

**CITY OF STOCKTON
ECONOMIC DEVELOPMENT DEPARTMENT**

COMMERCIAL LOAN PROGRAM: GUIDELINES AND PROCEDURES

I. ADMINISTRATION

Administration of the City of Stockton Commercial Loan Program shall be the responsibility of the Director of the Economic Development Department, including promoting the program and processing all applications.

The Commercial Loan Program will be funded using Community Development Block Grant (CDBG), or other funds that may become available. Funding is approved each fiscal year during the budget process.

II. TYPES OF ASSISTANCE

Three types of assistance will be available to eligible businesses under this program. The parameters of the various components of the Commercial Loan Program are set forth below.

A. Facade Improvement Forgivable Loan Program

The City will lend up to \$20,000 in the form of a forgivable loan of up to \$10,000 and up to an additional \$10,000 dollar-for-dollar matching component based on owner contribution. The following terms apply:

1. Only commercial properties located within the Waterfront Merger, Midtown, South Stockton and North Stockton former Redevelopment Project Areas are eligible for this program. Properties outside of these areas will be reviewed on a case by case basis for eligibility in accordance with CDBG regulations.
2. Facade Improvement Forgivable Loans shall only be used for exterior, cosmetic improvements to the building.
3. Properties are eligible for one Facade Improvement Forgivable Loan and one matching component per eligible building or per 50 lineal feet of eligible building frontage.
4. The interest rate will be ten percent (10%) simple interest.
5. The term of the Facade Improvement Forgivable Loan, including matching component, will be six (6) years from the date of the deed of trust as defined in the Loan Agreement.

6. Principal and interest payments will be forgiven on an annual basis, beginning 12 months from the date of the deed of trust, if the property is in compliance with all other program guidelines and is maintained in a way consistent with the City of Stockton building and zoning codes, including keeping the property free of graffiti and blight. In the event of default, the borrower will be required to repay principal and interest on the remaining balance of the loan.

B. Enterprise Zone Facade Improvement Loan Program

The City will lend up to \$25,000 in the form of a repayable loan to property owners for facade improvements on commercial/industrial, nonresidential properties.

1. Properties must be located in the San Joaquin Enterprise Zone within the Stockton city limits.
2. Enterprise Zone Facade Improvement Loans shall only be used for exterior, cosmetic improvements to the building
3. Properties are eligible for one facade improvement loan per eligible building or per 50 lineal feet of building frontage.
4. The interest rate on the loan will be zero percent (0%).
5. The term of the loan will be a maximum of 10 years, based upon the total loan amount as follows:

\$ 1,000 - \$ 5,999	5 Year Term
6,000 – 10,999	7 Year Term
11,000 – 25,000	10 Year Term
6. Monthly amortized payments will be required beginning on the first day of the month first following the recordation of the deed of trust securing the loan.

C. Emergency Grant Program

The City will grant, on a one-time basis, up to \$7,500, unsecured, per building to property owners and/or business owners for immediate relief of emergency conditions which endanger the health and safety of employees or the general public, and for which private funds are not readily available. These grants are provided at the discretion of the Director of the Economic Development Department based upon staff recommendation.

III. **ELIGIBILITY**

A. **Overall Eligibility**

In order to be eligible for CDBG funding, each activity must qualify as meeting one or more of the three National Objectives of the Community Development Block Grant (CDBG) program, as set forth by the U.S. Department of Housing and Urban Development (HUD) in 24 CFR Part 570.208. These National Objectives are summarized as follows:

1. Low/Moderate Income Benefit – The assisted activity must benefit low and/or moderate income persons in at least one of the four ways specifically defined by regulation. Low and Moderate income levels for the Stockton Metropolitan Statistical Area shall be determined by HUD.
2. Aid in the Prevention or Elimination of Slums and Blight – The assisted activity must address the prevention or elimination of slums or blight on either an area basis or a spot basis, or in an urban renewal area as further defined in the regulations. Assistance on the basis of spot blight is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety (24 CFR Part 570.208 (b)(2)).
3. Meet an Urgent Need – An assisted activity must meet a community development need having a particular urgency where a serious and immediate threat to the health or welfare of the community is involved and no other sources of funding are available. An example would be rebuilding after a flood or earthquake.

