

## Montgomery County Commerce Department

### Montgomery County Opportunity Loan Program (MCOLP)



## Program Guidelines

**June 2018**

Montgomery County Commerce Department  
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## **Section I – Program Overview**

### **A. Introduction**

The Montgomery County Commerce Department is the “one-stop” entity for businesses seeking economic and workforce development assistance in Montgomery County. The Commerce Department’s flagship economic development program is the Montgomery County Opportunity Loan Program (MCOLP). A cooperative initiative of the County government, the Montgomery County Development Corporation (MCDC), and the Montgomery County Industrial Development Authority (IDA), the loan program is able to offer opportunities to help businesses grow, increase productivity, and maximize the value of their investments in Montgomery County, Pennsylvania.

### **B. Eligibility Requirements**

An Applicant Entity must be a duly formed and existing corporation, partnership, limited liability company, sole proprietorship, not-for-profit or governmental entity engaged in a project whereupon the scope of work occurs wholly within the geographic boundaries of Montgomery County, Pennsylvania. Preferences may be given to companies or organizations that have been located in Montgomery County and have been in operation for a minimum of three (3) years and/or to projects that include additional financing entities (such as a bank or credit union), depending upon the availability of loan funding at the time of application. For profit and non-profit entities are eligible so long as they otherwise meet the criteria for the loan and any Applicant/Borrower may only receive one (1) loan per calendar year. In general, eligible Applicant Entities include (but may not be limited to):

- Agricultural Processors, Agricultural Producers, Industrial Enterprise, Manufacturing Enterprise, Research and Development Enterprise, Hospitality Enterprise, Retail Enterprise, Service Enterprise, Non-Profit Entity, Defense Conversion Enterprise, Recycling Enterprise, Computer-Related Services Enterprise, Construction Enterprise, Child Day-Care Enterprises, Keystone Innovation Zone (KIZ) Company, Service Enterprises, Developer.

### **C. Eligible Uses**

In general, MCOLP funds can be used for the following (but may not be limited to pending approval of the Joint Loan Review Committee and/or funding entities):

- Land costs may include, but are not limited to, acquisition, site preparation and testing, utilities, site mapping, and other related costs. Land costs must be directly associated with the development of an industrial park or the purchase, renovation, or new construction of a building or a production facility that will be used by an eligible business.
- Building costs may include, but are not limited to, building acquisition, construction, renovation and engineering, architectural, legal and other related costs.
- Machinery and equipment costs may include, but are not limited to, acquisition, delivery, and installation costs. Such costs are eligible if associated with acquisition of machinery and equipment that the business newly purchases, even if such machinery had previously been in service with another user. Costs of mobile equipment are eligible if such equipment is not titled or registered for highway use.

*(Section C. Eligible Uses continued)*

- Other associated project costs deemed eligible by the Joint Loan Review Committee based on the intended economic impact(s) of the project.

#### **D. Ineligible Uses**

The following are ineligible uses of MCOLP funding (but may not be limited to pending the review and decision of the Joint Loan Review Committee and/or funding entities):

- Working capital lines of credit and/or working capital lines of credit costs.
- Accounts receivable lines of credit and/or accounts receivable lines of credit costs.
- Refinancing any portion of a total project cost.
- Financing for a project (or any project costs) located outside the geographic boundaries of Montgomery County, Pennsylvania.
- Any activities which are illegal under local, Commonwealth, or Federal law and/or are a potential disruption to public health, public welfare, and/or public safety.

#### **E. Restrictions**

Applicants will be ineligible should any of the following be at issue prior to and/or during the loan application review process as well as prior to loan closing and disbursement (the items below apply to the Applicant Entity, Subsidiaries, and/or loan Guarantors as well as the ownership of the Applicant Entity):

