



Guidelines

For the

CDBG Coronavirus Microenterprise Loan Program

Provided by the
City of El Centro
With funding from the
Community Development Block Grant Program
Coronavirus Funds (CDBG-CV)

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TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	MICROENTERPRISE FINANCIAL ASSISTANCE PROGRAM OVERVIEW	
1.	Program Administration	1
2.	Program Service Area.....	2
3.	Funding Source for Loans and Grants	2
3.	CDBG PROGRAM REQUIREMENTS	
1.	Eligible Program Applicants	2
2.	Ineligible Program Applicants	3
3.	Eligible Use of Funds	3
4.	Ineligible Use of Funds	3
5.	Coronavirus Preparedness Technical Assistance	4
6.	Meeting Microenterprise Definition Requirement	4
7.	Meeting CDBG National Objective Requirement	5
8.	Other CDBG Federal Laws and Regulations	5
9.	Prevention of Duplication of Benefits	6
4.	APPLICATION PROCESSING FOR LOANS / GRANTS	
1.	Program Marketing and Outreach	6
2.	Equal Opportunity Compliance.....	7
3.	Required Loan Application Documents.....	7
4.	Loan Application Process	8
5.	Program Loan Approval Committee (LAC)	8
6.	Loan Applicant Confidentiality	9
7.	Dispute Resolution/Appeals Procedure	9
8.	Exceptions / Special Circumstances	9
9.	Loan Closing Process and Disbursing Funds	9
5.	LOAN TERMS AND SECURITY	
1.	Two Types of Financial Assistance	9
2.	Loan Terms and Fees	10

3. Collateral and Security Requirement	10
4. Loan Security Position	10
5. Loan-to-Value Ratio	10
6. Debt Service Coverage	10

6. LOAN UNDERWRITING PROCESS

1. General Credit Requirements	11
2. Management Capacity Market Demand.....	11
3. Additional Project Underwriting Criteria	11

7. LOAN SERVICING

1. Loan Collection and Servicing	12
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ATTACHMENT A: EXECUTED RESOLUTION ADOPTING GUIDELINES

ATTACHMENT B: SAMPLE BUSINESS LOAN SERVICING POLICIES

COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS FUNDS (CDBG-CV) MICROENTERPRISE LOAN PROGRAM GUIDELINES

1.0 INTRODUCTION

On March 4, the Governor of the State of California declared a state emergency; on March 14, 2020, the President declared a national emergency and on March 17, 2020, the El Centro City Council declared a state of local emergency within the City, all in response to the coronavirus pandemic. The purpose of the local state of emergency was to authorize the City Manager, as the Director of Emergency Services, to take actions to protect the citizens of El Centro. The Emergency Operations Center (EOC) was activated to coordinate the operation of the various city departments as well other cities and the County in addressing health and safety issues related to the coronavirus.

In April of 2020, the City of El Centro (“City”) received notification from the Department of Housing and Urban Development of a special allocation of funding to the city’s CDBG program to prevent, prepare for, and respond to the coronavirus (COVID-19). This allocation was authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, which was signed by President Trump on March 27, 2020, to respond to the growing effects of this historic public health crisis.

The CARES Act made available \$5 billion in Community Development Block Grant Coronavirus (CDBG-CV) funds. Of this amount, the City of El Centro received an allocation of \$333,375 to address the immediate needs faced by our community.

On June 2, 2020, the El Centro City Council approved a Substantial Amendment to the 2019-2020 Annual Action Plan which included an allocation of the CARES Act COVID funding of \$200,000 for a Microenterprise Loan Program to assist businesses within the City of El Centro that have been affected by the COVID-19 pandemic.

The City of El Centro, has established a Microenterprise Loan Program, hereafter called “the Program”. The Program is designed to stimulate economic growth and create businesses that will improve the living conditions of residents in the community. The Program provides affordable financing to eligible businesses to start up or expand. The Program is useful for small businesses as the loan terms are flexible and can be tailored to the needs of the business. These revised financial assistance guidelines were formally adopted by the El Centro City Council on December 15, 2020.

