



green Colorado Credit Reserve Program Guidelines

Executive Summary

The CEO Revolving Loan and Credit Reserve Fund (the CEO Fund) was created by the State of Colorado (the “State”) acting by and through the Colorado Energy Office (the “CEO”), as a revolving loan program and loan loss reserve fund to promote energy efficiency and renewable energy throughout Colorado.¹ The source of initial funds for the CEO Fund is the State Energy Plan, funded by the United States Department of Energy through the American Recovery and Reinvestment Act of 2009 (“ARRA”).

There are two components of the CEO Fund, (a) the “green” Colorado Credit Reserve program (the “GCCR Program”), under which a portion of funds will be used to establish a loan loss reserve fund for lenders originating smaller loans under the GCCR Program and (b) the Revolving Loan Program (the “RLP”), under which a portion of the funds will be used to establish a revolving loan fund for medium and larger sized loans.

The GCCR Program is a pool guaranty program of approximately \$1 million, established by the CEO and funded through ARRA. Pursuant to a separate written agreement, the CEO has engaged the Colorado Housing and Finance Authority (“CHFA”) as fiscal agent for the CEO Fund for the purposes of establishing and managing a separate trust account for loan loss reserve funds allocated to the GCCR Program and serving as the program manager for the GCCR Program (“Program Manager”). In the event CHFA no longer serves as the fiscal agent for the CEO Fund and program manager of the GCCR Program, the CEO Director shall engage a substitute fiscal agent and program manager to act in its place.

The GCCR Program is designed to encourage lenders to extend credit for the purpose of promoting energy efficiency or renewable energy generation to Colorado enterprises by establishing a reserve account (“GCCR Account”) at each lender participating in the GCCR Program (“Participating Lender”), to cover losses on loans registered under the GCCR Program (“Registered Loans”). The GCCR Program will provide increased reserve funds for Registered Loans made to Colorado enterprises owned by women or minorities or whose principal place of business or location of the operation is located in an economically distressed area designated as a State of Colorado Enterprise Zone. Additional information regarding Enterprise Zones may be found on CHFA’s website at: www.chfainfo.com/business/ccr/ccr.icm.

Losses from Registered Loans incurred by a Participating Lender may be recovered from the reserves deposited in the Participating Lender’s GCCR Account. The establishment of this loss reserve account enables Participating Lenders to make Registered Loans promoting energy efficiency and renewable

¹ House Bill 12-1315 changed the CEO’s name from the Governor’s Energy Office to the Colorado Energy Office.

energy to borrowers who would not qualify without the additional credit enhancement. However, if a Participating Lender's losses exceed the reserve funds in its GCCR Account, the Participating Lender will be at risk for the excess losses. If a Participating Lender's Registered Loans pay off without a loss or with only a partial loss, the unused reserve funds will remain in its GCCR Account unless the reserve funds exceed the aggregate outstanding principal balance of all of the Participating Lender's Registered Loans, in which case the excess will be returned to the Program Manager for use under the GCCR Program. If a Participating Lender does not continue its participation in the GCCR Program, the funds in its GCCR Account will be returned to the Program Manager when the Participating Lender has no Registered Loans outstanding. Excess reserve funds returned to the Program Manager will be used to recapitalize the GCCR Program and encourage additional lending.

These guidelines provide operational guidance for Participating Lenders and are supplemental to the specific terms of a Lender Participation Agreement to be executed by the Program Manager and each Participating Lender, the terms of which shall control.

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Section 1 Eligibility Requirements

Section 1.1

Eligible Lenders

An “Eligible Lender” is (i) a depository institution, located in the State of Colorado, which has been designated as an eligible public depository under the Public Deposit Protection Act (“PDPA”) or the Savings and Loan Association Public Deposit Protection Act, and is regulated by Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve Board, the Colorado Division of Banking, or similar regulatory agency (a “Bank Lender”) or (ii) a federally funded community development finance institution (“CDFI”), State of Colorado funded Business Loan Fund, leasing company, credit union or any other type of lender as the Program Manager approves in its sole discretion on a case-by-case basis. (a “Non-Bank Lender”).

Section 1.2

Eligible Borrowers

In order to be an “Eligible Borrower” under the GCCR Program:

- a) The borrower must be carrying on a trade or business primarily within the State of Colorado; the primary economic benefit of the loan must be contained in Colorado; and the borrower’s business may be not-for-profit or for profit; or
- b) The borrower must be a residential homeowner obtaining a loan from a Participating Lender under an energy efficiency or renewable energy generation loan program established by such Participating Lender and acceptable to the CEO.