- Delinquency of the Applicant on any public or private debts. The Applicant and its Principals may not be delinquent or in default of any existing private or public loan relating to the borrower, unless they have entered into a workout agreement satisfactory to the respective creditor(s) and are fully in compliance with the terms of that agreement.
- Current on all Taxes and Public Obligations. The Applicant Entity, its Principals, and/or all Guarantors of the loan must be current in payment of all applicable federal, state, and local taxes unless they have entered into a workout agreement satisfactory to the respective taxing authority and are fully in compliance with the terms of that agreement. There can be no tax liens against the Applicant Entity, its Principals, and/or the Guarantors of the loan for the previous thirty-six (36) months.
- Conflicts of Interest. The Applicant Entity and its Principals and managerial officers must disclose any potential conflicts of interest with any officials or employees of Montgomery County, the Montgomery County Commerce Department, the Montgomery County Development Corporation, the Redevelopment Authority, the Industrial Development Authority, MontcoWorks, and/or any of the entities represented on the Joint Loan Review Committee.
- Bankruptcy – the Applicant Entity cannot have filed for bankruptcy in the previous seven (7) years, nor been discharged from bankruptcy in the previous ten (10) years. The Applicant Entity Principals and/or any Guarantors of the loan cannot have filed for bankruptcy in the previous seven (7) years, nor been discharged from bankruptcy in the previous ten (10) years.
- A Loan-to-Value ratio of approximately eighty percent (80%) or greater.
- A Debt-to-Income ratio of approximately twenty-eight percent (28%) or greater.

## **F. Loan Amounts and Matching Investment Requirements**

The maximum amount an Applicant can request when applying for MCOLP funding is the lesser amount of \$250,000 or 50% of eligible project costs. Funding may be approved, at the discretion of the Joint Loan Review Committee and/or the funding entities, at an amount less than what is requested.

## **G. Interest Rates and Terms**

MCOLP terms, interest rates, and conditions are based upon the financial strength of the Applicant. The underwriting principals are intended to help promote a strong and vibrant economy through new business investment, job creation and retention, and projects that make an impact on the long-term growth and viability of communities throughout the County. The rate calculation is generally set based on the Prime Rate; the final rate will be determined by the underwriting review, the application of qualifying rate reduction activities (see below), the economic and/or community impact of the project, and the utilization of other financing in the project outside of the Applicant's own. The rate and term of an approved loan will be set based on the project as a whole and given the findings of the underwriting review. The interest rate for the MCOLP program is fixed at the time of a loan approval and remains so for the duration of the loan term so long as the borrower remains in good standing.

The term of the loan will be dependent upon the credit underwriting process; MCOLP may require that the term of the loan not exceed the term of any matching lending source with a lien senior to or shared with the MCOLP lien. In general, the following term lengths are standard practice (pending the aforementioned as well as the approval of the Joint Loan Review Committee and/or funding entities):

- Loans used for land and/or building acquisition, as well as those for the renovation, expansion, or construction of a building may have a repayment term of up to ten (10) years or one hundred twenty (120) months.
- Loans used for machinery and equipment acquisition may have a repayment term of up to seven (7) years or eighty-four (84) months; note that the term of the loan cannot exceed the useful life of the equipment being financed.

A Borrower, defined as an approved Applicant Entity, may receive with the approval and confirmation of the Joint Loan Review Committee and the appropriate funding entity or entities, a half point reduction in interest rate for the term of the loan should the Borrower do one or more of the following (reduction incentives may be stacked when deemed appropriate based on the underwriting review):

*(Section G. Interest Rate and Terms continued)*

- Employ at least one (1) individual who was unemployed at the time the loan was approved by the Joint Loan Review Committee and was registered with the Montgomery County Workforce Development System (MontcoWorks) through PA CareerLink ©. The individual must be employed for at least twelve (12) consecutive months.
- Participation in Blight Abatement Programs by the occupancy, rehabilitation and/or acquisition of a blighted property (so designated by the applicable Township and/or Montgomery County) during the term of the loan.
- Participation in Redevelopment and Infrastructure Programs through contributions to landscaping, road improvements or any publicly accessible land in accordance with an Improvement District of similar Township and/or County initiative of greater than twenty-five thousand dollars (\$25,000) completed in conjunction with the loan.
- Financing for the project includes participation from a commercial lender (ex. a bank or a credit union) and/or a Community Development Financing Institution (CDFI).

