program, federal requirements will apply.



**APPENDIX A**  
**2021 INCOME LIMITS FOR MADERA COUNTY**

<b>Number of Persons in Household:</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
Madera County Area Median Income: \$70,700	Extremely Low	14700	17420	21960	26500	31040	35580	40120	44660
	Very Low Income	24500	28000	31500	34950	37750	40550	43350	46150
	Low Income	39150	44750	50350	55900	60400	64850	69350	73800
	<b>Median Income</b>	49500	56550	63650	<b>70700</b>	76350	82000	87650	93300
	Moderate Income	59400	67900	76350	84850	91650	98450	105200	112000



## **APPENDIX B LOAN UNDERWRITING CRITERIA SUMMARY**

### **B.1 ELIGIBLE LOAN APPLICANTS**

Eligible EDLP Forgivable Loan applicants, here after called “Borrower Eligible for Loan Forgiveness” must meet the criteria outlined below and as amended by U.S. Department of Housing and Urban Development (HUD) and the California Housing and Community Development Department (HCD):

- Be an existing business with no more than 100 full-time equivalent (FTE) employees prior to March 1, 2020 and in financial distress as a result of the COVID 19 pandemic or other presidentially declared disaster (“disaster”) that has resulted in (or will result in) the loss of jobs, 51% are held by LMI individuals as a result of the COVID crisis.
- Have been profitable or breakeven in 2019 (excluding non-cash expenses such as depreciation and amortization).
- Be in operation since March 1, 2019 and be able to provide a federal business tax return for 2019 (with all schedules) or appropriate federal personal tax returns for 2019 with appropriate business-related schedules and forms (e.g., Schedules C, D, E, SE, 1, 1099’s, etc.).
- Be an existing business with a previous history of creditworthiness that is 51% or more owned and operated by a U.S. Citizen(s) or permanent legal resident(s)
- The creditworthiness determination will also include an assessment of the previous creditworthiness of any owners with a 20% or greater ownership interest.
- Be able to provide Year-to-Date (YTD) financial statements through February 29, 2020 including (P&L statement, A/P Aging Report, A/R Aging Report, Debt Schedule).
- Have or developed the capacity to generate monthly financial statements (i.e., P&L Statement, A/P Aging Report, A/R Aging Report, Debt Schedule) following receipt of the loan.
- The business must be established to operate legally in the State of California [e.g., registration with the CA Secretary of State and/or Madera County as a “Doing Business As” (DBA) Fictitious Business Names Statement (FBNS)] with a valid City of Chowchilla Business License (if applicable). A FBNS will be required for all businesses.
- The business must have:
  - Required local, state, and federal permits.
  - Proper insurance for current and proposed business activities.
  - Be operating out of a location with zoning that allows for current and proposed business activities.
  - An existing commercial lease with renewal options that extend, at a minimum, to the month and year designated as the final month and year of the loan agreement. A home-based business must have a comparable mortgage, lease or rental agreement that extends, at a minimum, to the same period required for a commercial lease.
  - NOTE: If a Borrower is an existing business relocating to the City of Chowchilla or is



a new startup business and does not have proper permits, licenses, leases, or insurance at the time of application, then these items can be made a condition of funding the loan.

## **B.2 INELIGIBLE LOAN APPLICANTS**

Ineligible EDLP Loan applicants include those businesses for which any of the following are true:

- The resulting EDLP Loan will result in a “duplication” of funding from other disaster related funding programs (e.g., SBA PPP, SBA EIDL, insurance reimbursement, local/regional funding/grant programs) that will be used for the same expense.
- The business and underwriter cannot establish a clear nexus between the financial impacts of the disaster and the need for EDLP funding.
- The business and/or business owners with a 20% business ownership interest have liens or pending lawsuits that may have an adverse impact on the financial viability of the business.
- The business’s physical place of business is located outside of the jurisdictional boundaries of the City of Chowchilla.
- The business’s physical place of business is located on tribal lands.
- The business or any one of its principals is on the Federal debarred list.
- The business or any of its principals have defaulted on any Federal debt.
- The business or any of its principals have a relationship with the Lender that violates CDBG Conflict of Interest guidelines.
- The business’ goods or services involve the distribution, sale or use of cannabis or products containing cannabis or cannabis derivatives.
- The business is involved in a business activity prohibited by CDBG regulations (e.g., private golf club).