B. **Eligible Applicants**

1. **Facade Improvement Forgivable Loan**
 - a. Eligible applicants are those persons who are owners of commercial and/or non-profit property located within the Waterfront Merger, Midtown, South Stockton and North Stockton former Redevelopment Project Areas. Preference will be given to office and/or retail establishments. Properties outside of these areas will be reviewed on a case by case basis for eligibility in accordance with CDBG regulations.
 - b. Projects must be for the purpose of improving commercial or non-profit real property and must contribute to the economic development and/or quality of life within targeted areas as

determined by the City Manager and/or Economic Development Director.

3. Enterprise Zone Facade Improvement
 - a. Property owners applying for the above loan must be located in both the San Joaquin Enterprise Zone and Stockton City limits.
 - b. Applicants must demonstrate a financial need.
4. Emergency Grant
 - a. Both commercial property and/or businesses located within the Waterfront Merger, Midtown, South Stockton and North Stockton former Redevelopment Project Area are eligible. Properties outside of these areas will be reviewed on a case by case basis for eligibility in accordance with CDBG regulations.
 - b. Funding is available strictly for the purpose of immediate relief of emergency conditions which endanger the health and safety of employees or the general public.
 - c. Applicants must demonstrate a financial need.

All businesses must be properly zoned.

C. Eligible Project Areas

Commercial Loan Program projects must be located in one of the following areas unless otherwise determined through program restrictions as described in Section II.

- Incorporated areas located within the San Joaquin Enterprise Zone and Stockton City limits;
- Waterfront Merger, Midtown, South Stockton and North Stockton former Redevelopment Project Areas. Properties outside of these areas will be reviewed on a case by case basis for eligibility in accordance with CDBG regulations.
- Additional areas as designated by the City Manager or his designee.

D. Eligible Projects

Commercial Loan Program projects must be for the purpose of improving commercial or non-profit real property and must contribute to the economic development within targeted areas as determined by the City Manager and/or Economic Development Director

1. Eligible Emergency Grant projects shall include the following:
 - Allieviate any code violations where health and safety of employees and/or public is endangered
 - Any other improvements to real property eligible under guidelines established by the U.S. Department of Housing and Urban Development (HUD) (24 CFR Part 570.201, 570.202, 570.203).
2. Eligible Facade Improvement Forgivable Loan and Enterprise Zone Facade Improvement Loan projects are limited to exterior and cosmetic improvements to the structure.

E. Ineligible Projects

1. Ineligible Commercial Loan Program activities shall include the following:
 - Purchase of equipment or tools
 - Expenses incurred prior to loan/grant approval and environmental review
 - Any assistance to religious entities to the extent that the structures are used for inherently religious activities as outlined in 24 CFR Part 570.200(j). Funds may be used for rehabilitation of structures only to the extent that those structures are used for eligible activities as authorized under 24 CFR Part 570.201-570.206.
 - Any activity which is not authorized under 24 CFR Part 570.201-570.206 or that is expressly stated as ineligible under 24 CFR Part 570.207
2. Properties under consideration for development projects and/or acquisition by the City are not eligible without prior approval by the City Manager or his designee.

IV. LOAN APPROVAL

Loans in amounts below the current City Council threshold shall be approved by the City Manager, or his designee, upon staff review and recommendation. With respect to loans over the approved Council threshold, approval action by the City Manager shall be in the form of a recommendation to the City Council. The Council threshold is adjusted each fiscal year and approved by the City Council at the time of budget adoption.

