

ORDINANCE NUMBER 2017 - 19

**AN ORDINANCE AMENDING
THE KENDALL COUNTY REVOLVING LOAN FUND RECAPTURE STRATEGY**

WHEREAS, Kendall County, Illinois (Kendall County) maintains a Revolving Loan Fund (RLF), which was capitalized by the Illinois Department of Commerce and Economic Opportunity's (DCEO) Community Development Assistance program (CDAP), which was in turn funded by the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant Program established under the Federal Housing Community Development Act of 1974; and

WHEREAS, HUD recently advised DCEO to review and improve its administration of the RLF program and, per HUD Notice CPD-04-11 issued on October 27, 2004, an RLF capitalized prior to October 1, 1992 no longer holds a federal identity and, thus, may be expended in any manner deemed appropriate by the community; and

WHEREAS, Kendall County's RLF was last capitalized prior to October 1, 1992; and

WHEREAS, on or about October 11, 2016, the DCEO notified Kendall County that Kendall County's RLF is considered dissolved and no further reporting to DCEO is required; and

WHEREAS, the DCEO also notified Kendall County that Kendall County may use the remaining funds in the RLF in whatever manner it deems appropriate; and

WHEREAS, as of the date of adoption of this Ordinance, Kendall County has approximately a \$1,781,573.40 reserve balance in its RLF; and

WHEREAS, Kendall County previously adopted a RLF Strategy in October of 2006, which complied with DCEO rules and regulations; and

WHEREAS, the Kendall County Board wants to amend the parameters and procedures for the application, distribution, use, and collection of Kendall County's RLF funds now that Kendall County's RLF is no longer subject to DCEO rules and regulations; and

NOW, THEREFORE, BE IT ORDAINED, by this County Board of Kendall County, Illinois that:


1. The Kendall County Board hereby amends its RLF Strategy (previously approved in October of 2006) and replaces it with the Kendall County Revolving Loan Fund Recapture Strategy ("the Strategy"), which is attached hereto as **Exhibit 1** and incorporated herein by reference.

2. This Ordinance and the Strategy shall be in full force and effective immediately upon its adoption as provided by law.

3. The sections, paragraphs, sentences, clauses and phrases of this Ordinance and the Strategy are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance and/or the Strategy are declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance and the Strategy.

4. This Ordinance and the Strategy may be amended or repealed only by a majority vote of the Kendall County Board members present for said vote.

**Passed and adopted by the County Board of Kendall County, Illinois this 19
day of September, 2017.**



Scott R. Gryder, Chairman
Kendall County Board

AYES - 5
NAYS - 4
ABSTAIN - _____

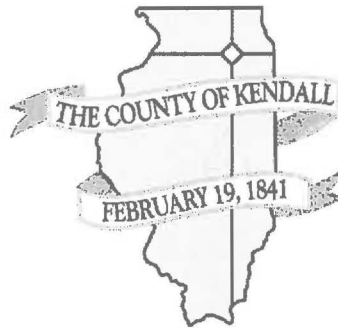
ATTEST:



Debbie Gillette, County Clerk
Kendall County, Illinois

KENDALL COUNTY ORDINANCE NO. 17-19
EXHIBIT 1

COUNTY OF KENDALL
REVOLVING LOAN FUND PROGRAM
RECAPTURE STRATEGY



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Adopted: September 19, 2017

KENDALL COUNTY REVOLVING LOAN FUND RECAPTURE STRATEGY

A. Background

1. Kendall County, Illinois (Kendall County) maintains a Revolving Loan Fund (RLF), which was capitalized by the Illinois Department of Commerce and Economic Opportunity's (DCEO) Community Development Assistance program (CDAP), which was in turn funded by the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant Program established under the Federal Housing Community Development Act of 1974.
2. HUD recently advised the DCEO to review and improve its administration of the RLF program and, per HUD Notice CPD-04-11 issued on October 27, 2004, an RLF capitalized prior to October 1, 1992 no longer holds a federal identity and, thus, may be expended in any manner deemed appropriate by the community.
3. Kendall County's RLF was last capitalized prior to October 1, 1992.
4. On or about October 11, 2016, the DCEO notified Kendall County that Kendall County's RLF is considered dissolved and no further reporting to DCEO is required. Also, the DCEO notified Kendall County that Kendall County may use the remaining funds in the RLF in whatever manner it deems appropriate.
5. Accordingly, the Kendall County Board has adopted this Revolving Loan Fund Recapture Strategy ("the Strategy") to amend and update the parameters and procedures for the continued application, distribution, use, and collection of Kendall County's RLF funds.

