CONSENT AGENDA

AGENDA ITEM 12.02
TO: Mayor and City Council

FROM: Kurt O. Wilson, Deputy City Manager
Interim Director of Economic Development

SUBJECT: AUTHORIZE A FACADE IMPROVEMENT FORGIVABLE LOAN TO NEWBERRY 1, LLC, FOR 331 EAST WEBER AVENUE IN THE AMOUNT OF $59,821

RECOMMENDATION

It is recommended that the City Council adopt a resolution authorizing a Facade Improvement Forgivable Loan to Newberry 1, LLC, (Zac Cort, Sean Kenmore, and the Gordon Trust) for the commercial property located at 331 East Weber Avenue in the amount of $59,821.

Summary

Newberry 1, LLC, has applied for a Facade Improvement Forgivable Loan for its property at 331 East Weber Avenue (Vicinity Map – Attachment A). The total cost of the project is $89,643 (Project Photo – Attachment B). Financial assistance requested from the City of Stockton through its Community Development Block Grant (CDBG) Facade Improvement Program is $59,821. The property owner will contribute $29,822 towards the project. The proposed project will enhance the appearance of the building and have a positive impact on surrounding properties.

DISCUSSION

Background

The Commercial Facade Improvement Forgivable Loan ("CFIFL") is an economic development program funded through the City of Stockton’s Community Development Block Grant (CDBG) annual allocation from the U.S. Department of Housing and Urban Development (HUD). The CDBG program is one of the longest run programs at HUD that provides communities with resources to address a wide range of community and economic development needs.

On October 24, 1988, City Council adopted Resolution No. 88-0680 (Resolution-Attachment C), which approved the CDBG CFIFL Program as a tool to redevelop downtown and to assist with the elimination of blight throughout the City. The CFIFL Program is designed to assist property owners with the cost of renovating the exterior of their commercial properties. Improvements such as: the installation of new windows and doors, new stucco and/or brick, painting, awnings, exterior lighting on the buildings, or any other architectural enhancements to the exterior of the building are eligible for funding.
under this program. Items that are not eligible for funding under the program include: sidewalk replacement, paving, asphalt, roofing, signage, and repair or replacement of any items which are not affixed to the actual building. Only the property owner can apply for funding since the City places a lien against the property until loan has been forgiven. This ensures that the property will be properly maintained and protects the City’s investment.

Rules governing the Commercial Facade Improvement Program, as revised in 1999 by Resolution No 99-0530 (Resolution-Attachment D), allow a base grant of $10,000 for every 50 lineal feet of frontage, and an additional grant of $10,000 for the same 50 lineal feet provided the additional grant is matched by a property owner contribution.

Properties which are eligible to apply for assistance under the facade program are commercial properties within the Downtown Stockton core, as well as commercial properties within the former redevelopment agencies project area boundaries. All commercial properties within these areas are eligible for the program and funds are allocated on a first-come, first-served basis. Applications are accepted until funds are no longer available. Funding for the program is reviewed on an annual basis and is dependent upon the CDBG allocation received each year from HUD. During fiscal year 2012-2013, $300,000 was allocated for facade improvement projects.

Present Situation
The owner, Newberry 1, LLC, has requested financial assistance in the amount of $59,821 for facade improvements to the property located at 331 East Weber Avenue between San Joaquin and Sutter Streets. The subject property is within the downtown core and is eligible for the Facade Loan Program. The applicant has recently acquired the building and has owned it for approximately two months. This project involves the exterior renovation consistent with the City's Design Review Guidelines. Planned facade improvements include the following:

- New storefront windows and doors
- Repair and paint existing awnings
- New stucco
- Remove portion of existing facade on upper floors to reveal windows
- Repair existing Newberry sign