2.0 MICROENTERPRISE FINANCIAL ASSISTANCE PROGRAM OVERVIEW

2.1 PROGRAM ADMINISTRATION

The City will:

- Originate microenterprise financial assistance loans and determine eligible micro-enterprise businesses;
- Market the Program;
- Accept and process applications;

- Complete 24 Code of Federal Regulations (CFR) Part 5 Income Eligibility qualification and document an adequate number of employees;
- Perform underwriting which includes verification of income, assets, debt, risk analysis and determination of credit worthiness for recommendation of loan approval;
- Ensure a timely loan closing and disbursement of funds;
- Maintain loan files and fiscal records;
- Administer CDBG-CV funds used to fund this program; and
- Work with program participants and ensure compliance with these program guidelines.

The City's staff will serve as the primary contact with the Department of HUD. The City will follow these adopted program guidelines.

2.2 PROGRAM SERVICE AREA

Financing under this Program is available to all eligible businesses or persons located in the City's jurisdictional limits. Funds may not be distributed to businesses located outside of the City's boundaries.

2.3 FUNDING SOURCE FOR LOANS

The Program is paid for with CDBG-CV funds provided by the federal Department of Housing and Urban Development (HUD) received via the Federal CARES Act. As such, these funds have a number of federal requirements that must be met, as described below.

3.0 CDBG PROGRAM REQUIREMENTS

3.1 ELIGIBLE PROGRAM APPLICANTS

All eligible applicants must meet the definition of a microenterprise. For CDBG purposes:

- A microenterprise is defined as a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise; or
- Persons developing microenterprises means persons who have expressed an interest in, or who are after an initial screening process, expected to be actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

Eligible applicants must have a physical business address in the City. Individuals wishing to start a new business are also eligible applicants, but they must provide proof that their primary residence is located within the city limits of El Centro.

Eligible applicants documented as meeting the definition of microenterprise are hereafter referred to as "program participants".

3.2 INELIGIBLE PROGRAM APPLICANTS

An ineligible existing business applicant is one that has a physical business location outside of the city limits of El Centro. An ineligible person (who does not have an existing business) applying for the program is one with a residence outside of the service area who has not secured an operating location within the service area.

Additional ineligible businesses include, but are not limited to:

- Lending and investment institutions and insurance companies
- Golf courses
- Gambling facilities
- Nonprofit entities
- Businesses engaged in any illegal activity per local, state or federal regulations.
- Chain stores and franchises
- Businesses with more than five employees as of March 17, 2020

3.3 ELIGIBLE USE OF LOAN FUNDS

The City will review the project scope of work proposed by the business. The City and the loan applicant will collect third party cost estimates for all project expenses at the application stage. CDBG-CV funds are restricted to certain eligible expenses, such as:

- Operating capital for staff salaries or leasing space;
- Purchasing inventory, supplies, computer programs for accounting and inventory control or furniture, fixtures and equipment (FF&E);
- Rehabilitation of owner occupied or leased space (tenant improvements) including engineering, architectural and local permits or fees. Federal Davis Bacon regulations and related compliance Acts are required when utilizing CDBG funding (i.e. Prevailing Wage) for construction which may add additional costs to projects;
- Equipment purchase (with or without installation costs);
- Refinancing of existing business debt in conjunction with financing other eligible costs, except credit cards; and
- Marketing materials and advertising with website development and servicing.
- For loans of funds provided by the CARES Act to address the COVID-19 pandemic, the use of funds must be utilized to prevent, prepare for, and respond to COVID-19.

3.4 INELIGIBLE USE OF FUNDS

- Funds under this Program may not be used to reimburse expenses incurred prior to City approval of loan. This requirement can be waived by the City for expenses

related to emergency funding provided by the CARES Act; however, under no circumstances can the funds be used to reimburse expenses incurred prior to March 17, 2020.