V. LOAN REQUIREMENTS

A. Loan-to-Value

The loan-to-value ratio for loans under the Commercial Loan Program shall not ordinarily exceed ninety percent (90%) of the total estimated value of the property and the cost of rehabilitation. An appraisal of the property may be ordered by the City if necessary to establish an accurate estimate of value. The Economic Development Director may elect to waive this requirement.

B. Maximum Loan Amount

The maximum loan amount to be expended for commercial rehabilitation under this program may not exceed \$20,000 per 50-lineal feet of building frontage in Facade Improvement Loan funds not to exceed \$100,000. The Economic Development Director shall have discretionary authority to reduce or increase funding for a project based upon specific criteria such as remaining funds, impact on surrounding neighborhoods, and financial need.

C. Security

All loans shall be secured by a Promissory Note and Deed of Trust containing an acceleration clause in the event of default and an alienation clause to preclude unauthorized transfer of the secured property.

VI. LOAN APPLICATIONS

A. Separate Applications

Applicants may submit separate applications for an Emergency Grant, a Facade Improvement Forgivable Loan, and an Enterprise Zone Facade Improvement Loan, for the same building/parcel.

B. Additional Facade Assistance

A property owner can qualify for additional facade improvement forgivable loans on a match basis only after a previous facade improvement forgivable loan has been completely forgiven. Additional assistance is subject to funding limits per building or per lineal footage.

C. Change of Ownership

Properties previously awarded a Facade Improvement Forgivable Loan can qualify for a new forgivable loan upon a change of ownership, subject to funding limitations and existing loan balance outstanding. The change of ownership must represent a complete change in owners and not a name change or partner substitution.

VII. LOAN FEES

A. Loan Application Fee

An application fee is required for all projects except Emergency Grants. The application fee is adjusted each fiscal year and is approved by the City Council at the time of budget adoption. The current application fee can be found in the City of Stockton's adopted Fee Schedule. This fee is non-refundable and is used to pay for loan processing fees incurred by the City.

B. Loan Processing Fees

Additional fees and costs incurred by the City to process the loan application shall be paid by the applicant at closing. These may include appraisal fees, credit checks, title search fees, or other fees which are a necessary part of the loan application process.

VIII. DISBURSEMENT OF FUNDS

A. Total Project Costs Less Than \$100,000

Upon submission and review of required weekly labor compliance documentation and work invoices, funds will be authorized to the contractor. City funds (both CDBG and/or other funds) will be the last funds used for a project after private funding commitments have been exhausted. Final payment is subject to all required documentation completed satisfactorily, and the submittal of mechanic's/workman's lien releases. Weekly labor compliance documentation is still required for the non-City funded work.

B. Total Project Costs Greater Than \$100,000

City funds (i.e., CDBG and/or other funds) and all private funding must be committed to the project prior to a Notice to Proceed from the City. The City will consider alternate arrangements that suitably secure the funds and ensure that all funding necessary for the project is committed prior to construction beginning. Payments will be authorized to the general contractor by the City upon submission of required weekly labor compliance documentation and work invoices in the same manner as smaller projects. City funds will be the last funds used.

IX. LOAN SERVICING

A. Loan Servicing

1. Loan servicing shall be the responsibility of the Director of the Economic Development Department with authority, at their discretion, to utilize the services of a bank, a lending institution, a loan servicing institution, or staff in the actual servicing of loans, commencing with the loan closing and terminating either at the time the loan is forgiven in entirety or is paid in full.
2. Loan repayment shall begin three (3) months from the date of the Loan Agreement. Interest shall begin to accrue the first day of the month following the date of recordation of the deed of trust. Facade Improvement Forgivable Loans shall begin forgiveness of annual debt service twelve (12) months from date of recordation of the deed of trust.