The total cost for the project is $89,643. The requested assistance will be provided in the form of a forgivable loan in the amount of $59,821 to be financed over 5 years at 10%
AUTHORIZE A FACADE IMPROVEMENT FORGIVABLE LOAN TO NEWBERRY 1, LLC, FOR 331 EAST WEBER AVENUE IN THE AMOUNT OF $59,821
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simple interest. The terms are pre-defined within the CFIFL program guidelines adopted by Council and do not change (Commercial Loan Program Guidelines – Attachment E). Of the $59,821, a total of $30,000 is in the form of base grants and $29,821 is the form of grants requiring a property owner match. The property owner is responsible for $29,822 of the total cost. The following table demonstrates the breakdown of funding of the loan application for Newberry 1, LLC:

<table>
<thead>
<tr>
<th></th>
<th>CITY</th>
<th>PROPERTY OWNER</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Grant #1</td>
<td>$10,000</td>
<td>--</td>
<td>$10,000</td>
</tr>
<tr>
<td>Matching Funds #1</td>
<td>$10,000</td>
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<td>$20,000</td>
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<tr>
<td>Base Grant #2</td>
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<td>$10,000</td>
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<tr>
<td>Matching Funds #2</td>
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<td>Base Grant #3</td>
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<td>$19,643</td>
</tr>
<tr>
<td>Remaining Balance</td>
<td>--</td>
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<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>$59,821</td>
<td>$29,822</td>
<td>$89,643</td>
</tr>
</tbody>
</table>

Pursuant to the program guidelines adopted by Council in 1988 and revised periodically, twenty percent (20%) of the principal and interest payments are forgiven on an annual basis as long as the property owner maintains the exterior of the building, keeping it free of graffiti and other blighting influences. At the end of five years, the loan is completely forgiven with a zero balance due and the deed of trust recorded against the property is reconveyed to the owner.

City staff determined that the proposed improvements will not have an adverse effect on historic properties. The California State Historic Preservation Office has concurred with this determination pursuant to 36 Code of Federal Regulations, Part 800 (§106).

The project will improve the appearance of the building and have a positive impact on the surrounding area. This project encourages and complements the investment of private sector funds.
AUTHORIZE A FACADE IMPROVEMENT FORGIVABLE LOAN TO NEWBERRY 1, LLC, FOR 331 EAST WEBER AVENUE IN THE AMOUNT OF $59,821

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FINANCIAL SUMMARY

Sufficient funds are available in account number 054-8521-640.20-51 -- CDBG Commercial Rehab Loans, for the $59,821 forgivable loan. This will leave a remaining balance of $89,612 for additional facade improvement projects for fiscal year 2012-13

Respectfully submitted,

KURT O. WILSON, DEPUTY CITY MANAGER
INTERIM DIRECTOR OF ECONOMIC DEVELOPMENT

Attachment A – Vicinity Map
Attachment B – Property Photo
Attachment C – Resolution No. 88-0680
Attachment D – Resolution No. 99-0530
Attachment E – Commercial Loan Program Guidelines

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Resolution No. 88-0680

STOCKTON CITY COUNCIL

WHEREAS, the City Council has established an Enterprise Zone Program; and

WHEREAS, as a part of that program, the City Council has approved (December 8, 1986) the implementation of a Commercial Rehabilitation Revolving Loan Program; and

WHEREAS, guidelines and procedures for administering said Loan Program have been prepared, considered and approved; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

That the City Council hereby adopts the guidelines and procedures for the City of Stockton Commercial Rehabilitation Revolving Loan Program as specifically set out in Exhibit "A" which is attached hereto and by reference made a part hereof.

PASSED, APPROVED and ADOPTED this 24th day of OCTOBER, 1988.

BARBARA FASS, Mayor

of the City of Stockton

ATTEST:

FRANCES HONG, City Clerk

of the City of Stockton
EXHIBIT A

CITY OF STOCKTON
COMMERCIAL REHABILITATION
REVOLVING LOAN PROGRAM: GUIDELINES AND PROCEDURES

I. ADMINISTRATION

Administration of the City's Commercial Rehabilitation Loan Program shall be the responsibility of the Director of Community Development.