Section 1.3

Eligible Loans

Proceeds of “Eligible Loans” must be used to directly or indirectly promote energy efficiency or renewable energy generation. In general, the principal amount of each Eligible Loan to any borrower or any affiliated company under common ownership with the borrower will not exceed \$250,000. Larger loans may be considered by the Program Manager on a case by case basis. The entire principal amount of an Eligible Loan must be registered with the GCCR Program as a Registered Loan, in accordance with Section 2.2 below. The proceeds of an Eligible Loan, or any portion thereof, shall **not** be used for the following:

- a) Refinancing of debt on the books of the Participating Lender or affiliate bank, except in the case that a Registered Loan is renewed or extended.
- b) Loans made to executive officers, directors, or principal shareholders of a Participating Lender, or family members of the same. The basic definition used in this prohibition is the same as Federal Reserve Act Sections 22(g) and (h), Federal Reserve Board Regulation O, and the Office of Thrift Supervision regulations at 12 C.F.R. §563.43.

Loans to or for pyramid sales distribution plans; businesses engaged in political or lobbying activities; private or commercial golf courses; country clubs; massage parlors; hot tub facilities; suntan facilities; racetracks, casinos or other facilities used for gambling; aquariums; zoos; swimming pools; stores where the principal business is

the sale of alcoholic beverages for consumption off-premises; businesses engaged in any illegal activity; businesses where a principal is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude; businesses principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs; businesses which present live performances of a prurient sexual nature or derive more than 2 percent (2.0%) of gross revenues from the sale of products or services of a prurient sexual nature.

Section 2 Program Participation

Section 2.1

Lender Participation Agreement; GCCR Account Set-up

- a) Eligible Lenders must execute a Lender Participation Agreement. The Lender Participation Agreement does not require the Participating Lender to register any loans under the GCCR Program, but does spell out the full requirements that apply when the Participating Lender desires to register an Eligible Loan under the GCCR Program and the obligations of the Program Manager and the Participating Lender thereunder.
- b) At the time the Lender Participation Agreement is signed, the Participating Lender shall establish an interest bearing account under the Program Manager's PDPA number. The PDPA account will serve as the dedicated GCCR Account into which the GCCR Program reserve funds for Registered Loans will be deposited. If the Participating Lender is a Bank Lender, the GCCR Account will be established at the Bank Lender. If the Participating Lender is a Non-Bank Lender, the GCCR Account will be established at a qualified banking institution chosen by the Program Manager. The account shall be entitled "Colorado Housing and Finance Authority – GCCR Account – (Participating Lender's name)". Interest earned on any account established under the GCCR Program will be distributed in the same manner as all other funds deposited therein.
- c) The signature card for a Bank Lender's GCCR Account shall be forwarded to CHFA for completion by the Program Manager. One signature from an authorized Program Manager staff member will be necessary for GCCR Account withdrawals.

Section 2.2

Loan Registration

- a) An Eligible Loan must be registered under the GCCR Program before loan loss reserve funds will be made available to the Participating Lender.
- b) A separate Loan Registration Form (in the form specified by the Program Manager from time to time) must be completed for each Eligible Loan registered in the GCCR Program. The completed Loan Registration Form may be faxed to the Program Manager's Commercial Division at 303.291.5709.
- c) Eligible Loans must be registered within 30 days following the date the Eligible Loan is made by the Participating Lender. For purposes of the GCCR Program, the date the Participating Lender makes the Eligible Loan shall be deemed to be the date on which loan documents have been executed and the Participating Lender obligates itself to disburse loan proceeds.
- d) If a Loan Registration Form is not accepted by the Program Manager, the Program Manager shall notify the Participating Lender of the rejection of such Loan Registration Form.
- e) A loan shall cease to be a Registered Loan when it has a zero balance or, if it is a line of credit loan, its balance is zero for a 12-month period.

