

**RESOLUTION NO. 20080214-013**

**WHEREAS**, the Council approved creation of the Community Preservation and Revitalization Zone Program under Chapter 380, Texas Local Government Code, on April 28, 2005 by Resolution No. 20050428-043 (CP&R Program); and

**WHEREAS**, on June 8, 2006, the Council adopted Resolution No. 20060608-074 outlining minimum requirements for the CP&R Program; and

**WHEREAS**, in accordance with Council directive, Small Business Assistance Fund Program Guidelines (Guidelines) were implemented for the Small Business Assistance Program component of the CP&R Program; and

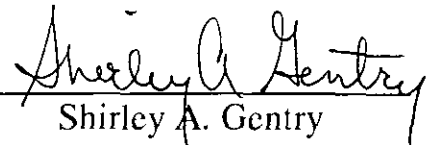
**WHEREAS**, based on input received about the CP&R Program, Council desires to revise the Guidelines to modify the matching funds and leverage ratio requirements and increase the maximum loan amounts to promote economic development and prosperity for residents of East Austin; **NOW THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

- (1) The council adopts the above recitals as findings.
- (2) The Council adopts revised Small Business Assistance Fund Program Guidelines for the CP&R Program attached as Exhibit A.

**ADOPTED:** February 14, 2008

**ATTEST:**

  
Shirley A. Gentry  
City Clerk

**CITY OF AUSTIN  
PROGRAM GUIDELINES  
COMMERCIAL PRESERVATION & REVITALIZATION  
BUSINESS LOAN PROGRAM (CP&R BLP)**

**(Effective February 5, 2008)**

**SECTION I    PROGRAM ADMINISTRATION**

**A        Administration**

The City Council approved creation of the Community Preservation and Revitalization (CP&R) Zone Program under Chapter 380, Texas Local Government Code, on April 28, 2005 by Resolution No 20050428-043. On June 8, 2006, Council adopted Resolution No 20060608-074 outlining minimum requirements for the Commercial Preservation & Revitalization Business Loan Program ("CP&R BLP" or the "Program"). On February 14, 2008, Council approved these CP&R BLP guidelines by Resolution No 20080214.

The City of Austin's Neighborhood Housing and Community Development Department (NHCD) is responsible for the administration of the Commercial Preservation & Revitalization Business Loan Program (CP&R BLP). In that capacity, the NHCD shall perform the following duties:

- 1        Market the Program and receive application from interested parties
- 2        Analyze and evaluate application information submitted by interested parties for compliance with Program guidelines and negotiate with the applicant
- 3        Develop and implement changes in program design, policies, guidelines, and procedures consistent with the scope and intent of the Program

**B        Purpose**

The CP&R Business Loan Program provides financial assistance in the form of small business loans to financially and geographically qualified small businesses located within or willing to locate within the Commercial Preservation & Revitalization Zone (CP&R Zone). Please see attached map. Goals of CP&R BLP include:

- 1        Increase access to capital for small business start-ups located within the CP&R Zone
- 2        Stimulating private investment within the commercial district through property improvement, business development, and expansion
- 3        Improving the quantity and quality of goods and services available to the surrounding community

**C        Definitions**

- 1        **Applicant** -- means a person or entity who applies for a loan under the CP&R Business Loan Program to finance an Eligible Use in connection with a small business
- 2        **Applicant Match** -- means the sum of any equity amounts provided by the applicant and any loan or grant amounts provided by private and other public (Non-City of Austin) entities

- 3     **Loan Committee** – means the four member committee consisting of professionals in the area of finance, real estate, and commercial development with one member designated as the community or citizen representative appointed by the City Manager or designee. The committee is responsible for reviewing all CP&R Business Loan Program applications and making recommendations to the Community Development Officer, NHCD.
- 4     **Fixed Asset** – Permanent business properties such as land, buildings, machinery, and equipment.
- 5     **Start-Ups** -- Businesses that have been in existence for 6 months or less and who employ 10 employees or fewer.
- 6     **Small Business** – A small business with a net worth less than Six million dollars and that has a two year average gross annual income of business less than Ten million dollars.
- 7     **Developer** – means one who builds on land or changes and enhances the use of an existing building for some new purpose or better effect. In addition, the developer will not operate business activities and headquarter operations at the building or land location being enhanced or acquired.

D     Fund Source

The Program may use a variety of funding sources to provide assistance to approved projects. The fund sources may include, but are not limited to the City of Austin general fund proceeds, and enterprise funding from commercial partners, and City of Austin enterprise organizations or departments. Should a conflict occur between the requirements of the Program and the requirements of the funding source, the requirements of the funding source shall govern.

E     Access to Information

With the submission of any application for assistance, the Applicant provides NHCD the right to request and obtain any financial information or records necessary to complete its review and recommendation to provide financial assistance. Should the NHCD be denied said access to the requested information, documentation and records, the application may be denied.

