DOBBS FERRY LOCAL DEVELOPMENT CORPORATION

ECONOMIC DEVELOPMENT LOAN FUND

POLICY GUIDELINES & OPERATING PLAN

Re-Adopted: March 21, 2013

Dobbs Ferry Local Development Corporation
Economic Development Loan Fund
<u>Policy Guidelines</u>

Section 1. <u>GENERAL</u>

1.1 Policy Guidelines

The Policy Guidelines (the "Plan") is adopted by the Board of Directors of the Dobbs Ferry Local Development Corporation (the "Board") and is intended to serve as the primary administrative document for the Economic Development Loan Fund (the "EDLF"). Any revisions to the Plan must also be adopted by the Board of Directors of the Dobbs Ferry Local Development Corporation (the "DFLDC").

1.2 Objectives

The primary objectives of the EDLF are to assist in the establishment, relocation and expansion of business activity within the Village of Dobbs Ferry, create employment opportunities in the Village, and preserve and expand the Village's tax base.

1.3 Form of Assistance

The EDLF will provide assistance in the form of loans.

Section 2. <u>ELIGIBILITY REQUIREMENTS</u>

2.1 Eligible Activities

(a) The principal business activity which will be primarily impacted by the EDLF financing must be located within Dobbs Ferry. Exceptions to this requirement will be granted only where the Board determines that the expanded business activity will have a direct, significant and positive impact on the EDLF's stated objectives. EDLF financing is not intended and should not be construed by anyone to be considered a program of general business loans, but rather, EDLF financing is intended for specific scenarios, including, scenarios where businesses are displaced by administrative action of a Dobbs Ferry Board and/or where the financing will aid in a significant business activity in the Village.

(b) EDLF assistance may be provided for any legal commercial business activity that is consistent with the EDLF program objectives and activities.

(c) The business activity to be undertaken with assistance from the EDLF must directly result in the creation and/or retention of employment. Where no employment creation or retention is projected, the business owners must be providing a good or service for the Dobbs Ferry community that has been deemed ‘significant’ by the Village Board of Trustees, at the time of the loan closing. Village ‘significance’ will require a letter signed by the Village Mayor, at the time of closing.

2.2 Ineligible Activities

Activities which primarily consist of investing, speculation, or realty ownership held primarily for sale or investment and/or any activity which does not further the objectives of the EDLF, will be ineligible for EDLF financing. Any illegal activity will not be eligible for EDLF financing.

2.3 Eligible Borrowers

Eligible borrowers include sole proprietors, partnerships and corporations. Loans may be provided to individuals acting as principals of an eligible entity, and who will rent or lease assets to an otherwise eligible borrower.

2.4 Eligible Uses of EDLF Funds

EDLF funds may be used for any justifiable business purpose including, but not limited to, fixed assets, current assets including inventory and receivables, permanent working capital, and re-financing of existing debt.

Section 3. EDLF STANDARDS

3.1 General

The maximum amount of EDLF financing may not exceed $15,000, excluding closing expenses/costs. The limit of $15,000 of financing may be exceeded in instances where DFLDC determines that the new or expanded business activity will bring an even greater degree of other public benefits.

3.3 EDLF Financing Amount

EDLF assistance must be no greater than the *minimum amount necessary* to effect the business activity; but cannot exceed 50% of proposed total project costs. Applicants must demonstrate that all other private and public sources of debt and equity have either been maximized or are inappropriate, unaffordable, or otherwise unavailable.

3.4 Minimum Amount of EDLF Assistance

Program assistance will not be considered where the amount of requested assistance is less than three thousand dollars ($3,000).

3.5 Maximum Amount of EDLF Assistance

Total EDLF assistance provided to a business or to any owner of an eligible business may not exceed 50% of total project costs.

Section 4. LENDING POLICIES

4.1 General

EDLF loans may have an initial deferral of principal and interest payments for one (1) year. No interest will be charged or accrued during this period. Prior to the expiration of the one (1) year period, the DFLDC will evaluate the borrower's financial condition and business development status and take one of the following actions to become effective at the end of the one year period:

(a) Inform the borrower that the loan repayment will commence according to the terms established pursuant to Sections 4.2, 4.3, and 4.4 of this Plan; or

(b) Extend the deferral for an additional period not to exceed one year. No interest will be charged or accrued during this period. The granting of such additional deferral will be contingent upon the borrower's agreement to accept or procure any technical assistance required by the DFLDC as a condition of the deferral. At the expiration of this second deferral period, the DFLDC will inform the borrower that the loan repayment will commence according to the terms established pursuant to Sections 4.2, 4.3, and 4.4 of this Plan.

4.2 Term of Loans

For fixed asset loans, the program loan term will generally be consistent with the life of the assets being financed, with such periods being consistent with standard commercial lending policies and in no instance exceeding five (5) years, excluding the one (1) year deferral period and any other deferral period. For term working capital loans, the loan term may not exceed five (5) years plus the deferral period(s). For all loans, the term will be determined by the DFLDC based upon such factors as the structure of other related loans, the nature of the collateralized assets, and the borrower's projected ability to repay the loan.