II. LOAN COMMITTEE

The Loan Committee shall consist of the Director of Community Development, the Director of Finance, and a representative of the City Manager. The Loan Committee shall meet as a group at times needed and shall approve or disapprove loans to borrowers under prudent underwriting standards modified only by further provisions within this document. With respect to loans of $20,000 or more, approval action by the Loan Committee shall be in the form of a recommendation to the City Council.

III. LOAN REQUIREMENTS

A. The loan-to-value ratio shall not ordinarily exceed 90 percent of the total value of the property, as established by a competent appraisal, and the cost of rehabilitation. The Loan Committee may elect to waive this requirement.

B. The maximum loan dollar amount to be expended for rehabilitation under this program may not exceed $25,000. The maximum loan amount to be expended for rehabilitation and refinancing of existing indebtedness may not exceed $25,000.

C. The maximum term of any single loan shall not exceed 15 years.

D. The interest rate for all loans shall be six percent simple annual interest. This interest rate shall be reviewed periodically.

E. 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.
F. Two types of loans shall be available to eligible applicants.

(1) Direct Loans.

Direct Loans for small projects up to $10,000 will be available directly from the City. The City will assume responsibility for processing the loan application assembling all documents, conducting credit checks, disbursing funds, and servicing the loans.

(2) Leveraged Loans.

For loans greater than $10,000, the City will fund the first $10,000 of the amount to be financed, and 50% of all loan funds greater than $10,000, up to a maximum commitment by the City of $25,000. On such loan applications the City will take a subordinate loan position.

Depending on the circumstances, however, the City may require a private lender to buy out (refinance) an existing mortgage and/or refinance an existing mortgage itself.

Under this option, the City assembles all loan documents and evaluates loan applications using established credit standards. The City will then issue a letter of loan approval contingent upon the applicant's ability to obtain private sector financing. The private lender determines in conjunction with the applicant the terms and conditions of the private sector loan.

G. Applicants must have good credit and be able to demonstrate an ability to repay the loan:

(1) Where the applicant is the owner/operator of a business, the applicant must be able to project an increase in sales or net income sufficient to repay the loan.

(2) Where the applicant is a property owner with an existing business tenant, a modified and amended lease will be required.

(3) If a property is vacant, applicant property owners must show evidence of ability to repay based on prevailing market conditions or file a lease commitment from a prospective tenant as part of the loan application.
H. Loan funds will be disbursed on a proportional basis in phases, based on the completion and an inspection of the various components of the project.

IV. LOAN ELIGIBILITY

A. Eligible Applicants: Eligible applicants will be those persons who are owners of property located within one of the eligible Project Areas.

B. Eligible Projects: Eligible projects shall include facade improvements, improvements necessary to bring structures up to code, roof repairs, electrical repairs, plumbing repairs, parking area expansion, landscaping and fencing, space expansion, and any other improvements eligible under guidelines established by the U.S. Department of Housing and Urban Development (HUD).

C. Eligible Project Areas: Loans for projects under this program must be located in one of the following areas:

1) The City of Stockton's Locally Designated Enterprise Zone, or

2) Any City Council designated and HUD approved Community Development Program Area.

These areas are described on Maps 1 and 2 which are a part of these guidelines and procedures.

V. LOAN SERVICING

A. Loan Servicing shall be the responsibility of the Director of Finance and the Director of Community Development with authority, at their discretion, to utilize the service of a bank, a lending institution, a loan servicing institution or Community Development Department staff in the actual servicing of loans, commencing with the loan closing and terminating either at the time the loan becomes delinquent or is paid off.

In the event of delinquencies, the loan service provider shall so notify the Directors of Community Development and Finance Departments of said delinquency and commence collection of the delinquent account using Community Development staff and/or City Attorney staff as deemed appropriate.
B. All accounts delinquent 15 days or more shall be assessed a late charge equal to four percent of the monthly payment. Late charges shall be assessed on the 16th day of each month that the account remains delinquent.

C. Loan service provider shall send past due notices and assessment of late charges to all accounts when said account is 16 days past due.