- Program funds may not be used as a means to recover revenues lost as a result of COVID-19, as, for example, a loss of business or a contract due to COVID-19 or the related mandated business closures.
- Program funds may not be used to pay any expenses reported for other federal loans or grants received.
- Program funds may not be used to pay off non-business debt, such as personal credit cards not associated with the business.
- Loan funds may not be used for personal expenses such as buying a new family car or making repairs to a participant's home.
- CDBG funds may not be shifted from one approved type of cost to another without written City approval.
- Funds may not be used to support other businesses in which the borrower may have an interest.

3.5 CORONAVIRUS PREPAREDNESS TECHNICAL ASSISTANCE

As part of the participation in the Program, all loan applicants will be required to prepare a WORKSITE-SPECIFIC PROTECTION PLAN for their business. A template has been provided as part of the Program application. This template was developed by the Imperial County Health Department and the Imperial Valley Business Recovery Task Force to assist local businesses in performing a risk assessment of their business and develop a site-specific protection plan. The City will not provide approval of the plan; however, businesses must select applicable measures listed on the template, provide details specific to their business, and be prepared to explain why any measure not implemented is not applicable to the business.

Additionally, Technical Assistance on Cleaning and Disinfecting will be provided to all applicants in a summary prepared by the El Centro Emergency Operations Center.

3.6 MEETING CDBG MICROENTERPRISE DEFINITION REQUIREMENT

Loan applicants for this Program must meet the CDBG definition of a microenterprise business. The CDBG definition is set out in Section 3.1, above. All employees, part time and full time, on the business payroll at the time of loan application will be counted. The term "employee" includes all owners of the business on the payroll, even if the owner's "salary draws" are not on a regular basis. The City will require the business to provide records documenting the current number of employees on the payroll, including all owners of the business. To be eligible for CDBG-CV microenterprise financial assistance, the microenterprise business owner(s) must also be income eligible per Section 3.7 of these guidelines.

3.7 MEETING CDBG NATIONAL OBJECTIVE REQUIREMENT

Under federal regulations, use of CDBG funds for microenterprise activities must meet the national objective of benefit to low/moderate (“low-mod”) income persons under the Limited Clientele definition. As such, all microenterprise owners must meet HUD’s low/mod income definition prior to receiving any Program services. This is in addition to meeting the “definition” of a microenterprise, as described above in Section 3.6. The City will verify that microenterprise owner(s) meet HUD’s low/mod income requirement by completing the HUD Part 5 income verification process. Financial assistance program applicants must submit documentation to complete the Part 5 income verification process to determine program eligibility.

The 2020 HUD Low Income (80%) limits for Imperial County are as follows:

Family Size	Annual Income Limits
1	\$39,150
2	\$44,750
3	\$50,350
4	\$55,900
5	\$60,400
6	\$64,850
7	\$69,350
8	\$73,800

As with other microenterprise program activities, if the City determines that the applicant income information is not accurate and the program participant is over HUD’s income limits, then all program services must cease immediately.

3.8 OTHER CDBG REGULATIONS

There are a number of other federal laws and state regulations that are triggered with use of CDBG funding. The City will ensure compliance with these requirements. Any impacts on a proposed project will be explained at the time of loan application screening so that the loan applicant knows and understands how the project might be impacted by these overlays.

An environmental review is required by HUD for each business funded with CDBG monies (24 CFR 58). The review must be completed prior to any project-related activities commencing with the business, and the review must encompass all aggregated project-related activities for the business. The environmental review will comply with HUD’s regulations regarding the National Environmental Policy Act (NEPA). The City is required to complete and certify the NEPA review. The level of environmental review is determined by the type of proposed project and the associated

activities. The loan applicant will be informed of any additional loan processing time due to the NEPA review. No costs will be charged to the applicant for this process.