4.3 Interest Rate

The interest rate charged for the use of funds will be the Wall Street Prime Rate as a minimum rate. Under no circumstance will a variable interest rate be used.

4.4 Repayment Terms

The DFLDC will determine the schedule of loan repayments on a case-by-case basis based on the applicant's projected ability to repay the loan, the projected value of the collateral and other security, and the overall risk assumed by the EDLF. Repayment terms may involve standard forms of loan authorization, periods of accruing interest or interest on payments, extended amortization schedules with balloon payments of principal, and/or such other terms as may be determined by the DFLDC to be appropriate.

4.5 Security

The DFLDC will determine the required security for each loan on a case-by-case basis based on such factors as the risk of default, the nature and value of the security, and the position of the EDLF in relation to other lenders. In determining the appropriate security, the following will apply:

(a) The DFLDC will generally require a security interest in all assets financed with EDLF funds. Additional collateralization of assets of the borrower may be required at the DFLDC's option.

(b) For loans to corporations, the DFLDC may require the personal guarantee of all owners of at least 20% of the voting stock of the company.

(c) For loans to closely-held corporations, the DFLDC may require collateralization of selected personal assets of one or more of the owners and/or personal guarantees.

(d) For loans to individuals, partnerships, or corporations which have affiliated interests and/or Identities of ownership with other business entities, the DFLDC may require additional guarantees.

(e) For loans to businesses that have a dependence upon specific individuals for their continuing viability, the DFLDC may require an assignment of insurance on the lives of those persons.

4.6 Subordination

(a) The DFLDC will generally allow a subordination of debt and collateral to private institutional lenders where necessary to facilitate the maximum financial participation by private lenders.

(b) The standing of the financing relative to other public or quasi-public lenders will be negotiated on a case-by-case basis.

(c) The DFLDC will generally require subordination of financing of notes payable to any officer, owner, or similarly affiliated party to the borrower where appropriate and feasible. Such subordination may include subordinate security interests and/or repayment restrictions.

(d) The DFLDC will generally require the execution of an intercreditor agreement in instances where multiple lenders exist. The use and form of such agreements shall be the responsibility of the DFLDC Attorney.

Section 5. APPLICATION PROCESSING

5.1 Loan Applications

Applications for EDLF financing must include all of the information required by the EDLF Application Form and any additional information as may be reasonably requested by the DFLDC.

5.2 Application Fee/Deposit

A non-refundable application/deposit fee of $500 is due at the time of application for EDLF financing.

5.3 Application Processing

The processing of loan applications will be the responsibility of the DFLDC and will generally consist of the following:

(a) Review of applications for completeness and procurement of appropriate additional information.

(b) Review for EDLF program eligibility criteria and eligibility.

(c) Determine economic feasibility, perform credit analysis, and assess risk.

(d) Determine amount and terms of EDLF financing, including appropriate security.

(e) Prepare written report for DFLDC Board summarizing the review process and providing recommendations for lending, as appropriate.

5.4 Loan Approval

The DFLDC Board has the sole authority to approve (or disapprove) use of EDLF program funds. The application of other appropriate conditions of lending and covenants of the borrower shall be the responsibility of the DFLDC Attorney with input from the DFLDC staff.

5.5 Loan Disapproval

(a) The Chief Executive Officer of the DFLDC may recommend disapproval of a loan application, based upon a lack of a complete application or a failure to meet the program's eligibility criteria. In such instances, the applicant will be notified in writing of the reason(s) for disapproval, and may be allowed to re-submit a loan application at a later date, if all reasons for disapproval have been resolved.

(b) The DFLDC Board may disapprove a loan application for any reason(s) that represents a reasonable determination that the approval of the application would not meet the objectives of the Program and/or would not represent an appropriate or prudent use of Program funds. In such instances, the applicant will be notified in writing of the reason(s) for disapproval.

Section 6. POST-APPROVAL PROCESS

6.1 Commitment Letter

Within ten (10) calendar days from the date of the DFLDC Board approval of a Program loan, a commitment letter shall be sent to the applicant that includes, at a minimum, the following information:

a) The amount of the loan approved; the applicable interest rate, the term of the loan, the terms of repayment and the expiration date of the commitment letter.

b) The required use of the loan funds.

c) The DFLDC's requirements for collateral and additional security -- including guarantees, pledges of assets, assignment of life insurance, etc..

d) Summary information regarding employment requirements.

e) Any other conditions of lending.

f) A listing and explanation of any fees to be charged and other closing costs which will be the responsibility of the borrower.

g) A listing of those conditions and requirements of the borrower which must be fulfilled precedent to a loan closing.

h) Any other information which could reasonably be expected to influence the borrower's decision to accept the terms of the loan commitment.

6.2 Closing Costs

To partially defray the cost of the loan application processing, the borrower shall be required to pay a closing fee calculated as 1% of the total loan amount which can be added on to the loan amount and exceed the $15,000 maximum. Any legal costs above and beyond the closing fees will be the applicant's responsibility. Any and all filing fees will be the responsibility of the borrower, including filing fees for any UCC filing and/or mortgage filing fee and/or mortgage tax.