B. Revolving Loan Fund Goals and Objectives

Kendall County hereby adopts the following goals and objectives for its RLF and the RLF loans granted by Kendall County pursuant to the Strategy:

1. The RLF and RLF loans should stimulate economic growth in Kendall County by assisting with the retention and growth of the existing industrial and commercial base in Kendall County; by providing needed equity to new start-up businesses in Kendall County; and by providing an incentive for established businesses to relocate to Kendall County.
2. The RLF and RLF loans should assist new or existing Kendall County businesses in creating and retaining jobs.
3. The RLF and RLF loans should increase the Kendall County property and sales tax base.

4. The RLF and RLF loans should provide businesses with the opportunity to expand business activities in Kendall County.
5. The RLF and RLF loans should encourage partnerships local, private, financial institutions, Kendall County, and the business seeking the loan.
6. The RLF and RLF loans should encourage and leverage loans to municipalities to create or expand their own Revolving Loan Funds.
7. The RLF and RLF loans should assist Kendall County in growing the Kendall County Revolving Loan Fund.

C. Procedures for Application and Management of RLF Loans

Kendall County hereby adopts the following procedures for the application and management of RLF loans granted by Kendall County pursuant to the Strategy:

1. Pre-Application Procedures.

- a. Any business or municipality interested in applying for a Kendall County RLF loan should contact Kendall County's Economic Development staff to begin the pre-application stage for a Kendall County RLF loan.
- b. Kendall County's Economic Development staff will then provide and assist the potential applicant with completing Kendall County's RLF pre-application questionnaire. A true and correct copy of the Kendall County RLF pre-application questionnaire is attached hereto as **Exhibit A**.
- c. Upon the applicant's completion of the pre-application, Kendall County's Economic Development staff will promptly present the applicant's pre-application questionnaire to the Kendall County Board's Economic Development Committee ("Committee"). The Committee will review the applicant's pre-application and determine (by a majority vote of the Committee members present) whether to advance the applicant to the RLF application stage, which is set forth in Section C(2) below.

2. Application Procedures.

- a. Upon approval of the pre-application, Kendall County's Economic Development staff will provide and assist an applicant with completing Kendall County's RLF loan application. A true and correct copy of the Kendall County RLF loan application is attached hereto as **Exhibit B**.
- b. Upon the applicant's completion of the RLF loan application, Kendall County's Economic Development staff will promptly present the

applicant's RLF loan application to the Committee. The Committee will then review the loan application. The Committee may request additional information, reschedule the vote, and/or vote on whether it is recommending approval or denial of the applicant's RLF loan application. The Committee's recommendation for approval of the applicant's RLF loan application requires a majority vote of the Committee members present for said vote.

- c. If the Committee provides a positive recommendation, the applicant's RLF loan documents (e.g. amortization schedules, commitment agreements, liens, title policies, security recordings, transfer tax declarations, and security releases) will be presented to the Kendall County Board (County Board or Board). The County Board will then review the loan documents. The County Board may request additional information, reschedule the vote, and/or vote on whether to approve or deny the applicant's RLF loan application. Votes required for passage of each type of loan is specified under the section.

3. Post-Loan Approval/Collection Procedures

- a. Kendall County's Economic Development staff shall be responsible for the following duties regarding and relating to Kendall County's approved RLF loans:
 - i. Oversee loan processing by performing tasks including, but not limited to the following:
 - A. Gather all of the necessary terms and information required to complete the loan documents;
 - B. Prepare the loan's amortization schedule;
 - C. Provide all loan terms and amortization schedules to Kendall County's legal counsel who will prepare the loan documents (e.g., commitment agreements, liens, title policies, security recordings, transfer tax declarations, amortization schedules and security releases);
 - D. Coordinate and administer the loan closing and recording of all required loan documents;
 - E. Maintain copies of all executed loan documents; and
 - F. Any other duties reasonably necessary to process Kendall County RLF loans.
 - ii. Monitor repayments and all special conditions placed on the RLF loans;
 - iii. Timely notify the Committee and Kendall County's legal counsel of any and all RLF loan delinquencies;

