

# ORLEANS COUNTY DOWNTOWN COMMERCIAL RENT SUBSIDY PROGRAM POLICY GUIDELINES AND OPERATING PLAN

## Section 1. GENERAL

1.1 Policy Guidelines and Operating Plan. This “Policy Guidelines and Operating Plan” (the “Plan”) has been adopted by the Orleans County Local Development Corporation (OCLDC) and is intended to serve as the primary administrative document for the Orleans County Downtown Commercial Rent Subsidy Program (the “RSP”). Any changes to the Plan must be approved by the OCLDC Board or its designee for such purposes.

1.2 Rent Subsidy Program Administration. The OCLDC Board shall establish appropriate administrative systems for the RSP through contracted services. The OCLDC Board shall establish a program committee (the “Committee”) to oversee RSP operations.

1.3 Objectives. The primary objective of the RSP is to create new commercial activity in formerly vacant commercial space within the four commercial target areas delineated in Appendix A to this Plan (the “Target Areas”) and located within the Villages of Albion, Holley, Lyndonville, and Medina. The Target Areas shall be established by the Committee.

1.4 Form of Assistance. The RSP will provide assistance in the form of cash payments to businesses approved for assistance under the Program, such payments representing the reimbursement of rents paid to occupy Target Area commercial property.

1.5 Program Funding. The RSP will be funded with such monies as the OCLDC Board may, from time to time in its sole discretion, allocate for such purpose. The OCLDC Board may elect to seek third-party funding for the RSP, in which case the RSP shall be subject to any requirements of such funding source in addition to any requirements set forth herein. Nothing contained in this Plan shall constitute a commitment by the OCLDC to provide funding for the RSP or to seek funding from any other source.

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**Section 2. ELIGIBILITY**

**2.1 Eligibility Requirements.**

- (a) RSP assistance may be provided only on behalf of businesses that will operate a commercial business enterprise in property located within one of the Target Areas. The property to be occupied by the business must either be vacant prior to the occupancy or will become vacant through no affirmative action by the property owner as demonstrated by documentation provided with the RSP application. Property that is occupied by the property owner or by a third party for a use that does not represent significant commercial activity (i.e. storage) may be considered to be vacant for the purposes of this Section 2.1(a).
- (b) The business to be assisted with RSP funding must either be a new enterprise in the Target Area or a substantial expansion of an existing enterprise. However, assistance may not be provided to a business that is relocating its operations from one Target Area to another unless (i) there will be a significant expansion of the business' operations, and (ii) the business provides satisfactory evidence that there is no appropriate location for the business in the existing Target Area or that the business cannot continue its operations in the existing Target Area.
- (c) RSP assistance may be provided to a business that has an identity of ownership with the property owner only if there is an executed lease between the property owner and the assisted business. Such lease shall also meet the conditions of Section 3.2(b) of these guidelines regarding documentation of the fair market triple net rental rate.
- (d) RSP assistance may be provided for any commercial business activity that furthers the RSP program objectives as determined by the Committee, in its sole discretion. The assisted business activity may not primarily involve warehousing, storage, or any other use that does not create expanded commercial activity in the Target Area as determined by the Committee, in its sole discretion. The form of the business to be assisted may be a sole proprietorship, partnership, corporation (including not-for-profit), LLC, LLP, cooperative, or any other legal form of business. Public and quasi-public agencies may not be assisted.

**2.2 Ineligible Activities.** RSP assistance may not be provided on behalf of any business activity that is illegal, incompatible with applicable zoning laws or restrictions, or that primarily involves residential use of the leased premises. An applicant for RSP assistance may be required to submit documentation establishing that the proposed activity is not ineligible.

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Section 3. RENT SUBSIDY PROGRAM STANDARDS

3.1 General. RSP assistance may not be provided on behalf of any business or owner of the business that (who) is in arrears in the payment of any real property taxes, municipal utilities, or municipal fees and assessments regarding any real property located in Orleans County, New York. An affidavit to that effect will be required from the program applicant. In addition, the Orleans County Real Property Office will be consulted with respect to property tax delinquencies for all applicants.

3.2 Rent Subsidy Program Funding.

- (a) RSP funding may be used to pay gross rent to a lessor on behalf of the assisted business in an amount equal to the lesser of (i) *the gross per annum per square foot rent without utilities, or (ii) \$2.00 per annum per square foot*; leased for the operation of the assisted business for a period not to exceed the first twelve (12) months of occupancy by the assisted business, with the maximum total amount of RSP assistance limited to the sum of three thousand dollars (\$3,000.00) for the business activity being assisted.
- (b) RSP funding will be provided only where there is a proposed or executed written lease for the property to be occupied by the assisted business. If the lease has been fully executed, it must not have been done so more than thirty (30) days prior to the application for RSP assistance. Such lease may not require the payment of rent that is greater than a fair market rent as determined by the County. In instances where the lessor has a financial interest in the lessee (i.e., where there is an identity of interest between the business owner and the property owner), it shall be the responsibility of the applicant to provide documentation satisfactory to the County that the rent to be paid does not exceed the fair market rent on a triple net basis.
- (c) RSP funding will be made in equal periodic reimbursement payments to the RSP grantee pursuant to a schedule to be approved as part of the RSP contract for assistance (usually monthly), with the periodic amount to be calculated by dividing the total RSP assistance authorized under the contract by the number of periods. The periodic payments will cease at such time as the grantee no longer occupies the leased property in the Target Area under the terms and conditions set forth in the contract for assistance, or at such time as the grantee no longer undertakes the commercial activity for which assistance was approved or otherwise fails to comply with the RSP contract or this Plan.