Federal Davis Bacon regulations and related compliance Acts are required when utilizing CDBG funding (i.e. Prevailing Wage) for construction which may add additional costs to projects. The City will work with applicants to ensure that funded business projects comply with federal prevailing wage laws. Applicants will be informed of any additional time, costs or administrative work required due to the prevailing wage regulations, and any additional costs may be incorporated into the business loan.

Federal acquisition and relocation laws may be triggered when using CDBG funds (24 CFR 570.606). Acquisition laws, both federal and state, must be followed when CDBG funds are used to assist in the purchase of real property. In the same way, federal and state relocation laws apply if a person or a business is displaced because of the use of CDBG funding. The City will work with loan applicants to ensure that the business is in compliance with any state or federal acquisition /relocation laws triggered by the project. Applicants will be informed of any additional time or costs or administrative work required due to acquisition or relocation regulations.

All businesses receiving funds under this Program will be required to obtain a Dun and Bradstreet DUNS number. The DUNS number is free and can be obtained online. A copy of the printout with the applicable DUNS number will be kept in the program participant file.

Verification must be provided to the City that all businesses and participants are not on the federal debarred list.

The Department of HUD requires the City collect certain income and demographic data from all program applicants and participants. The City will collect this information and keep it in the program participant file.

No conflict of Interest is allowed, in accordance with Title 24 CFR Section 570.611 . As such, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees, and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the CDBG program shall directly or indirectly be eligible for this program.

City will verify and require applicant to certify that a conflict of interest does not exist with the business or applicant. Exceptions to this policy can be made only after City's legal counsel makes a written determination that potential conflicts are acceptable.

3.9 PREVENTION OF DUPLICATION OF BENEFITS

Federal disaster law prohibits the provision of federal assistance in excess of need. Before paying an expense with federal disaster assistance, the City must verify that the assistance will not cause a duplication of benefits, meaning the expense has not, or will not, be paid by another source.

- As part of the application process, all applicants will be required to provide information on all federal assistance they have received during the last calendar year (2020) as well as a detailed accounting of how the federal assistance was expended.
- The applicant will be required to certify under penalty of perjury that the information provided is accurate and complete.
- Even if the loan has been forgiven, if subsequent audits by the City discover that expenses were claimed under two separate federal assistance opportunities, all funds loaned through the CDBG Microenterprise Loan Program will immediately become due and payable and any remaining payments under this loan will immediately cease.
- The City may recover funds paid by any legally or equitably available means.
- In addition, the recipient will be ineligible for future assistance programs.

4.0 PROGRAM OPERATIONS AND LOAN PROCESSING

4.1 PROGRAM MARKETING AND OUTREACH

Program marketing will be conducted by the City. Examples of marketing include media coverage with ads in local papers and distribution of marketing brochures to local chamber of commerce, and business networking organizations. Presentations may be scheduled for these groups as well as real estate groups, local commercial banks and City. The local Small Business Development Center (SBDC) or other similar entity may be used as a referral agency. The SBDC is located at 2415 Imperial Business Parkway, Suite A, Imperial, CA 92251 and their phone number is (760) 312-9800.

4.2 EQUAL OPPORTUNITY COMPLIANCE

This Program will be implemented in ways consistent with the City's commitment to state and federal equal opportunity laws. No person or business shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG program funds on the basis of his or her religion, religious affiliation, age, race, color, ancestry, national origin, sex, marital status, familial status (number or ages of children), physical or mental disability, sexual orientation, or other arbitrary cause.