- iv. Prepare and provide reports and documents, as requested by the County Administrator, Kendall County Board and/or Kendall County's legal counsel regarding or related to Kendall County's RLF loans; and
 - v. Serve as the primary contact between Kendall County and the borrowers regarding or relating to Kendall County's RLF loans.
- b. The Kendall County Treasurer's Office shall assist the Kendall County Economic Development staff with monitoring repayment and overseeing collections for all Kendall County RLF loans.
 - c. Kendall County is prohibited from forgiving any loan granted through the RLF.
 - d. Kendall County shall pursue all legal remedies to collect and recover debts due from delinquent loans. The Kendall County Board shall initiate any legal remedies. Legal remedies may include all remedies set forth in the applicable loan documents as well as any and all other remedies permitted pursuant to federal and state laws, including, but not limited to, efforts to collect and pursue the interests of the RLF through bankruptcy court. The Kendall County State's Attorney's Office and/or legal counsel designated by the Kendall County State's Attorney, shall represent Kendall County in all such collection proceedings.
 - e. Kendall County and its elected offices may obtain reimbursement from the RLF for their reasonable and necessary administrative expenses related to the RLF and RLF loans.
 - i. Permitted administrative expenses may include, but are not limited to salaries, supplies, and utilities.
 - ii. To obtain reimbursement for administrative expenses, the expenses must be documented in writing (e.g., a receipt, bill or invoice) and reimbursement must be pre-approved by a majority vote of Kendall County Board members present for said vote.
 - iii. Not more than ten percent (10%) of the annual revenue to Kendall County's RLF account, or a maximum of \$5,000, whichever is less, may be used for reimbursement of administrative expenses on an annual basis from December 1 through November 30th of the following year.
 - iv. Reimbursements are approved through the annual budget process.

D. Revolving Loan Fund Guidelines

Kendall County hereby adopts the following guidelines for its RLF and the RLF loans granted by Kendall County pursuant to the Strategy:

1. All projects funded, directly or indirectly, with Kendall County RLF monies must be located in Kendall County. No RLF loans shall be approved for projects outside of Kendall County.
2. The Kendall County RLF will provide three different categories of RLF loans: private business RLF loans, municipal RLF loans, and Kendall County inter-fund RLF loans for non-economic development purposes. Only when at least Four Hundred Thousand Dollars (\$400,000) in the total amount of funds available in the RLF shall municipal and inter-fund loans be given, and shall not draw down to less than Four Hundred Thousand Dollars (\$400,000). The guidelines for each category of loan is as follows:
 - a. **Private Business RLF Loans**
 - i. Private Business RLF loans may only be used to assist the existing industrial and commercial base in Kendall County, startup businesses in Kendall County and/or established businesses relocating to Kendall County.
 - ii. Private Business RLF loans will be reviewed and processed on a first come, first serve basis as Kendall County expects to receive more applications for more money than is available in the RLF.
 - iii. Private Business RLF loan applications that demonstrate the greatest potential for meeting the goals and objectives of the RLF Strategy will be given the highest priority.
 - iv. Private Business RLF loan funds may only be used for the following purposes:
 1. Site development/infrastructure extension costs;
 2. Construction of new facility or additions;
 3. Renovation of existing facilities;
 4. Leasehold improvements;
 5. Purchase of new or used machinery or equipment; and/or
 6. Working Capital.
 - v. Projects of a speculative nature are ineligible for Private Business RLF loan funding.
 - vi. Private Business RLF loans shall not exceed \$100,000 per loan.

- vii. Private Business RLF loans shall have a term of at least three (3) years and no more than seven (7) years.
- viii. Private Business RLF loans must have an interest rate between the Federal Prime rate (Prime Rate) and the Prime Rate plus three percent (3%), but may be no less than two percent (2%). The Economic Development Committee shall recommend an interest rate to the Kendall County Board, which shall set the interest rate. The Prime Rate shall be calculated as the Prime rate that exists on the day the loan application is approved by the County Board.
- ix. Full pre-payment is allowed without penalty where only principal and accrued interest to date is due.

b. Municipal RLF loans

- i. Kendall County may award Municipal RLF loans only to applicants who are units of municipal governments (as defined in Article VII, Section 1 of the Illinois Constitution of 1970, as amended), which are located in Kendall County.
- ii. Municipal RLF loans will be reviewed and processed on a first come, first serve basis as Kendall County expects to receive more applications for more money than is available in the RLF.
- iii. Municipal RLF loan applications that demonstrate the greatest potential for meeting the goals and objectives of the RLF Strategy will be given the highest priority.
- iv. Kendall County’s Municipal RLF loan funds must be used for economic development purposes within Kendall County. “Economic development purposes” are defined as a project that satisfies one or more of the following goals, as determined by the Economic Development Committee:
 - 1. The project will result in the increase in Equalized Assessed Value for the property located in Kendall County where the project is to be completed;
 - 2. The project creates or retains jobs in Kendall County; and/or
 - 3. The project directly supports another project that accomplishes either (D)(2)(b)(1) or (D)(2)(b)(2) above.