6.3 Loan Closings

The DFLDC Attorney shall have the responsibility to prepare and/or require the preparation of all appropriate closing documents. The DFLDC Attorney shall determine the appropriate closing documents to be executed based upon the terms and conditions of the loan approval and standard commercial lending policies. Such documents shall generally include the following:

(a) A loan agreement that includes a description of the loan terms and security, appropriate representations and warranties, the conditions of lending, affirmative and negative covenants - including compliance with applicable federal laws and regulations, requirements regarding employment creation and reporting, default provisions and any other provisions that may be appropriate.

(b) A note or notes to evidence the indebtedness and the terms of repayment.

(c) The appropriate documents to evidence and record mortgages, liens, guarantees and such other security as may be required by the terms of the loan.

(d) Other appropriate documents as determined by the DFLDC Attorney.

6.4 Security

The DFLDC Attorney will be responsible for perfecting all of the DFLDC's security interests including, where appropriate, the execution of security agreements, the filing of financing statements, the execution and filing of mortgage documents, the execution of guarantees and any other appropriate actions to adequately protect the DFLDC's security interests. Inter-creditor agreements should be executed where appropriate to further protect the DFLDC's interests and to facilitate the processing of defaults and foreclosures.

6.5 Loan Disbursement

The disbursement of loan proceeds shall be the responsibility of the DFLDC staff. For such disbursement, the following guidelines shall generally apply:

(a) Subject to the borrower's compliance with the terms and conditions of the loan agreement, all documents evidencing and securing the loan, and other guidelines for disbursement as described in this Section 6.5, the DFLDC staff may disburse loan proceeds upon the borrower's presentation of vouchers and other such evidence satisfactory to the DFLDC that represent paid or accrued expenses of the borrower and which are eligible costs as determined by the DFLDC.

(b) Where other debts or equity financing is to be used in conjunction with the Program financing, such debt or equity must, in the opinion of the DFLDC be firmly committed for such use. Evidence of the commitment(s) must be submitted by the borrower.

(c) Where other debt or equity financing is to be used in conjunction with the Program financing, the DFLDC will, at its discretion, determine an appropriate draw schedule for Program funding based on such factors as the magnitude of risk assumed by the DFLDC, the nature of the activities being financed, the draw schedule for the other financing and any other applicable regulations for the use of Program funds. The manner and terms of the disbursement of the Program financing shall be prescribed by DFLDC.

Section 7 LOAN MANAGEMENT

7.1 Delinquencies

The DFLDC staff will contact the borrower within 14 days of any delinquency of payment to inform the borrower of the delinquency and to determine if there is a need to procure additional information or to provide technical assistance. Delinquencies that continue for 90 days will be referred to the DFLDC Attorney for further action.

7.2 Annual Financial Review

The DFLDC staff will be responsible for conducting an annual financial review for all borrowers based primarily on the annual financial statements submitted by the borrower. Additional information may be procured as appropriate. The reviews will be presented to the LRC for further recommendations as appropriate.

7.3 Adjustment of Terms and Conditions

Requests by the borrower for adjustment of any of the terms and conditions of the loan will be reviewed by the DFLDC staff to determine whether the adjustment is in the best interests of the DFLDC. Requests will be processed in accordance with the following:

(a) Requests to adjust the interest rate, term of the loan, or security for the loan will be reviewed by the CFO of the DFLDC. Any such adjustments will require approval of the DFLDC Board.

(b) Requests to accrue interest or to pay interest only may be approved or a period not to exceed 60 days; pending staff review and recommendation to approve and DFLDC Board approval. The DFLDC Board has the final authority to extend the period at its discretion.

(c) Requests for changes respecting any covenants or conditions of a financial nature must be recommended for approval by the DFLDC staff as to content and the DFLDC Attorney as to form.

(d) Requests for any other changes to the covenants or conditions of the loan including, but not limited to, such areas as reporting requirements, cost documentation and maintenance of records will be screened and reviewed by DFLDC Staff with final approval authority at the DFLDC Board.

7.4 Compliance Monitoring.

The DFLDC Staff will be responsible for monitoring the borrower's compliance with all of the conditions and covenants of the Loan Agreement. Such responsibility shall include taking appropriate actions in the event of non-compliance; informing the DFLDC Board and the DFLDC Attorney of any incidence of default under the terms and conditions of the loan agreement, and providing file documentation as appropriate.

7.5 Default – Condition of Financial Hardship.

In asserting its remedies upon a default of the borrower, the DFLDC Board may elect not to pursue and/or liquidate personal assets of the borrower if such action would result in an extraordinary financial hardship to the borrower, the borrower's family, or any loan guarantor. Such circumstances will be reviewed by DFLDC Staff prior to submitting recommendations for action to the DFLDC Board. Extraordinary financial hardship is generally defined as the creation of a condition of bankruptcy or the loss of personal assets necessary to enjoy a minimum level of living comfort.