## **B.3 ELIGIBLE USES OF FUNDS FOR LOANS WITH FORGIVABLE LOAN TERMS**

The uses of EDLP funds for loans with forgivable loan terms are restricted to eligible uses as approved by HUD and HCD CDBG Program Guidelines.

Loan proceeds may be used to cover the following eligible costs:

- Operating Expenses (OE) and Working Capital (W/C) as defined below:
  - OE includes primary expenses including, but not limited to, payroll, insurance, lease payments and utilities.
  - W/C is any additional capital needs (e.g., inventory) with the amount to be net of OE.
  - The amount of OE and W/C needs presented in financial and cash flow statements must reflect amounts per month that are supported by pre-disaster financial information (e.g., monthly financial statements or Year End business tax returns).
- Purchase of furniture, fixtures, and equipment (FF&E) to support the business’ needs to re-open and/or operate as a result of the disaster. FF&E purchases that will trigger





Federal or State prevailing wage requirements will be considered on a case-by-case basis.

- Refinancing of some forms of existing short-term debt when the refinancing complies with HUD and HCD CDBG underwriting guidelines, is done in conjunction with financing other eligible costs and contributes to the business' ability to sustain operations and retain the required number of CDBG eligible jobs. NOTE: Examples of short-term debt that may be refinanced could include high interest credit cards or short-term loans from on-line lenders where the business can provide supporting documentation that clearly demonstrates that funds were used for eligible business purchases and expenses).
- Loan funds will be disbursed as per the terms outlined in section B.8

#### **B.4 LOAN REQUIREMENTS – CDBG NATIONAL OBJECTIVES INCLUDING APPROVED WAIVERS**

Borrowers that are eligible for HUD and HCD approved waivers must comply with CDBG National Objectives in accordance with the guidelines presented in Appendix M of the NOFA and any supplemental written guidance provided by HCD.

#### **B.5 LOAN REQUIREMENTS – CDBG AND EDLP UNDERWRITING CRITERIA FOR LOANS WITH FORGIVENESS TERMS**

##### **B.5.1 CDBG UNDERWRITING CRITERIA**

Eligible EDLP applicants for loans with forgiveness terms are underwritten in accordance with the following CDBG underwriting criteria.

- Project costs are reasonable as evidenced by 3<sup>rd</sup> party cost estimates (e.g., vendor quotes, copy of online search, etc.).
- All project costs are eligible per federal regulations and HCD guidelines.
- All sources of project financing are committed to support the financial projections that demonstrate that, with EDLP funds, the business is likely to continue operations and retain (or re-create) the projected number of jobs (51% of which are filled by LMI individuals or, if lost due to normal turnover, will be may available to LMI individuals). This may include:
  - Borrower or other private funds (proof of funds availability such as bank statements and a signed letter indicating that the funds will be contributed to the project are required).
  - A detailed letter of interest from a financial institution outlining the loan amount, loan term, interest rate, collateral requirements, loan-to-value ratio, debt service coverage ratio (DSCR), etc. will be required for the underwriting process.
  - An approval letter from another government, nonprofit or other business or infrastructure financing program.

NOTE: A formal, signed commitment letter from the financial institution with the same loan amount, loan terms, interest rate, collateral requirements, loan-to-value ratio, DSCR, etc. will be required before EDLP funds will be released.