B. Delinquency

1. In the event of delinquencies, the loan service provider shall so notify the Director of the Economic Development Department of said delinquency and commence collection of the delinquent account using Economic Development staff and/or City Attorney staff as deemed appropriate.
2. All accounts delinquent fifteen (15) days or more shall be assessed a late charge equal to four percent (4%) of the monthly payment. Late charges shall be assessed on the 16th day of each month that the account remains delinquent. Loan service provider shall send past due notices and assessment of late charges to all accounts when said account is sixteen (16) days past due.

C. Default

1. Facade Improvement Forgivable Loan Default

Keeping graffiti and other blight off of CDBG and/or other funds assisted commercial buildings is a requirement of a Facade Improvement Forgivable Loan. Redevelopment staff will periodically inspect buildings with outstanding Facade Improvement loans to ensure compliance. If blight is detected, staff will notify the property owner, who will then have fifteen (15) days to remove the blight. If graffiti is detected, staff will notify the property owner that to comply with the Stockton Municipal Code (SMC) graffiti must be removed within twenty-four (24) hours. If the borrower fails to comply with the SMC graffiti removal requirement or blight is not removed within the stated period or if an extension is not

authorized, monthly billing for the amount outstanding plus interest shall begin. Billings shall continue until the graffiti or blight is satisfactorily removed. The borrower is required to pay for any amounts billed due to enforcement of the Forgivable Loan Agreement, and that amount is not eligible for forgiveness. Nonpayment will be treated in accordance with the City's regular loan policies as outlined above.

Additionally, failure to pay and properly document Davis-Bacon and/or State prevailing wages will constitute a default.

2. Enterprise Zone Facade Improvement Loan Default

Keeping graffiti and other blight off of CDBG and/or other funds assisted commercial buildings is a requirement of an Enterprise Zone Facade Improvement Loan. Economic Development staff will periodically inspect buildings with outstanding Facade Improvement Loans to ensure compliance. If blight is detected, staff will notify the property owner who will then have fifteen (15) days to remove the blight. If graffiti is detected, staff will notify the property owner that to comply with the Stockton Municipal Code (SMC) graffiti must be removed within twenty-four (24) hours. If the borrower fails to comply with the SMC graffiti removal requirement or blight is not removed within the stated period or if an extension is not authorized, the loan will be considered in default. Nonpayment of the facade improvement loan will be treated in accordance with the City's regular loan policies as outlined above and referred to the City Attorney's Office. The City Attorney's Office may, at its discretion, initiate formal foreclosure procedures. The City Attorney shall proceed with formal "Notice of Default" and "Notice of Trustee's Sale," under the provisions of the Deed of Trust securing such a loan, to accomplish the sale under said Deed of Trust.

Additionally, failure to pay and properly document Davis-Bacon and/or State prevailing wages will constitute a default.

X. ASSUMPTION POLICY

All loans are assumable, providing the successor in interest would otherwise qualify for the loan they are assuming and subject to the approval of the Economic Development Director. Approval of a loan assumption will be based on the same criteria used to evaluate new applications. These include compatibility with the goals and objectives of the program, the assignee's ability to repay the loan, and willingness to comply with the terms and conditions of the existing loans.

XI. REFINANCING OF EXISTING DEBT

The Economic Development Director shall have discretionary authority to allow the refinancing of existing debt consistent with federal guidelines and restrictions. The City Manager, or his designee, will have signing authority for all subordination agreements.

XII. ANTI-DISPLACEMENT PROVISIONS

It is neither the intent nor desire of this program to displace existing businesses, but to improve and upgrade the physical facilities of such businesses, and strengthen and expand their existing markets. The following provisions, therefore, provide a mechanism through which both property owners and business tenants can benefit from this program.

A. Existing Tenants

If there is an existing tenant, the term of the lease must cover a period of one year from loan closing. If not, a new lease agreement between the property owner and tenant, covering a period of at least one (1) year from the date of the loan closing, must be submitted prior to loan closing.

B. Displaced Tenants

Should displacement occur, reasonable relocation costs will be provided to displaced tenant businesses and included as part of the loan package, consistent with federal relocation requirements.