4.3 REQUIRED LOAN APPLICATION DOCUMENTS

Complete loan applications are processed on a first-come, first-served basis. To be considered a complete application, the following documents must be included:

- Microenterprise Loan Application
- Copy of the applicant business's current City of El Centro Business License
- Internal Revenue Service (IRS) Form W-9
- Two most recent Business Quarterly Federal Tax Return
- Bank Statements for account where business transactions are conducted
- Current Balance Sheet
- Documents determined by City as proof of Business Owner's Income (this may vary based upon COVID-19 and other factors)

4.4 LOAN APPLICATION PROCESSING

Complete loan applications will be processed on a first come, first served basis after the microenterprise has documented management capacity and ability to successfully operate a business as described in Section 3.5. The City will accept only loan applications prepared on the City-provided loan application. The City will review for income eligibility, number of employees, and financial viability. Applications that do not meet basic requirements of the Program will be returned to the Applicant with an explanation of needed requirements. The City will interview the applicants and review the application for funding in combination with these program guidelines. The City may conduct a site visit whether or not the business is in operation. The City will compile a loan package with all the credit, financial, and underwriting information required for loan analysis. All loan documents from application through loan approval and disbursement of CDBG funds will be contained in a project file for future monitoring by the Department of HUD.

The loan process and coordinating timeline is as follows:

Process	Timeline
Application Review	3 business days
Underwriting	3 business days
Loan Approval Committee Process	4 business days
Loan Document Preparation	2 business days
Loan Signing and Recording	2 business days
Loan Servicing Set-up	1 business day
Funds distribution	5 day minimum (dependent on approved budget)
Total processing time	20 business days

4.5 PROGRAM LOAN ADVISORY COMMITTEE

All complete Program loans are presented by the City to the Loan Advisory Committee (LAC) for review and recommendations for approval or rejection. The LAC's recommendations are forwarded to the City of El Centro City Manager for final approval or rejection. The LAC will include the City of El Centro Finance Director or designee, the City of El Centro Community Services Director or designee, and one member of the community with a financial background chosen by City staff.

LAC loan review will take place for each loan applicant prior to funding. LAC meetings will be scheduled by City staff once a loan has been underwritten by the City's designated consultant and is ready for review and approval. LAC members are responsible for reviewing each loan application funding proposals and making

recommendations to the City. LAC may request additional information and or attach contingencies for final approval and loan closing before forwarding to the City Manager for final approval.

4.6 LOAN APPLICANT CONFIDENTIALITY

All personal and business financial information will be kept confidential. Program participant files with personal and business confidential information will be kept in locked secured storage units.

4.7 DISPUTE RESOLUTION/APPEALS PROCEDURE

Any person applying for a financial assistance loan through the CDBG program has the right to appeal if their application is denied. The appeal must be made in writing to the City Manager. A written response to the appeal will be provided to the applicant by the City within 30 calendar days of receipt of the applicant's appeal letter.

4.8 EXCEPTIONS / SPECIAL CIRCUMSTANCES

Exceptions are defined as any action which would depart from policy and procedures stated in the guidelines.

4.9 LOAN CLOSING PROCESS

Upon LAC and City Manager approval, the City will prepare for the loan closing.

The City will prepare the loan closing documents, title and lien searches, and UCC-1 filings, as appropriate. After closing, the City requests funds from the City's Finance Department for disbursement. CDBG-CV funds will only be disbursed for eligible budgeted items and will be paid directly to third party vendors for project costs.

All agreements and documents will be reviewed by the City's legal counsel, as necessary. See **Attachment B** of these guidelines for the City's Sample Loan Forms.

5.0 LOAN TERMS AND SECURITY

5.1 TYPE OF FINANCIAL ASSISTANCE

Eligible microenterprise businesses may be awarded up to \$10,000 in loan funds with this Program. Loans funded by this program (CDBG-CV funds) are eligible for loan forgiveness after six (6) calendar months from the time of the loan.

To be eligible for loan forgiveness, the Applicant must retain one Full Time employee for a duration of six (6) months from the time of the loan. The retained employee must work for the business receiving the CDBG-CV funds. If the Applicant is a sole proprietor, eligibility for loan forgiveness requires the business receiving the CDBG-CV funds to remain in business for a duration of six (6) months. In either case, the business must remain located within the city limits of El Centro.

Full Time jobs are calculated based on a 40-hour work week. If the business does not employ Full Time employees, the requirement can be met through the Full Time

Equivalent option by retaining multiple Part Time employees to fulfill the 40-hour work week requirement. For example, if the borrower chooses, they may retain two 20-hour work week, Part Time employees in lieu of one Full Time employee.