- To the extent practicable, EDLP funds are not substituted for non-Federal financial support. This will include an assessment to ensure no duplication of funds from other federal, state, or private sources that may have been provided to assist the business in response to a disaster, economic downturn or other event.
- The project is financially feasible based on the underwriter's assessment of the items defined below:
  - Pre-disaster sales from 2019 that supports future sales projections.
  - The management team has the capacity to execute the business plan and meet the financial projections (i.e., sales revenues, COGS, operating expenses, and profitability).
  - The historic creditworthiness of owners with a 20% or greater interest or any member of the management team with check writing authority.
- The financial operating and cash flow projections:
  - Are in line with the business' previous seasonal fluctuations in financial performance and/or reflect anticipated conditions that may impact Revenues, COGS (if applicable), Operating Expenses and Profitability during the term of the EDLP.
  - Show an ability for the business to reach a level of financial breakeven with EDLP and other funding during the term of the EDLP.
  - Clearly demonstrate that the Borrower will generate sufficient income to retain (or re-create) the projected number of jobs within an agreed upon term established between the Borrower, the Administrator and the Lender.
  - Demonstrate that the business will meet the (DSCR) required by other lenders.
  - Demonstrate that the business will generate sufficient revenue to provide the salaries, wages or draws needed by the owner(s) to cover their personal expenses taking into consideration other sources of income available to meet owners' personal financial needs.
- As EDLP loans with forgiveness terms will be limited to businesses that have faced financial conditions that resulted in the loss of jobs or are in imminent danger of facing financial conditions that will result in the loss of jobs, underwriting will not include 1) an assessment of the return on owner's equity invested in the project, nor 2) an assessment of the disbursement of EDLP funds on a pro-rata basis with other project financing.

The EDLP underwriting process for loans with forgiveness terms will require documentation to assess the ability of the business to sustain operations (e.g., documentation on other debt, historic business financial statements and tax returns for 2019, historic personal financial statements and tax returns for 2019, personal credit reports, financial projections and DSCR).

The EDLP underwriting process for loans with forgiveness terms will require documentation to assess the ability of the business to sustain operations (e.g., documentation on other debt, historic business financial statements and tax returns for 2019, historic personal financial statements and tax returns for 2019, personal credit reports, financial projections and DSCR). However, the following additional (or more detailed) information may, at the underwriter's discretion, be required due to the CBDG underwriting criteria outlined above and the willingness of the City of Chowchilla to



consider higher risks loans in exchange for the project the CDBG National Objective and Public Benefit requirements outlined above.

- A detailed breakdown in the financial statements with line items showing:
  - Salaries/wage, employment taxes and benefit expenses for existing employees with a breakdown for those employees that will be retained with the assistance from the EDLP loan and should align with the Job Tracking Form submitted with the Borrower's application.
  - A history of the business and brief bios of each of the key members of the management (e.g., CEO, CFO, CTO, etc.) and operating team (e.g., Production Manager, Sales Manager, etc.).
  - A summary of the market(s) served and any adjustments to accommodate for disaster related impacts.
  - A schedule of owner's equity invested in the businesses and any new debt incurred after March 1, 2020 (the debt summary should include the name of the source, the amount borrowed, loan terms, interest rate, current balance, etc.).
  - A timeline outlining when funds from each source of financing will be expended (including EDLP and non-EDLP sources).

### **B.5.2 EDLP UNDERWRITING CRITERIA FOR LOANS WITH FORGIVENESS TERMS**

Eligible EDLP applicants for loans with forgiveness are underwritten in accordance with the following EDLP underwriting criteria.

- Business is located within the jurisdictional boundaries of the City of Chowchilla.
- Financial Ratios:
  - DSCR – an aggregate business DSCR of no lower than 1.0 (includes an aggregate of the DSCR for all non- EDLP debt financing).
  - Global Cash Flows – an aggregate of business DSCR and personal cash needs are sufficient to cover personal operating expenses including a personal DSCR of no lower than 1.0.
  - Net Income (after taxes and interest) sufficient to meet DSCR requirements outlined above.
- The Administrator will work closely with the eligible businesses to ensure they understand the requirements of the EDLP and the benefits of participating.

### **B.6 DETERMINATION OF LOAN AMOUNTS**

EDLP loan with forgiveness terms will comply with HUD and/or HCD regulations and guidelines as outlined in NOFA Appendix M and other written documentation provided by HUD and/or the HCD.

### **B.7 DETERMINATION OF LOAN TERM**

EDLP loan with forgiveness terms will comply with HUD and/or HCD regulations and guidelines as outlined in NOFA Appendix M and other written documentation provided by HUD and/or the HCD.