Note that should the Borrower become delinquent at any time during the remaining term of the loan following an interest rate reduction incentive being implemented, the interest rate will return to the original rate at the time of the loan closing (that rate which does not include any reductions in percentage points based on incentives) and the remaining loan balance amortization will be adjusted accordingly unless the Borrower addresses and corrects the delinquency within one hundred twenty (120) days.

#### **H. Collateral**

Collateral will be evaluated on an application by application basis; criteria for the evaluation of collateralization will be based on the funding amount requested, the availability of funding, and the overall creditworthiness of the project. The following guidelines are generally applicable in the evaluation of a project for funding and with consideration of the underwriting review (but are not limited or exhaustive pending discretion of the Joint Loan Review Committee and/or funding entities):

- For land and/or building acquisition, as well as those for the renovation, expansion, or construction of a building, the MCOLP loan will be secured by no less than a sole third mortgage or a second mortgage in a shared position on the property financed.
- For machinery and equipment acquisition the MCOLP loan will be secured by no less than a second lien position on the equipment financed and may require additional pledged assets if in a subordinate lien position. The preferred position on all machinery and equipment acquisition MCOLP loans will be a sole first on the specific equipment being purchased with MCOLP loan monies.
- Any Principal of the Applicant Entity having at least twenty percent (20%) ownership is required to personally guarantee the MCOLP loan. If no Principal owns at least 20% of the Applicant Entity, the Joint Loan Review Committee and/or funding entities may request personal guarantees or additional collateralization.

## **I. Job Creation and/or Retention**

For projects that include financing from the Pennsylvania Industrial Development Authority (PIDA), the Job Creation and/or Retention requirements of PIDA and the Pennsylvania Department of Community and Economic Development (PA DCED) are applicable.

## **J. Financially Responsible Borrower**

Commerce Department staff conduct a review of each Application and Applicant Entity to determine the capacity of the Applicant Entity (and its Principal or Principals) to repay all outstanding debts (public and private) while ensuring the Applicant Entity remains able to maintain operations. The Commerce Department may also utilize the services of a third-party credit analysis and underwriting provider during the Application review process. The Applicant Entity, Principals, and Guarantors accept this and the transmission of information to the third-party provider as a condition of submitting a MCOLP application.

## **K. Fees**

The following is the fee schedule for applying to the MCOLP as of January 1, 2018:

- Pre-Application – No costs to the Applicant Entity.
- Application – Non-refundable \$1,000 fee due at the time of Application submission. The Application review process will not commence until the Application Fee is paid in full.
- Closing Fee – One percent (1%) of the value of the loan due at the time of the loan closing.

In addition to the above fees, the Applicant Entity/Borrower shall pay all costs related to the filing of documents for collateralization, all costs related to the due diligence process during the Application review, and/or unanticipated out-of-pocket expenses of loan portfolio administration relating to the loan, including the fees and expenses of the servicers legal and other professional costs. The loan will not be considered satisfied and liens on collateral will not be released until such time as all fees and costs are paid in full.

## **L. Confidentiality**

The Parties agree that the information, documents and instruments delivered to the County, including, without limitation, any application materials and all agreements and documents referenced herein or executed and delivered by the parties at Closing, are of a confidential and proprietary nature (“Confidential Information”), with the exception of the “Non-Confidential Executive Summary.” Except as otherwise required under any legal requirements, the County will maintain the confidentiality of all Confidential Information delivered to it by the other Party or its agents in connection with the negotiation of a loan unless (i) compelled to disclose by judicial, administrative or canonical process (including, without limitation, in connection with obtaining governmental and regulatory approvals necessary to consummate the transactions contemplated hereby) or by other requirements of law, or (ii) disclosed in an action or proceeding brought by a Party hereto in pursuit of its rights or in the exercise of its remedies hereunder.