D. Community Development Department staff shall send a letter if account is past due for two consecutive months. If account is not current or arrangements have not been made to rectify the delinquency after three consecutive months, the account will be referred to the City Attorney's office. If a satisfactory solution is not found and agreed to, 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.

VI. LIMITATION ON USE OF LOAN PROCEEDS

A. Loan proceeds shall be applied to the correction of all code violations cited so that, upon completion of rehabilitation, the property complies with the Uniform Code as adopted by the City of Stockton; and in Redevelopment Areas, the Property Rehabilitation Standards established for such areas. With the concurrence of Rehabilitation Counselor, a loan can be augmented, if requested by the borrower, in the amount necessary to correct incipient Code violations involving significant deterioration of building components which, at the time of inspection, do not result in absolute Code or Property Rehabilitation Standards violations. Items listed within the Property Rehabilitation Standards (PRS) objectives of Official Redevelopment Plans for redevelopment projects, that are also targeted CDBG program areas, are eligible uses of loan proceeds.

B. Subject to other limitations such as maximum loan amount and the borrower's ability to repay a loan, the property owners may, pursuant to loans made under the provisions of this program, and subject to the approval of the Loan Committee, borrow the equivalent of an additional 30 percent of the amount necessary for mandatory corrections, incipient code violations, and PRS objectives to provide funds for general improvements and amenities acceptable to the Rehabilitation Counselor and in concurrence with the Director of Community Development.
VII. REFINANCING OF EXISTING DEBT

The Loan Committee shall have discretionary authority to allow the refinancing of existing debt consistent with federal guidelines and restrictions.

VIII. 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 Loan Committee.

Loans under this program may be assumed, subject to a review and reassessment of the proposed assumption by the City of Stockton. 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 this program, the assignee's ability to repay the loan, and willingness to comply with the terms and conditions of the existing loan.

IX. LOAN FEES

A. Loan Application Fee $250.00

This fee is nonrefundable, but is deducted from City incurred loan processing fees at closing.

B. Loan Processing Fees.

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

X. 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 are, therefore, intended to minimize potential displacement, and provide a mechanism through which both property owners and business tenants can benefit from this program.

A. If there is an existing tenant, a new lease agreement between the property owner and tenant, covering a period of at least one year from the date of loan closing, must be submitted prior to loan closing.
B. 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.

XI. CERTIFICATION AND COMPLIANCE REQUIREMENTS

A. Environmental Review Requirements

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

B. Davis Bacon

Because Community Development Block Grant (CDBG) Funds are used, Davis-Bacon (prevailing) wage rates must be paid to laborers for construction work over $2,000.

C. Conformance to Codes

All rehabilitation activities must conform with City of Stockton building and zoning codes.

D. 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.

E. Hiring Plan

Where rehabilitation results in the creation of new jobs, a Hiring Plan must be submitted, assuring the availability of such jobs to low/moderate income individuals and economically disadvantaged persons. Such a plan must be prepared in conjunction with the Private Industry Council (PIC) of San Joaquin County.

XII. INTERNAL ADMINISTRATIVE PROCEDURES: AN OVERVIEW OF THE APPLICATION PROCESS

A. Pre-Application Conference

Staff will meet with prospective applicants to determine eligibility and provide information about the City's Loan Program.
B. Loan Application

The applicant must submit a complete application, with an application fee of $250. No loan application will be processed by City staff until all required documents have been submitted.

C. Determination of Eligibility

Loan applications will be initially reviewed regarding the location and eligibility of the proposed property for rehabilitation, and conformance of the project with program guidelines.

D. Credit Evaluation

The City will evaluate the credit worthiness of the applicant and conduct whatever, personal and business credit checks are necessary to provide assurance of repayment.

E. Appraisal of Property

The City will appraise the property and/or obtain a private appraisal of the property where necessary.

F. Inspection of Property/Review of Contractor Bids

Community Development Staff will inspect the property to ensure code violations are corrected as part of the rehabilitation and review bids to ensure consistency with loan estimates and documents.