## **B.8 DETERMINATION OF LOAN INTEREST RATE**

EDLP loan with forgiveness terms will comply with HUD and/or HCD regulations and guidelines as outlined in NOFA Appendix M and other written documentation provided by HUD and/or the HCD. It is anticipated that loans with forgiveness terms will be zero percent (0%) for the specified term of the loan unless otherwise specified by the HCD.

## **B.9 LOAN DISBURSEMENT – LOANS WITH FORGIVENESS TERMS**

Loan disbursement for loans with forgiveness terms will be in accordance with HUD and HCD regulations, guidelines, or other written procedures.

Disbursement of loan proceeds will take place only after all conditions have been met and loan documents executed. The procedure for loan disbursement will vary depending upon the purpose of the loan funding as outlined below:

- Operating Expenses and Working Capital – to be disbursed at the beginning of each month in an amount that aligns with the cash flow needs as presented in the monthly pro forma financials provided by the Borrower during the application process and updated as necessary prior to loan closing or due to changing operating conditions following loan closing.
- Furniture, Fixtures & Equipment – to be paid directly to the vendor upon receipt of a valid invoice or to be paid to the borrower upon receipt of a valid invoice and proof of payment (e.g., cancelled check or paid credit card bill)

The Administrator will approve all disbursements and evaluate the sustained viability of the business prior to disbursing future monthly Operating Expense and/or Working Capital advances.

## **B.10 LOAN MONITORING AND COMPLIANCE FILES – LOANS WITH FORGIVENESS TERMS**

Following closing, monitoring files will be set up. Two separate physical and/or electronic loan files shall be maintained. The first is the legal file which holds all the original executed loan documentation. This electronic and/or physical file shall be kept in Lender's or Administrator's fireproof vault or cloud-based backup for safekeeping. At a minimum the legal file shall include (if applicable):

- Promissory Note
- Loan Agreement with required CDBG language
- Deed of Trust
- General Security Agreement
- Personal Guaranty
- Corporate Guaranty
- Subordinate Agreement
- Life Insurance Policy and Agreement
- Hazard Insurance Policy and Agreement
- General Resolution



- Certificate of Secretary
- Opinion of Counsel
- Inter-creditor Agreement
- Documentation of Site Control (i.e., lease, deed of trust, etc.)

The second is a credit file which will contain the day-to-day administrative records of the loan. The credit file will include, at a minimum, the loan application and financial information associated with the application, loan memorandum, Lender LAC recommendation, disbursement records, reports of site visits, updated financial information provided by the Borrower, CDBG compliance data and other routine information related to the loan.

Application information should include the following as appropriate:

- Loan Disbursement Schedule
- Map verifying borrower is physically located within program boundaries
- Documentation of compliance with federal acquisition requirements, if appropriate (e.g., land purchase)
- Documentation of compliance with federal debarred requirements
- Copy of CDBG NEPA documents including Authorization to Use Grant Funds, if required (Original to be maintained in Lender's Environmental Review Records file)
- Copy of Documentation to determine Cost Reasonableness
- Documentation to support National Objective/Public Benefit requirements for job retention that shows clear and objective evidence that jobs will be lost without CDBG assistance.
- Signed CDBG Documents:
  - Loan Certification Form
  - Job Tracking Form (demonstrating CDBG compliance with LMI job creation/retention)
  - No Conflict-of-Interest Certification
  - No Job Anti-Pirating Certification
  - Income Certification forms (including Part 5 if required or other required income certification documentation)

## **B.11 LOAN SERVICING – LOANS WITH FORGIVENESS TERMS**

### **B.11.1 LOAN SERVICING AGENT:**

Loan servicing will be conducted by the Administrator with the Lender.

### **B.11.3 LOAN SERVICING AND DOCUMENT COLLECTIONS PROCEDURES:**

Once the loan is closed, the Borrower is entered into a forgivable loan servicing system. EDLP loan with forgiveness terms will be serviced as follows:

- Administrator to secure evidence of purchase and payment for FF&E



purchased with EDLP funds for review and comparison to loan application documents and budgets to validate cost reasonableness and CDBG compliance (e.g., NEPA, Prevailing Wage, etc.). If in noncompliance, Administrator and Lender will determine if corrective action is required and implement corrective action if necessary.