5.2 LOAN TERMS AND FEES

Loan repayment terms can range from five to ten years depending on the use of financing and the security offered by the applicant business.

The interest rate for loans will vary based on cash flow needs of business. In certain cases, interest-only payments may be available for up to six (6) months based on the need of the business for cash flow. The City reserves the right to waive interest or loan payments for up to six months but is not required to do so.

A loan servicing fee will not be charged to the borrower upon close of the loan. There is no loan pre-payment penalty.

5.3 COLLATERAL AND SECURITY REQUIREMENTS

All loans will be collateralized to the greatest extent possible. Both personal and business assets will be reviewed for collateral coverage. Types of collateral may include but are not limited to:

- Liens on real property with Deeds of Trust;
- Senior Liens on machinery, equipment, or other fixtures;
- Lease assignments, as appropriate;
- City Named as Beneficiary on Life Insurance;
- Personal guarantees; and.
- Other collateral, as appropriate.

5.4 LOAN SECURITY POSITION

All loans will be secured in the strongest possible position to ensure loan repayment in the event of a default. Loans may be secured in a second or third lien position.

5.5 LOAN-TO-VALUE RATIO (LTV)

All loans will be secured to the highest degree possible, up to and more than 100% of collateral value. In some instances, the collateral being used to secure the loan may already be fully encumbered by another Lender, in which case the LTV ratio may exceed 100%. The City may choose to lien these assets although they are over encumbered. Documentation of the loan security and loan to value ratio will be included in the loan approval package.

5.6 DEBT SERVICE COVERAGE

The business must show that the loan payment will be covered by the projected revenue of the business. In addition, the business owner(s) should be able to pay themselves a reasonable living wage. Typical debt coverage ratios for the program are

1.25. That is, there is \$1.25 in revenue to cover each \$1.00 in debt; or revenue totals 125% of debt. Coverage as low as 1.10 will be accepted on a case-by-case basis.

The debt ratio will be calculated for the borrower's personal financials as well as the business financials. Borrower's personal financials and debt service levels must be reviewed to ensure the existing or proposed microenterprise business is not adversely impacted by negative personal financials. In the same way, the business must contribute to the borrower's financial health. This is necessary because the financials of the borrower and business are closely tied.

6.0 LOAN UNDERWRITING PROCESS

6.1 GENERAL CREDIT REQUIREMENTS

In the private sector, credit scoring is a generally accepted means to underwrite certain loans, particularly small loans where the cost of underwriting can exceed the interest and fee income generated by that loan. The standard in the banking industry is a credit scoring system developed by the Fair Isaac Corporation. This system uses a formula that is applied to raw data in consumer credit files of the three largest credit-reporting bureaus. The result is known as the FICO score. The FICO credit score ranges from 300 to 850 and quantifies an individual's creditworthiness. In general, a credit score of 680 or above is considered an acceptable risk, scores at or below 620 are considered poor risks.

Applicants with FICO scores 620 and below will require targeted analysis to determine the credit worthiness of the applicant.

The City will engage the services of a private third party to perform underwriting on loans under this program. The cost associated with this service will not be charged to the Applicant.

6.2 MANAGEMENT AND CAPACITY REQUIREMENTS

A Loan Applicant must show:

- Ability to operate a business successfully;
- Adequate borrowing ability or equity to operate with the new loan payments, on a sound financial basis;
- The proposed loan is of sound value and provides for the current and future needs of the business; and
- The past earning records and future prospects of profits.

6.3 ADDITIONAL PROJECT UNDERWRITING CRITERIA

Each project/business will be evaluated based on how it has performed in the past and its future financial forecasts:

- The amount of private dollars used as leveraging funds;
- The past financial viability of the proposed project;

- The future financial viability of the proposed project;
- The demonstrated need for the funds; and
- Personal financial strength of borrowers.