The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Program. Upon receipt of a request, the County will provide written notification to the Applicant. If an Applicant considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Applicant considers exempt from production under the RTKL, the Applicant must notify the County and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative explaining why the requested material requires redaction or is entirely exempt from public disclosure under the RTKL. The County will rely upon the written statement from the Applicant in denying a RTKL request for the Requested Information unless the County determines that the Requested Information is clearly not protected from disclosure under the RTKL. The Applicant may file a legal challenge to any County decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Applicant shall indemnify the County for any legal expenses incurred by the County as a result of such a challenge and shall hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Applicant’s failure, including any statutory damages assessed against the County, regardless of the outcome of such legal challenge. As between the parties, the Applicant agrees to waive all rights or remedies that may be available to it as a result of the County’s disclosure of Requested Information pursuant to the RTKL. The Applicant’s duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Applicant has Requested Information in its possession.

Additionally, as noted in a prior section, the Commerce Department may also utilize the services of a third-party credit analysis and underwriting provider during the application review process. The Applicant Entity, Principals, and Guarantors accept this and the transmission of information to the third-party provider as a condition of submitting a MCOLP application.

## **Section II – Application Process**

### **A. Pre-Application**

Prospective Applicants are encouraged to contact the Montgomery County Commerce Department prior to the completion of a Pre-Application to discuss their proposed project and any other economic/workforce development needs they may have. The Montgomery County Commerce Department can provide additional assistance beyond the MCOLP through its four elements: MontcoWorks, the Montgomery County Development Corporation, the Redevelopment Authority, and the Industrial Development Authority. Additionally, Commerce Department staff can connect businesses to additional technical assistance and resource providers within Montgomery County, the greater Montgomery County region, and the Commonwealth of Pennsylvania.

Should an eligible Entity determine based on the current MCOLP guidelines and while working with Commerce Department staff that they have a project that fits within the scope of eligible costs, the first step is to complete the MCOLP Pre-Application. The Pre-Application can be found on the Montgomery County Commerce Department website and/or can be requested by contacting the Montgomery County Commerce Department. Once completed, an Applicant should submit the Pre-Application for review to the Montgomery County Commerce Department. Upon submission, the potential Applicant Entity will receive confirmation that the Pre-Application has been received and generally within fourteen (14) business days the Pre-Application will be reviewed by the Commerce Department staff. Staff will review the Pre-Application based on the following criteria:

- Does the Applicant meet the eligibility requirements?
- Does the proposed project meet the eligibility requirements?
- Does the Applicant demonstrate basic creditworthiness?
- Is MCOLP the best or most appropriate economic development financing tool for the project?
- Availability of MCOLP funding relative to the requested funding amount.
- Additional factors including, but not limited to, the economic/community impact of the proposed project and the projected growth impact for the applicant entity.

### **B. Application Information, Submission, and Review**

A successfully submitted Pre-Application will be followed by correspondence from the Commerce Department indicating that the Applicant Entity is invited to complete the Full Application. Commerce Department staff will review with the Applicant Entity all of the required documentation, the process, and the proper procedure for submitting the required information and the application fee. The following documentation, at a minimum, is required for the MCOLP Full Application:

*(Section B. Application Information, Submission, and Review continued)*

- Articles of Incorporation of the Applicant Entity;
- Operating Agreement/Partnership Agreement/By-Laws of the Applicant Entity;
- State Tax ID Number of the Applicant Entity;
- Legal address of the Applicant Entity to appear on all loan documents;
- Three (3) years of Federal Tax Returns for the Applicant Entity;
- Applicant Entity ownership profile;
- Applicant Entity marketing/business development plan;
- List of primary clients/customers and percentage of sales each represents for the Applicant Entity;
- Financial projections for the project related to the MCOLP loan;
- Financial statements/income reports for the Applicant Entity and all Guarantors;
- Three (3) years of Federal Tax Returns for all Guarantors;
- Credit reports on Principals of the Applicant Entity and all Guarantors;
- Judgement searches, including bankruptcy searches, for the Applicant Entity, all related Entities, and all Guarantors;
- State UCC-1 searches against the Applicant Entity (must be updated within thirty (30) days of closing);
- Title Commitment for all property related to the project/loan;
- Appraisal for all property related to the project/loan;
- Phase 1 Environmental Report for all property related to the project/loan;
- Proof of Real Estate Hazard Insurance for all property related to the project/loan;
- Proof of Commercial General Liability for all property related to the project/loan;
- All leases for all property related to the project/loan;
- Flood hazard determination for all property related to the project/loan;
- Tax and Assessment searches for all property related to the project/loan;
- Contract of Sale and all amendments thereto for any purchase transactions related to the project/loan;
- Bids, proposals, contracts, quotes, etc. supporting the final projections of the Applicant Entity's business plan, marketing plan, and/or the project related to the loan.