Section 2.3

GCCR Program Loss Reserve Funds

- a) Upon acceptance of a Registered Loan into the GCCR Program, the Program Manager will transfer GCCR Program funds (“Loss Reserve Funds”) for deposit into the Participating Lender’s GCCR Account equal to fifteen percent (15%) of the original principal balance of the Registered Loan (the “GCCR Match”), in the form of a wire transfer with written confirmation for Bank Lenders and for Non-Bank Lenders.
- b) The Program Manager will, in addition to the GCCR Match, deposit additional Loss Reserve Funds into a Participating Lender’s GCCR Account equal to one and one-half percent (1.5%) of the original principal balance of a Registered Loan made to Colorado businesses owned by women or minorities (“WMBE Match”) and for Registered Loans to Colorado businesses whose principal place of business or location of the operation is in a State of Colorado designated Enterprise Zone (“EZ Match”)(WMBE Match or EZ Match, if and as applicable, together with the GCCR Match are referred to as a “Program Match”).
- c) Matching Funds deposited into a Participating Lender’s GCCR Account for any Registered Loan shall be held for the benefit of all Registered Loans made by the Participating Lender.

Section 2.4

Extension, Renewal, and Refinance of Registered Loans

- a) Registered Loans may be extended, renewed, and refinanced, however, the principal amount may not exceed \$250,000 unless approved in writing by the Program Manager and the GCCR Program will not provide an additional Program Match for any increase in the Registered Loan amount. The Participating Lender extending, renewing or refinancing the Registered Loan may charge an additional origination fee.
- b) The Participating Lender must notify the Program Manager in writing of any extension, renewal, or refinance of a Registered Loan. When such change does not increase the principal loan amount, the Participating Lender shall provide a written statement detailing the change accompanied with a copy of the original Loan Registration Form for the Registered Loan. When the change increases the principal loan amount, the Participating Lender shall submit a new Loan Registration Form along with a copy of the original Loan Registration Form.

Section 2.5

Annual Loan Status Reports; Withdrawal of Excess Funds in GCCR Account by Program Manager

- a) On or before January 30 every year, each Participating Lender must file a Status Report (in the form specified by the Program Manager from time to time) with the Program Manager for each of its Registered Loans, indicating outstanding balances of each Registered Loan as of the previous December 31.
- b) If upon receipt of an annual Status Report filed by a Participating Lender, the Program Manager determines the balance in the Participating Lender’s GCCR Account exceeds the aggregate total principal amount of all of the Participating Lender’s Registered Loans, the Program Manager may withdraw the excess funds from the Participating Lender’s GCCR Account. If at any time a Participating Lender ceases to have any Registered Loans in the GCCR Program, the Program Manager may withdraw the remaining balance in the Participating Lender’s GCCR Account.

Section 3 Claims

Section 3.1

Determination of Amount of Claim

If a Participating Lender charges off all or a part of a Registered Loan because of the borrower's delinquency or other default, the Participating Lender may submit a request for loss reimbursement ("Claim") to the Program Manager equal to the total amount of outstanding principal and accrued interest on the Registered Loan charged off by the Participating Lender, together with the reasonable out-of-pocket expenses incurred by the Participating Lender in pursuing recovery under the Registered Loan; provided, however, that the amount of the Claim shall not (i) exceed the original principal loan amount of the Registered Loan stated in the loan documents at the time of the Registered Loan was registered, or (ii) include any amount attributable to damages paid by the Participating Lender as a result of a legal claim against the Participating Lender for negligence, misconduct, or otherwise or unpaid late charges or unpaid default interest charges imposed by the Participating Lender.

Section 3.2

Timing of a Claim

A Participating Lender may file a Claim with respect to a Registered Loan only after charging-off of all or a portion of the outstanding balance of the Registered Loan, in accordance with the Participating Lender's customary policies and procedures or as required by federal or state regulatory agencies. Upon filing a Claim, the Participating Lender shall cease to accrue interest on the Registered Loan in accordance with generally accepted accounting principles and as required by federal or state regulatory agencies.