- v. A borrower must place the approved Kendall County Municipal RLF loan funds into their own Municipal Revolving Loan Fund.
- vi. Municipal RLF loans shall have a term of at least three (3) years and no more than seven (7) years.
- vii. Interest rates for Municipal RLF loans must comply with the following guidelines:
 1. If the Municipal RLF loan amount is to be used for a project or property located in a non-TIF district, the interest rate must be at least the Bank Loan Prime Rate, unless a lesser rate is approved by a majority vote of the Committee and a majority of the full County Board. The Bank Loan Prime Rate shall be calculated as the Bank Loan Prime Rate that exists on the day the loan application is approved by the County Board.
 2. If the Municipal RLF loan amount is to be used for a project or property located (in whole or in part) in a TIF district, the interest rate must be at least the Bank Loan Prime Rate plus one percent (1%).
- viii. A Municipal RLF loan shall not exceed the following amounts:
 1. If the Municipal RLF loan is approved by the County Board between the date of adoption and June 30, 2019, the maximum amount of the loan shall not exceed the amount determined by using this formula:

(The municipality's total population size, as determined by the United States Census Bureau's July 1, 2016 population estimate) x (\$20.00)).

Using the above formula, the maximum loan amount available to units of municipalities in Kendall County is as follows:

	Total population	Maximum Loan Amount
Kendall County	124,695	
Oswego	33,955	\$679,100
Yorkville	18,451	\$369,020
Plano	11,282	\$225,640
Montgomery*	10,704	\$214,080
Millbrook	337	\$6,740
Millington*	205	\$4,100

Newark	1,000	\$20,000
Lisbon	278	\$5,560
Plattville	233	\$4,660
Minooka*	791	\$15,820
Plainfield*	1,771	\$35,420
Sandwich*	84	\$1,680
Joliet*	10,095	\$201,900

Those with asterisks in the table above are population estimates based off the total population amounts in the U.S. Census Bureau’s July 1, 2016 estimate but include only the portion of said population located in Kendall County, Illinois. The Kendall County GIS and Economic Development calculated these estimates.

2. If the Municipal RLF loan is approved by the County Board after June 30, 2019, the maximum amount of the loan shall not exceed \$750,000 per loan.
- ix. Full pre-payment of Municipal RLF loans is allowed without penalty where only principal and accrued interest to date is due.

c. County Inter-Fund RLF Loans

- i. County Inter-Fund RLF Loans must be used by Kendall County for specific projects funded by Kendall County, which have a defined cost and time frame at the time of loan approval.
- ii. County Inter-Fund RLF Loans shall be for emergency or cash flow purposes when the expense cannot be paid from other Kendall County funds. The Kendall County Board shall make this determination.
 1. An “emergency purpose” is defined as an unforeseen, non-budgeted expense.
 2. A “cash flow purpose” is defined as a budgeted project where the budgeted County fund does not have the cash on hand to complete the project.
- iii. A County Inter-Fund RLF Loan amount shall not exceed \$750,000.

- iv. A maximum combined total of \$750,000 of Kendall County's RLF may be loaned by Kendall County to itself at any time for County Inter-Fund RLF Loans.
- v. County Inter-fund RLF Loans require approval of a majority vote of the full County Board.
- vi. For each approved County Inter-Fund RLF Loan, Kendall County must record a loan document with the Kendall County Clerk's Office. The loan document must be approved by a majority vote of the full County Board at the time the actual loan is approved by the County Board. The loan document must specify the receiving Kendall County fund; the project name; a description of the project and what the Kendall County Inter-Fund RLF loan will be used for; the total loan amount; the term of the loan; and the interest rate.
- vii. Modification of the loan document and the terms of the County's Inter-Fund RLF Loan (e.g., amount, term and/or interest rate) shall require a vote of at least three-quarters (3/4) of the full County Board.
- viii. Kendall County must deposit the County Inter-Fund RLF Loan amounts into the specific Kendall County fund, which Kendall County designated to fund the specific project at issue. Kendall County shall not use the County Inter-Fund RLF loan amounts for any purpose other than for the specific project and purpose identified in Kendall County's loan document.
- ix. County Inter-Fund RLF Loans may not have a term exceeding two (2) years. This is to maintain funds in the RLF for the main purpose of economic development.
- x. Kendall County must begin repayment of its County Inter-Fund RLF loan within twelve (12) months after the County Board approved the loan.
- xi. County Inter-Fund RLF Loans shall have an interest rate at least equal to the Effective Federal Fund Rate at the time the Inter-Fund RLF Loan is approved by the County Board. The County Board may approve an interest rate above the Effective Federal Fund Rate at the time it approves the loan.

Passed and adopted by the County Board of Kendall County, Illinois this 19 day of August, 2017.



Scott Gryder, Chairman
Kendall County Board

AYES - 5
NAYS - 4
ABSTAIN - _____

ATTEST:



Debbie Gillette, County Clerk
Kendall County, Illinois