XIII. CERTIFICATION AND COMPLIANCE REQUIREMENTS

A. Environmental Review Requirements

All projects shall be subject to a preliminary assessment of potential environmental impacts.

B. Davis-Bacon Federal and/or State Wage Rate Requirements

Because federal and/or local funds are used, Davis-Bacon and/or State prevailing wage rates must be paid to onsite laborers or mechanics employed by contractors or subcontractors when the total construction cost is greater than \$2,000. Davis-Bacon and/or State wage rates will apply to an entire project whenever that project is financed "in whole or in part" by federal or local funds. Use of volunteer labor is not allowed.

C. Conformance to Codes

All rehabilitation activities must conform with City of Stockton building and zoning codes, and be performed by a licensed general contractor or

subcontractor. The borrower is responsible for any and all building permits or other permits that may be necessary.

D. Competitive Bid

The applicant must submit a minimum of two competitive bids for the project as defined. The project loan amount will be based on the lowest acceptable bid as determined by the assigned Commercial Loan Program administrator. The applicant may select a contractor other than the lowest bidder unless the low bidder is a Minority or Women Owned Business (MBE/WBE). However, if a higher bidder is selected, the applicant will be required to pay the difference between the bid submitted by chosen contractor and lowest bidder. Prior to the soliciting of bids, the borrower is required to provide the City with a written scope of work to be performed. From that scope of work, the City's Labor Compliance Consultant will obtain the current prevailing wage determination for each labor trade involved.

E. Contractor Requirements

1. For facade improvement projects and emergency grants the City, at its option and depending on the work to be done, may authorize the use of contractors licensed to perform specialized tasks.
2. Under federal and state law, all contractors working on projects utilizing federal and/or local funds must pay prevailing wage rates. Established hourly prevailing wage rates shall be paid to all employees performing work on the project site. The current Davis-Bacon and/or State prevailing wage determination will be obtained by the Labor Compliance Consultant prior to the bidding of each job. All contracts and subcontractors selected will pay prevailing wage rates, and provide the City with the necessary supporting documentation required by federal and state law. No payment will be authorized until the required paperwork has been turned into the City and the City is satisfied that the contractor is in full compliance with federal and state law. Borrower is responsible for ensuring that contractor and all subcontractors are aware of and are paying prevailing wage rates. Noncompliance with this requirement is grounds for default.
3. The contractor shall comply with Equal Employment Opportunity (EEO) provisions relative to Executive Order 11246 and related acts, rules and regulations. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. All bidders are required to complete the City's Affirmative Action forms.

F. Relocation Benefits

Relocation benefits and assistance to permanently displaced businesses as a result of rehabilitation activities must be paid by the owner, either out of pocket or as part of the loan proceeds. The amount and level of such assistance must be specified prior to loan closing, consistent with federal relocation requirements.

G. Hiring Plan (for CDBG-funded projects only)

Where the activities are determined to be eligible based on the creation or retention of low and moderate income jobs, a Hiring Plan must be submitted, assuring the availability of such jobs to low and moderate income individuals and economically disadvantaged persons. Such a plan must meet the public benefit standard as noted in 24 CFR 570.209(b)(3)(i)(A) or (B). Such a Hiring Plan may be prepared in conjunction with WorkNet of San Joaquin County.

XIV. INTERNAL ADMINISTRATIVE PROCEDURES

A. Pre-Application Conference

City staff will meet with prospective applicants to determine eligibility and provide information about the City's Commercial Loan Program.

B. Loan Application and Detailed Scope of Work

The applicant must submit a complete application and detailed scope of work, along with the current application fee adopted by Council each fiscal year and listed in the City's Fee Schedule. No loan application will be processed by City staff until all required documents have been submitted. The Labor Compliance Consultant will request the appropriate wage rate determinations based upon the submitted scope of work and a ballpark estimate of cost.