G. Loan Approval

Based on the analysis of information obtained, a loan decision will be made by the City's Loan Committee. The City's Loan Committee consists of the Community Development Director, the Director of Finance, and a representative of the City Manager. With respect to loans of $20,000 or more, approval action by the Loan Committee shall be in the form of a recommendation to the City Council.

H. Construction Documents Prepared/Building Permits Obtained.

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 Development Services Division.
I. Loan Closing

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

J. Creation of Escrow Account For Dispersal of Funds

Subsequent to loan closing, the City will draw down public (CDBG) funds and deposit them into an escrow account for disbursement.

K. Completion of Project and Dispersal of Funds

Funds for rehabilitation 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 an inspection of, various components of the project by the City's Community Development Department, Development Services Division. Funds will only be disbursed upon completion of the required work and the submission of any necessary documentation regarding Federal prevailing wage rates.
MAP 1. CITY OF JACKSON LOCALLY DESIGNATED ENTERPRISE ZONE
WHEREAS, the City of Stockton (the "City") receives Federal assistance from the United States Department of Housing and Urban Development ("HUD") in the form of Community Development Block Grant ("CDBG") funding; and

WHEREAS, the City has directed a portion of those funds be used to fund a Commercial Loan Program with a major element of this program being a Downtown Façade Improvement Grant Program, which assists property owners in making cosmetic enhancements to commercial property; and

WHEREAS, the City is recommending enhancements to the Downtown Façade Improvement Grant Program to address issues regarding equity as it relates to program funding and building size, eligibility for additional assistance, repeat façade grants and property acquisition; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. That the Downtown Façade Improvement Grant Program be amended to include the following:
   (a) Grants may be awarded for each 50 lineal feet of frontage;
   (b) Previous grant recipients who have satisfied all program requirements, may be eligible for an additional grant under the matching grant program only and subject to all other funding limits;
   (c) Properties may qualify for a new grant upon change of ownership subject to grant limitations and existing outstanding grant balance. No initial matching funds are required for grants to new ownership; and
(d) Properties under consideration for acquisition by the City/Redevelopment Agency are not eligible for grants without approval by the City Manager.

2. That the City Manager, or his designee, is hereby authorized and directed to carry out the purposes and intent of this resolution.

PASSED, APPROVED and ADOPTED _________.

______________________________
GARY A. PODESTO, Mayor
of the City of Stockton

ATTEST:

______________________________
KATHERINE GONG MEISSNER,
City Clerk of the City of Stockton

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99-0530
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 qualify 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:
   • Allievate 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 18, 2003 (Resolution No. 03-0741)
Revised July 10, 2007 (Resolution No. R07-028 & 07-0286)
Revised March 20, 2012 Housing Committee approval

::ODMA|GRP|WSE|COS:HRD:HRD\library 83559.1
Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION APPROVING A FACADE IMPROVEMENT FORGIVABLE LOAN TO NEWBERRY 1, LLC (ZAC CORT, SEAN KENMORE, AND THE GORDON TRUST) FOR THE COMMERCIAL PROPERTY LOCATED AT 331 EAST WEBER AVENUE, STOCKTON, CALIFORNIA, IN THE AMOUNT OF $59,821

Newberry 1, LLC, has applied for a Commercial Facade Improvement Forgivable Loan in the amount of $59,821; and

The project will improve the appearance of the building and have a positive impact on surrounding properties; and

The project encourages and complements the investment of private sector funds in the Downtown area; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Manager is hereby authorized and directed to execute a Facade Improvement Forgivable Loan between the City of Stockton and Newberry 1, LLC, in the amount of $59,821, for the commercial property located at 331 East Weber Avenue, Stockton, California, to be evidenced by a promissory note and secured by a Deed of Trust on said property.

2. The City Manager is hereby authorized and directed to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

PASSED, APPROVED, and ADOPTED April 16, 2013

__________________________________________
ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:

__________________________________________
BONNIE PAIGE
City Clerk of the City of Stockton

City Atty Review Date April 10, 2013

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