7.0 LOAN SERVICING

7.1 LOAN COLLECTION AND SERVICING

The City's contracted loan servicing agency will act as the loan collection agent for its CDBG economic development loans. The duties of the collection agent will include the following:

- Loan payment collection and accounting;
- Reporting all loan payments and payoffs to appropriate City CDBG staff;
- Provide or otherwise make available quarterly statements on each loan to appropriate City CDBG staff;
- Undertake loan collections, including asset liquidation.

The City may engage services of a qualified CDBG-loan servicing agent to perform required annual verifications and certifications of funded loans. If annual loan servicing tasks are outsourced, borrowers will be notified and provided contact information for the loan agent. Services that may be outsourced include:

- Obtain annual financial statements from each business to assess health of the business and monitor any on-going loan requirements;
- Provide periodic reports to City regarding each loan serviced and compliance with loan terms;
- Recommend and participate with City in any follow up actions with borrowers; and
- Negotiate any change in repayment terms to avoid foreclosure.

See **Attachment B** of these guidelines for samples of the City's business loan servicing policies. These policies and procedures include but are not limited to: collection of loan payments, occupancy restrictions and monitoring, changes in title or transfers of title, changes in use, being current on insurance and property tax, default and foreclosure process.

The LAC will be briefed as appropriate regarding any problems or concerns about existing loans. This includes decisions to foreclose and declare defaults. In addition, the governing body will make the final decisions regarding loan collection in conjunction with legal counsel and staff.

City staff will complete required Department of HUD CDBG financial reports for program income. City staff will consult and monitor the loan servicing agent in the same way the City is monitored.

ATTACHMENT A

EXECUTED RESOLUTION ADOPTING GUIDELINES

To be inserted

ATTACHMENT B
City of El Centro
CDBG Business Loan Programs

LOAN SERVICING POLICIES AND PROCEDURES

The City of El Centro, here after called "Lender", has adopted these policies and procedures in order to preserve its financial interest in properties whose "Borrowers" have been assisted with public funds. The Lender will, to the greatest extent possible, follow these policies and procedures, but each loan will be evaluated and handled on a case-by-case basis. The Lender has formulated this document to comply with state and federal regulations regarding the use of these public funds and any property restrictions that are associated with them.

The policies and procedures are broken down into the follow areas 1) loan repayments; 2) required payment of taxes, assessments, liens and insurance; 3) required Request for Notice of Default; 4) required noticing and limitations on any changes in title, occupancy, use, or location of property; 5) requests for subordination; 6) process for loan foreclosure in case of default on the loan.

1. Loan Repayments

The Lender will collect monthly payments from those borrowers who are obligated to do so under Installment Notes that are amortized promissory notes, or Lender may use a designated loan collection company to collect payments. Late fees will be charged for payments received after the assigned monthly date as described in loan documents. Borrower may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments.

For Notes that are deferred payment loans, the Lender may accept voluntary payments on the loan. Loan payments will be credited to interest first and then to principal. The borrower may repay the loan balance at any time with no penalty.

2. Payment of Taxes, Assessments, Liens and Insurance

In general, as part of keeping a CDBG loan from going into default, borrower must maintain all-risks insurance coverage with respect to collateral or other property as designated in the loan documents and related commercial security agreements, naming the Lender as loss payee in first position or as additional insured if the loan is a junior lien. Lender may file a UCC financing statement to perfect Lender's security interest. If borrower fails to maintain the necessary insurance, the Lender may take out forced place insurance to cover the property while the Borrower puts a new insurance policy in place. All costs for installing the necessary insurance will be added to the loan balance at time of installation of Borrower's new insurance.

Property taxes must be kept current during the term of the loan for property acquired with loan proceeds or for property designated as security for the CDBG loan or other activity debt, as described in the loan documents. If the Borrower fails to maintain payment of property taxes, then the Lender may pay the taxes and add the balance of the tax payment plus any penalties to the balance of the loan.