C. Determination of Eligibility

Loan applicants will be reviewed by Economic Development Department staff regarding the location and eligibility of the proposed property for rehabilitation and conformance of the project with program guidelines. City staff shall conduct an initial inspection of the property. When necessary, a joint inspection of the property will be performed by the appropriate Building Department staff. The purpose of these inspections is to discover any obvious code violations that must be addressed and to point out any code required upgrades that would be triggered by a rehabilitation.

D. Bidding Process

The applicant is required to submit at least two bids from minority or woman owned (MBE/WBE) firms for each component of work to be completed, or document the Good Faith Efforts attempted. City staff will provide information on locating MBE/WBE firms to the applicant. A minimum of two competitive bids are required for all work to be performed.

E. Architectural Review

Facade Improvement Loans require that any changes or additions to the exterior of a building financed by CDBG funds be authorized by the City's Design Review Committee in conformance with the Stockton Citywide Design Guidelines. Additionally, the Cultural Heritage Board must authorize a Certificate of Appropriateness for all facade improvements to buildings with historical significance. The City will contribute up to \$2,500 for architectural services. If for any reason the applicant should decide not to proceed with his/her facade improvement project, any expenses incurred by the City for such architectural services shall be reimbursed by the applicant.

F. Environmental Review

An environmental review is required for all CDBG-funded projects. When necessary, the State Historic Properties Office (SHPO) and/or the National Advisory Council must be consulted. The actual procedures will vary on a case by case basis as mandated by 24 CFR Part 58. Projects funded with Redevelopment tax increment are categorically exempt per Title 14, Chapter 3, Article 19, Section 15301 of the California Environmental Quality Act (CEQA).

G. Bid Review and Evaluation of Proposed Project Costs

The assigned program administrator shall review all bids for consistency to the detailed scope of work and shall evaluate the proposed project costs to ensure that the bids are fair and equitable.

J. Loan Approval

Based on the analysis of the information obtained, a loan decision will be made by the City Manager or his designee.

K. Pre-Construction Conference

The City's Economic Development Department staff and Labor Compliance Consultant shall conduct a Pre-Construction Conference with the applicant and all contractors and sub-contractors to ensure understanding of and compliance with the prevailing wage requirements and reporting responsibilities. Federal Labor Standards Provisions,

required prevailing wages and documentation, and Affirmative Action Guidelines will be provided to the applicant during the preconstruction meeting.

L. Construction Documents Prepared

Prior to loan closing, copies of construction contracts, approved construction plans, building permits, verification of insurance and any other required documentation will be submitted to the program manager at the Economic Development Department.

M. Loan Closing/Notice to Proceed

Loan documents will be executed between the borrower and the City (e.g. Note, Loan Agreement, Deed of Trust, and any other document appropriate to the specific project).

N. Inspection of Property/Disbursement of Funds

City staff will inspect the property to ensure compliance with program guidelines and that the submitted work invoices represent work actually completed. Staff and/or the City's Labor Compliance Consultant may perform project site interviews with laborers as required to ensure payment of prevailing wages and shall inspect to ensure that the proper bulletin notices are posted.

Funds for CDBG and/or other sources funded commercial activities will be disbursed in the form of periodic payments according to a prearranged schedule of payments. Payments will be made upon the completion and inspection of various components of the project by the assigned program administrator. Funds will only be disbursed upon completion of the required work and the submission of any necessary documentation regarding Federal Labor Standards and Prevailing Wage Rates.

Adopted December 8, 1986
Revised October 24, 1988 (Resolution No. 88-0680)
Revised September 5, 1995 (Resolution No. 95-0436)
Revised November 9, 1999 (Resolution No. 99-0530)
Revised December 16, 2003 (Resolution No. 03-0741)
Revised July 10, 2007 (Resolution No. R07-028 & 07-0286)
Revised March 20, 2012 Housing Committee approval

::ODMA\GRPWISE\COS.HRD.HRD_Library:83559.1