Additional information may be requested during the review process as it pertains to the Applicant Entity and/or Guarantors of the loan.

Once the application package is reviewed by Commerce Department staff for thoroughness, the required Full Loan Applicant Fee is paid in full, and an underwriting review is completed, the Joint Loan Review Committee will analyze the creditworthiness of the Applicant and the loan requests; a recommendation for funding will be made by the Joint Loan Review Committee to the funding entities.

### **C. Approval and Closing Process**

Applicants will be informed upon the completion of the Joint Loan Review Committee's process as to the determination of approval and by the funding entities as to how the loan will be funded should approval be granted. Upon approval, an Applicant becomes a Borrower. Should an Applicant not be approved, they may reapply after one hundred eighty (180) days. Approved Borrowers will be required to validate that all of the information in their application is still correct (specifically as it relates to debts, creditors, and lien positions) prior to a loan closing being scheduled. The loan closing will be scheduled in coordination with Commerce Department staff, the solicitor or solicitors of the funding entities, and the Borrower. The Borrower must come to the loan closing with the required closing fee; failure of the Borrower to come to the loan closing with the required closing fee and/or appear at the loan closing will result in a minimum twenty-one (21) day delay in loan closing as well as ineligibility for any interest rate reductions during the term of the loan.

Following the loan closing, the Commerce Department and funding entities will work with the Borrower on a press release and other public notification/information.

### **D. Early Repayment, Limitations, and Penalties**

There is no penalty for early repayment. Borrowers who repay their loan prior to the end of the loan term are eligible to apply again for a MCOLP loan thirty (30) days after loan satisfaction; all other borrowers are eligible to apply again for a MCOLP loan sixty (60) days after loan satisfaction.

The funding entity responsible for issuing the loan may choose, at its sole discretion, to forgive some or all of the Principal balance of the loan at any time, thereby converting the loan into a grant. This is only applicable to some non-profit entities and government agencies, and must be stipulated between the applicant and all of the funding entities involved in the respective loan. Principal forgiveness shall not be available to any borrower that defaults on a MCOLP loan while the loan is in force. Default on a MCOLP loan disqualifies the applicant entity and all guarantors from applying for additional MCOLP funding until such time as the delinquency is resolved and the loan returns to good standing for a period of at least one hundred eighty (180) days.

## **E. Contact Information**

Interested parties in the MCOLP should contact:

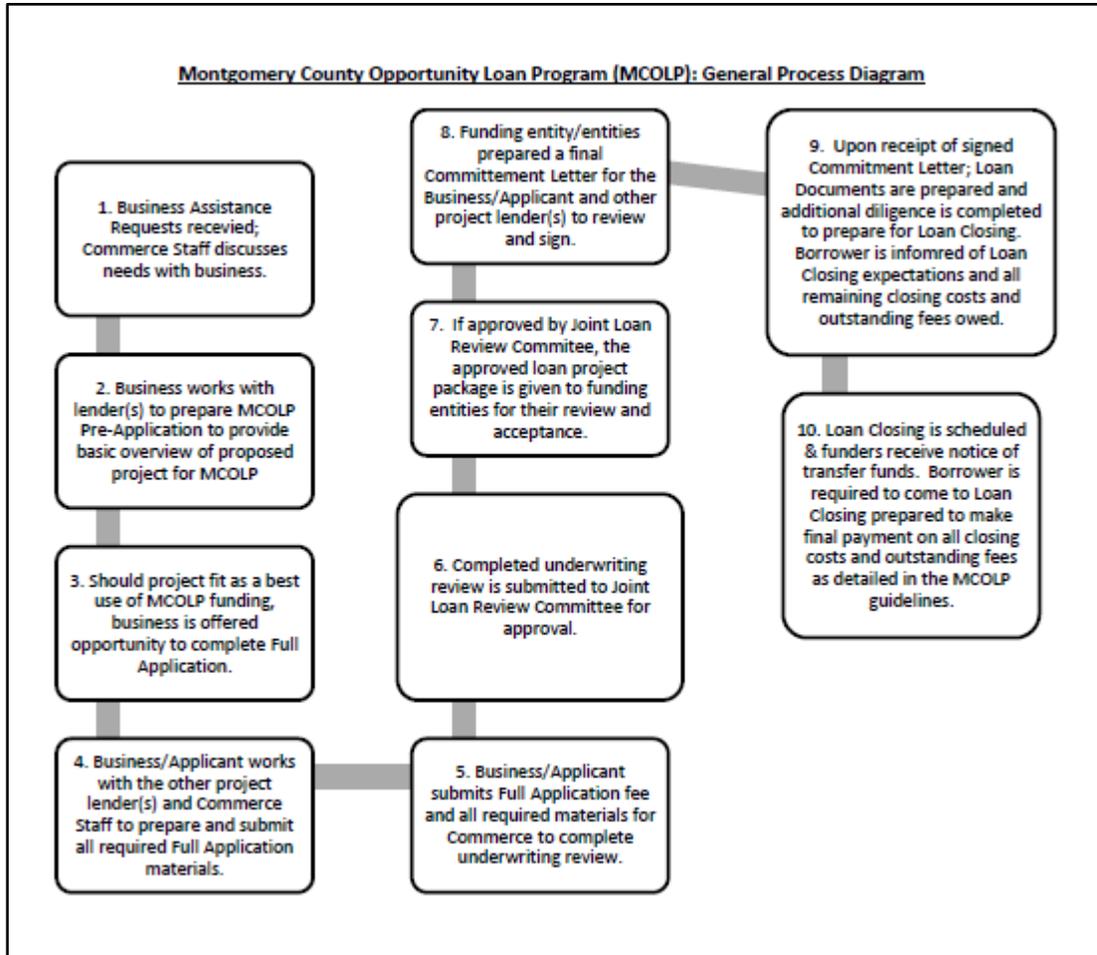
Ms. Catherine Lawrence  
Deputy Director, Fiscal Operations  
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Ms. Kelsey Mattson  
Strategic Outreach and Business Assistance Coordinator  
Montgomery County Commerce Department  
Human Services Center  
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Norristown, Pennsylvania 19404-0311  
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Additional information on MCOLP, as well as the Pre-Application document, can be found on the Montgomery County Commerce Department webpage (<https://www.montcopa.org/1713/Loan-Program>).

## Exhibits and Appendices

### A. Exhibit A - Loan Application, Review, and Closing Process Diagram



## B. MCDC Fee Schedule – 01-2018



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### **MCDC LOAN FEE SCHEDULE PROPOSED**

Effective January 1, 2018

#### **Montgomery County Opportunity Loan Program**

Loan Application/Underwriting Fee Non Refundable:  
\$1,000

Loan Closing Fee Non Refundable:  
1% of Loan Amount

#### **MCDC Solicitor Fees:**

To be paid by Borrower at closing directly to MCDC's Solicitor. This Fee is based on an hourly rate of attorneys working on the loan and is earned and due at closing. If closing does not occur, within 10 days of final bill being provided by Solicitor.

#### **Pennsylvania Industrial Development Authority Loan Program (PIDA)**

Loan Application Fee Non Refundable:  
\$1,000

Loan Closing Fee Non Refundable:  
Equal to 1% of the PIDA Loan Amount  
0.5% of Loan Amount due at the time of approval  
0.5% of Loan Amount due at the time of closing

#### **MCDC Solicitor Fees:**

To be paid by Borrower at closing directly to MCDC's Solicitor. This Fee is based on an hourly rate of attorneys working on the loan and is earned and due at closing. If closing does not occur, within 10 days of final bill being provided by Solicitor.

The above referenced fees represent those fees which will be charged by MCDC and do not include other normal closing costs such as Bank Fees, Title Insurance, Borrower's Attorney Fees, and Mortgage Satisfaction Fees etc.

If you have any questions regarding this schedule, please feel free to contact the MCDC Staff at 610-278-3471

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