Section 3.3

Claim Process

- a) Upon making a charge-off in accordance with Section 3.2, the Participating Lender may file a Claim with the Program Manager by submitting a completed Claim Form (in the form specified by the Program Manager from time to time), verified and signed by an authorized officer of the Participating Lender. The Claim Form must be accompanied by a certified loan history and evidence satisfactory, in Program Manager's sole discretion, to demonstrate that the Participating Lender has charged off such amount on its books. Claims must be delivered to the Program Manager not later than 30 calendar days after the date of the charge-off.
- b) The certified loan history must contain a summary of disbursements, payments, accruals of interest, and any other charges with respect to the Registered Loan. The Participating Lender shall provide the Program Manager with such further information concerning the Registered Loan as may be reasonably requested by the Program Manager. The Participating Lender must retain documentation in its files evidencing all expenses for which a Claim is filed.
- c) Within 10 business days after receipt by the Program Manager of a completed Claim (the "Review Period"), the Program Manager shall review the Claim and approve the Claim in its entirety, approve the Claim in part, or reject the Claim. If the Program Manager approves the Claim in its entirety, or in part, then prior to the termination of the Review Period the Program Manager shall pay, solely from funds available in the Participating Lender's dedicated GCCR Account, the entire amount of such Claim or such lesser amount as is approved by the Program Manager. If the Program Manager rejects all or any portion of a Claim, then prior to the termination of the Review Period the Program Manager shall provide written notice of such adjustment or proposed rejection to the Participating Lender, stating the basis for the proposed rejection or adjustment. A Claim may be rejected or adjusted by the Program Manager on the basis that any representation or warranty provided by the Participating Lender to the Program Manager with respect to a Registered Loan was known by the Participating Lender, or should have been known but

for gross negligence of the Participating Lender, to be false at the time the Registered Loan was registered or the Participating Lender's failure to comply with the requirements of the Lender Participation Agreement. A Participating Lender may object to such adjustment or rejection by delivering a written statement to the Program Manager explaining the basis for such objection within 10 days after receipt of the Program Manager's notice. After review of the Participating Lender's objection, the Program Manager shall determine in its sole discretion whether to reject or adjust such Claim.

- d) With respect to any Registered Loan for which a Claim has been paid, the Participating Lender shall, within 60 days from the date the Claim is paid, provide the Program Manager with a report outlining the Participating Lender's proposed plan for pursuing its collection rights with respect to the Registered Loan. Such report shall include the description, location, and estimated value of all collateral that secures payment of the Registered Loan and proposed methods for pursuing the Participating Lender's rights against the collateral and any guarantors of the Registered Loan. Thereafter the Participating Lender shall, on a periodic basis, but at least quarterly, file a report with the Program Manager summarizing the status of and any changes to the proposed collection plan or status of the collateral. If the Participating Lender determines such collection activities are no longer economically feasible, it will so advise the Program Manager, in writing, and the Participating Lender shall have no future obligation to submit reports with respect thereto. Thereafter, the Program Manager shall have the rights of collection and to collateral specified in the Lender Participation Agreement with respect to such Registered Loan.

Section 3.4

Insufficient Funds

A Participating Lender's right to receive payment for a Claim approved by the Program Manager shall be limited to the amount of funds in the Participating Lender's GCCR Account. Loss Reserve Funds deposited with respect to multiple Registered Loans may be used to pay a Claim made with respect to any one of them. If there are insufficient funds in the Participating Lender's GCCR Account to pay the entire amount of the Participating Lender's Claim, the Program Manager shall pay the Participating Lender the current balance in such Participating Lender's GCCR Account. Such payment shall be deemed to satisfy the Claim in full and the Participating Lender shall have no other or further right to receive any amounts from the GCCR Account with respect to that Claim. If the Participating Lender submits two or more Claims contemporaneously and there are insufficient funds in the GCCR Account to cover the entire amount of such Claims, the Participating Lender shall specify the amount of GCCR Account funds to be allocated to each of the Claims or designate the order of priority in which the Program Manager shall pay the Claims.

Section 3.5

Recoveries

- a) If subsequent to payment of all or part of a Claim by the Program Manager the Participating Lender recovers any amount of the Registered Loan which was the subject of the Claim, the Participating Lender shall promptly deposit such recovered funds in the Participating Lender's GCCR Account, less any reasonable out-of-pocket expenses incurred and any amount of the Participating Lender's loss on the Loan not covered by the Claim paid. The Participating Lender shall retain documentation in its files evidencing any such expenses.

In the event of any such recovery, the Participating Lender shall promptly provide the Program Manager with a written statement containing the following information: the name of the borrower; the amount recovered; the date the Claim was filed; the date the Claim was paid, the recovery costs incurred by the Participating Lender, and the date the recovered funds were deposited into its GCCR Account. The Participating Lender shall attach a

copy of the deposit slip showing that the recovered funds were deposited into the GCCR Account to the written statement