3. Request for Notice of Default

When the Borrower's CDBG loan is in second position behind an existing first mortgage, it is the Lender's policy to prepare and record a "Request for Notice of Default" for each senior lien in front of Lender's loan. This document requires any senior lien holder listed in the notice to notify the Lender of initiation of a foreclosure action. The Lender will then have time to contact the Borrower and assist the Borrower in bringing the first loan current. The Lender can also monitor the foreclosure process and go through the necessary analysis to determine if the loan can be made whole or preserved. When the Lender is in a third position and receives notification of foreclosure from only one senior lien holder, Lender may contact any other senior lien holders regarding the status of loans.

4. Required Noticing and Restrictions on Any Changes of Title, Occupancy, Use, or Location of Collateralized or Secured Property

In all cases where there is a change in title or occupancy or use or location of property that directly or indirectly relates to any agreements between Lender and Borrower, the Borrower must notify the Lender in writing of any change. No change in Borrower's name or principal residence will take effect until after Lender has received notice. All such changes are subject to the review and approval of the Lender's Loan Committee and may also require City Manager approval.

5. Requests for Subordination

When a Borrower wishes to refinance property financed in whole or in part with CDBG-CV funds, Borrower must make a subordination request to the Lender. The Lender may consider subordination of the loan when there is no "cash out" as part of the refinance. Cash out means there are no additional charges on the transaction above loan and escrow closing fees. There can be no third-party debt pay-offs or additional encumbrance on the property above traditional refinance transaction costs. Furthermore, the refinance should lower the debt costs of the business with a lower interest rate, and the total indebtedness on the property should not exceed the current market value.

Upon receiving the proper documentation from the refinance lender, the request will be considered by the Loan Committee for review and approval. Upon approval, the escrow company will provide the proper subordination document for execution and recordation by the Lender.

6. Process for Loan Foreclosure

Upon any condition of loan default, including: 1) non-payment; 2) failure to comply with or perform other terms, obligations, covenants or conditions contained in the Note or

related documents; 3) false statements; 4) death or insolvency of borrower; 5) creditor or forfeiture proceedings; or 6) any other event of default as described in the promissory note, Lender may declare the entire unpaid principal and interest balance immediately due. Upon loan default, Lender will send a letter to Borrower notify Borrower of the default situation.

When a senior lien holder starts a foreclosure process and the Lender is notified via a Request for Notice of Default, the Lender as the junior lien holder may cancel the foreclosure proceedings by “reinstating” the senior lien holder. The reinstatement amount or payoff amount must be obtained by contacting the senior lien holder. This amount will include all delinquent payments, late charges and fees to date. Lender must confer with Borrower to determine if, upon paying the senior lien holder current, Borrower can provide future payments. If this is the case, then the Lender may cure the foreclosure and add the costs to the balance of the loan with a Notice of Additional Advance on the existing note.

If the Lender determines, based on information on the reinstatement amount and status of Borrower, that bringing the loan current will not preserve the loan, then Lender must determine if it is cost effective to protect the Lender’s position by paying off the senior lien holder in total and restructuring the debt. If the Lender does not have sufficient funds to pay the senior lien holder in full, then the Lender may choose to cure the senior lien holder and foreclose on the property. As long as there is sufficient value in the property, the Lender may be able to pay for the foreclosure process and pay off the senior lien holder and retain some or all of the Lender’s investment.

If the Lender decides to reinstate, the senior lien holder will accept the amount to reinstate the loan up until five days prior to the set “foreclosure sale date.” This “foreclosure sale date” usually occurs about four to six months from the date of recording of the “Notice of Default.” If the Lender fails to reinstate the senior lien holder before five days prior to the foreclosure sale date, the senior lien holder would then require a full pay off of the balance, plus costs, to cancel foreclosure. If the Lender determines the reinstatement and maintenance of the property not to be cost effective and allows the senior lien holder to complete foreclosure, the Lender’s lien may be eliminated due to insufficient sales proceeds.