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**Section 4. APPLICATION PROCESSING**

4.1 Rent Subsidy Program Applications. Applications for RSP assistance must include all of the information required by the RSP Application Form (attached hereto as Appendix B), and any additional information as may be reasonably requested by the Committee.

4.2 Application Fee. No application fee shall apply to the submission of applications for RSP financing.

4.3 Application Processing. The processing of applications will generally consist of the following:

- (a) Review applications for completeness and procure appropriate additional information;
- (b) Review for RSP program eligibility criteria;
- (c) Provide applicant information to the County Real Property Office to identify any property tax delinquencies;
- (d) Review the written lease agreement, evaluate rent against fair market standards, and determine the appropriate amount of RSP financing; and
- (e) Prepare a written report to the Committee summarizing the project and the review process and providing recommendations as appropriate.

4.4 Rent Subsidy Program Committee. The OCLDC has established the Rent Subsidy Program Committee to oversee certain elements of the RSP. The Committee will be responsible for approving all assistance provided under the RSP. Consideration of any application will be contingent upon funding availability.

4.5 Declinations. RSP applications may be declined by the Committee based on a lack of application completeness, a failure to meet the eligibility criteria pursuant to Section 2 of this Plan, or for any reason or reasons that represent a determination by the Committee, in its discretion, that the approval of the RSP application would not meet the objectives of the RSP and/or would not represent an eligible or appropriate use of RSP funds. In such instances, the applicant will be notified in writing of the reason(s) for the declination within three (3) business days of the declination decision.

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**Section 5. POST-APPROVAL PROCESS**

5.1 Approval Letter. Within seven calendar days from the date of the Committee's approval of an RSP application, an approval letter shall be sent to the applicant that includes, at a minimum, the following information:

- (a) The amount and terms of the approved RSP funding, the expiration date of the commitment, and the requirement for the execution of a contract for assistance.
- (b) The manner in which the rent payments will be made and the required documentation to support the RSP disbursements.
- (c) Any other conditions of the approval.
- (d) A listing of any requirements of the applicant that must be fulfilled precedent to the execution of a contract for assistance.
- (e) Any other information that could reasonably be expected to influence the applicant's decision to accept the terms of the RSP assistance.

5.2 Contract for Assistance. The OCLDC shall have the responsibility to enter into a contract for assistance that sets forth the obligations of the parties with respect to the operations of the business to be assisted, tenancy requirements, form and amount of RSP assistance, required documentation to support RSP payments, requirements regarding the reporting of data, and any other terms, conditions, and requirements associated with the RSP funding.

5.3 Funding Disbursements. The disbursement of RSP funding shall be the responsibility of the OCLDC or its agent. For such disbursements, the following guidelines shall generally apply:

- (a) RSP payments will be made on a reimbursement basis to the RSP grantee upon the OCLDC's or its agent's receipt of documentation that a periodic rent payment was paid by the grantee and received by the lessor.
- (b) The OCLDC or its agent will be responsible for procuring appropriate documentation of the rent payments by the RSP grantee, verifying the amount to be reimbursed, and verifying the RSP grantee's continuing compliance with all terms and conditions of the RSP contract for assistance.

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- (c) The OCLDC will be responsible for making RSP payments in a timely manner.
- (d) RSP payments to reimburse rent paid in advance by the RSP grantee may be for a period not to exceed one month. Reimbursements for rent paid for prior periods are limited only by the RSP contract amounts.

Section 6. MISCELLANEOUS

6.1 Contract Amendments. Any amendments to RSP contracts will require the approval of the Committee.

6.2 Program Accounting. The OCLDC or its agent will account for the obligation and expenditure of RSP funds and produce a written monthly report of Program obligations, expenditures, balances, and accomplishments.

6.3 Monitoring. The OCLDC or its agent will be responsible for monitoring RSP grantees' compliance with the terms and conditions of the contract for assistance. Any breaches or disputes that remain unresolved for more than ten (10) calendar days will be reported to the Committee which will address them in an appropriate manner, including, in its discretion, the possible suspension of RSP payments.

6.4 Other. Notwithstanding any other provision of this Plan, the OCLDC Board shall be the final authority for any interpretations of the provisions of this Plan and the application of all policies and procedures for implementation of the RSP.

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