- Borrower to provide the following to the Administrator for review by the 15<sup>th</sup> of the month following the close of the previous month:
  - P&L and Balance Sheet or a P&L, A/P Aging and A/R Aging statements.
  - An updated Debt Schedule.
  - Payroll records.

Once the loan is closed, the Administrator will monitor the loan to maintain the loan records in compliance with the Program objectives and CDBG guidelines. A servicing and documentation system will be maintained with a file for each borrower.

## **B.12 ONGOING MONITORING:**

Ongoing monitoring of loans with forgiveness terms will be handled as outlined in above and in Section A.11 and A.12. Any significant variances will be reported to the LAC for further direction.

### **B.12.1 FORGIVENESS MONITORING, COMPLIANCE AND REPORTING**

The guidelines for loan forgiveness monitoring and reporting will be refined upon receipt of final guidance and approval by the HCD.

### **B.12.2 FORGIVENESS MONITORING**

Following loan closing the Administrator will collect and review the information outlined in Section 10 monthly. Following the review, the Administrator will meet with Borrower either in person or via video conference to discuss current conditions and any adjustments that may be needed, or additional technical assistance provided.

- If additional technical assistance is needed the Borrower will be connected with appropriate resources to assist them with this need.
- If Revenues and Operating Expense and Work Capital expenditures are in alignment with pro forma financial and cash flow projections (or if reasonable adjustments are warranted), Administrator to authorize Lender to disburse EDLP funds to support the next month's Operating Expense and Working Capital allocation as per the pro formal financial and cash flow projections (with reasonable adjustments if warranted).
- If Revenues and Operating Expense and Work Capital expenditures are NOT in alignment with pro forma financial and cash flow projections and there is evidence that the business will not be able to continue to sustain operations or retained the projected number of jobs, Administrator will discuss the situation with the Lender and make a determination to implement one of the following actions as appropriate:
  - Reduce the amount of EDLP funds disbursed to support the next month's Operating Expense and Working Capital needs in alignment with the reduced labor



costs, etc.

- Terminate and write off the loan.
- If the Borrower fails to provide the required information by the 15<sup>th</sup> of the month as outlined above, the loan will be considered in default and all further loan disbursements will be halted until the Borrower is in compliance. If the Borrower fails to bring the loan into compliance in two consecutive months, the loan will be considered in default and the Administrator will develop options and present the loan to the LAC to determine the appropriate action.

### **B.13 FORGIVENESS COMPLIANCE**

The loan will be determined to be forgivable if the Borrower meets the following criteria.

- Borrower makes every effort to retain and/or re-create the agreed upon number of jobs for the minimum period designed in Appendix M of the CDBG NOFA, 51% of which were initially filled by LMI individuals and, if turnover occurs, agrees to make these positions available to an LMI individual.
- Borrower uses EDLP funds for eligible uses of funds as outlined in Section A.3, in accordance with the projects Sources and Uses Statement submitted as part of the loan application and in compliance with CDBG cost reasonableness requirements.
- Provides the required monthly financial and payroll information monthly by the 15<sup>th</sup> of the month following the close of the previous month.
- Meets with the Administrator monthly via telephone or video conference to review financial performance, business needs, etc. for the term of the loan.

The EDLP funds loaned to the point will also be forgiven If one or more of the following occurs:

- The Borrower ceases business operations prior to the end of the loan term.
- A determination is made between the Borrower, the Lender, the Administrator, and the LAC that every effort has been made to retain and/or re-create the agreed upon number of jobs but is unable to do so due to circumstances beyond the control of the Borrower (e.g., recurring disaster related closures or reduced operations due to government mandates, inability to find qualified employees to fill vacant positions, etc.).

### **B.14 FORGIVENESS REPORTING**

Program reporting will conform to CDBG job retention reporting requirements including maintenance of Income Certification forms and payroll records for a minimum period of three (3) months for submission to HCD to certify job retention. Additional documentation will be provided if circumstances arise that result in the business' inability to retain the projected number of jobs. All other reporting will comply with HCD semi- annual and annual reporting requirements.