F     Program Guidelines

These written Program guidelines shall constitute the Program and its implementation. Any changes or modifications to these guidelines are not considered approved, unless incorporated in writing as part of these guidelines. On an annual basis, the NHCD staff may review and facilitate necessary modifications to the Program guidelines. Upon incorporation of any modifications to the guidelines in writing, the modifications shall be considered applicable and enforceable under the Program.

G     Program Operation

The Program shall be operated and administered by designated staff of the NHCD and managed by the Manager of the Community Development Division. The NHCD staff shall be responsible for the day to day operations of the Program, provide technical assistance and information on the Program to interested businesses, facilitate the review, denial and approval process, develop and implement the necessary documents for the Program.

II    Responsibility of the Applicant

It is the sole responsibility of the Applicant to develop a complete application for Program assistance. In addition, it is the sole responsibility of the applicant to seek and obtain necessary professional and/or specialized technical assistance before and during the CP&R Business Loan Program application process, and if approved, during the negotiation and contracting phase as well. It is not the responsibility of the Program to develop a viable application for the Applicant. Prior to the submission of an application, NHCD staff is available to provide information and technical assistance regarding the requirements of the Program. Once an application for assistance is submitted, the NHCD staff is only responsible for implementing the established process for application review, approval or denial. Should an application be denied, the Applicant may request a debriefing from the NHCD staff of the items and issues that contributed to the denial of the application. Once an application is denied, any future request for Program assistance must be accompanied by a new and

complete application. The Program will not resurrect or use previously denied applications and its components.

I Limitations on Activities Pending Clearance under CP&R

No applicant may commit CP&R funds during the development process prior to contact negotiations and final execution of all required agreements or contracts to undertake an activity or project under the Program.

SECTION II PROGRAM ELIGIBILITY

A Level of Assistance

The Program may provide financial assistance to eligible businesses meeting all applicable Program requirements. Any and all prior debts with the Department or City of Austin must be satisfied under mutually agreed upon terms prior to program eligibility being cleared. The Program may not exceed the following level of assistance:

**AMOUNT OF FINANCING:** Loans range from \$3,000 to \$30,000. Borrowing entities may be eligible for gap financing up to 40 percent of eligible project costs, not to exceed the loan minimum and maximum loan amounts based on the number of years the business has been operating within the CP&R Zone listed below:

- Up to \$10,000 for start-up businesses which have not been in operation or that have been operating or located in the CP&R Zone for 4 years or less,
- Up to \$20,000 for a participating business which has been operating in the CP&R Zone for at least 5 years but less than 10 years, and,
- Up to \$30,000 for a participating business which has been operating and located in the CP&R Zone for 10 years or more.

**TYPE OF FINANCING:** Gap financing

A Gap Financing up to the loan maximums based on tenure in the CP&R Zone, not to exceed 40 percent of total project costs, whichever is the lesser as determined by Program staff and/or the Loan Committee.

B Primary financing available for loans up to \$30,000 secured by real estate under deed of trust and the City of Austin must be the first lien holder.

B Eligible Use of Assistance

Program assistance can be used to purchase, acquire, construct or rehabilitate fixed assets whose useful life exceeds five (5) years. The NHCD reserves the right to make any final determination of eligible uses of Program assistance. Eligible uses of Program assistance may include the following:

- 1 Construction of new building
- 2 Acquisition of land and improvements. Acquisition of real estate if 50% or more owner occupied.
- 3 Inventory
- 4 Trucks and vans (restricted to business purposes only)
- 5 Leasehold improvements. Up to \$30,000. For new developments, tenant finish out allowance.

- must be equal 1 to 1 match of CP&R BLP loan proceeds. For existing structures, landlord must provide contribution equal to 25% of the CP&R BLP loan amount through any one or combination of reduced, deferred, or abated rents, security deposits, triple nets, additional rents, and/or rental insurance. Tenant finish out allowances are preferred in all cases.
- 6 Reimbursement of moving expenses that are necessary to complete the project that do not exceed 5% of total approved CP&R loan amount
- 7 Acquisition of machinery, furniture, fixtures and equipment necessary for the operation of the business
- 8 Reimbursement of development fees that do not exceed 5% of total approved CP&R loan amount
- 9 Reimbursement of reasonable professional fees, including surveying, appraising, engineering, architectural, and legal, accounting and closing costs not to exceed 5% of approved CP&R loan amount
- 10 Reimbursement of insurance costs associated with insurance requirements stipulated under the CP&R loan or security agreement. This does not include reimbursement of insurance costs or requirements requested or outlined by borrower or any third party
- 11 A contingency fund of 10% of the CP&R loan amount is allowed and may be requested at the time of application for any eligible expenses that are documented and verifiable cost overruns

C Ineligible Use of Program Assistance

The Program reserves the right to make any final determination of ineligible uses of Program assistance. The Program is under no obligation to fund any proposed activity should it determine that the activity does not meet the intent or purpose of the Program. Ineligible uses of Program assistance may include, but not be limited to the following:

- 1 Financing of speculative projects: signed leases will be required
- 2 Organizations/Individuals in or under any chapter of bankruptcy. Must be four (4) years removed from a discharged bankruptcy having reestablished a business which meets all eligibility criteria without necessity of waivers
- 3 Taxes (personal or business related property or income)
- 4 Incorporation and organization expenses
- 5 Working capital
- 6 Refinancing of existing personal or business loans
- 7 Security deposits
- 8 Any and all types of Broker, agent, application, finders, or commitment fees

D Eligible Program Areas (See attached map)

Program assistance may only be approved for businesses located in geographic locations designated by the Program. Businesses located outside of the designated Program areas are not eligible for assistance. The eligible Program areas are identified under two categories, Primary and Secondary. Proposed projects located in primary target areas will be given first consideration for assistance.

Primary Target Areas

- 1 Area of East Austin bounded by I-35 from Manor Road to Riverside Drive
- 2 Riverside Drive from I-35 to SH 71,
- 3 SH 71 from Riverside Drive to US 183,
- 4 US 183 from SH71 to Manor Road, and,
- 5 Manor Road from US 183 to I-35

E Eligible Applicant/Borrower

Only eligible applicant/borrowers may receive Program assistance. Eligible applicants/borrowers are defined as existing or start-up businesses that are located, plan to relocate or start a small business within the CP&R Zone (See CP&R Zone map). The NHCD reserves the right to determine the eligibility of Applicants and whether they meet the intent of the Program.

Eligible Applicants are businesses that may include, but are not limited to the following business structures

- 1 Small Businesses (For-profit businesses of any business structure)
- 2 Developers
- 3 Not for Profit Organizations
- 4 Community and/or Civic Organizations

Business in Growth (BIG) client – BIG program clients who have completed BIG training may receive consideration towards obtaining a modified loan from the Program for less than the minimum loan amount with the approval of the Program. However, under no circumstances shall any of the qualifying criteria of the Program be waived

### SECTION III LOAN TERMS

The NHCD shall have the authority to determine the terms by which Program assistance may be provided to eligible applicants. The Program may provide repayment loans, secured by a deed or trust. In order to receive assistance, the applicant must agree to the terms and conditions by which the Program assistance is provided. For consideration of Program assistance, the Program loan terms will meet the following conditions:

- A. **TERM OF LOAN:** Determined by need of the project, the term of other lenders, and the economic life of the asset being financed. (Maximum 8 years which includes any approved partial or full deferment period)
- B. **RATE OF INTEREST:** Ranges from 3 to 6 percent based on use of funds, debt coverage ratio, credit score, and useful life of asset financed and/or project
- C. **CREDIT:** Minimum score of 600-850. If credit score is less than 600 then a co-applicant with a credit score equal to or greater than 600 will be needed. The applicant and co-applicant credit scores must average above 600.
- D. **COLLATERAL:** Primarily business assets, personal assets are considered on a case-by-case basis, if needed in order to secure the loan. (Additional collateral may be required.)
- E. **GUARANTIES:** Personal Guaranty is required from each borrower or applicant.
- F. **EQUITY REQUIREMENT UNDER GAP FINANCING:**
- |                       |                         |
|-----------------------|-------------------------|
| Owner(s)/Borrower(s)  | 10% (If cash only)      |
| Owner(s)/Borrowers(s) | 15% (If cash and other) |
| Developer(s) only     | 25% (cash only)         |
- G. **EQUITY REQUIREMENT UNDER PRIMARY FINANCING:**
- |                       |                         |
|-----------------------|-------------------------|
| Owner(s)/Borrowers(s) | 20% (If cash and other) |
| Developer(s) only     | 30% (cash only)         |

The City is under no obligation to provide any financial assistance to an Applicant that is unable or unwilling to agree to the loan conditions of the Program

#### SECTION IV APPLICATION DOCUMENTATION

Each eligible Applicant is required to submit a complete Program application in order to be considered for assistance. The application must be in a form as prescribed by the Program. The information, documentation and content of the complete application is designed to provide enough information to determine whether the request for assistance meets the financial and programmatic intent of the Program. The NHCD is under no obligation to consider any application that is not complete. The NHCD reserves the right to determine the completeness of any application. Any incomplete application received may be given the opportunity to provide any requested or additional information required by the Program. Should any applicant fail to provide requested information within a 30 day timeframe, the NHCD may deny the application upon written notification. A complete application for assistance shall include, but may not be limited to the following:

A. Minimum Application Content

1. Line item Budget for proposed project
2. Complete business plan composed of four distinct sections: description of business, marketing, finances and management
3. Capital improvement and supply list
4. Pro-forma income projection by month for first year, and annually for two additional years. Provide assumptions upon which assumptions were based
5. Last three years and most recent profit & loss and balance sheet for your business
6. Last three years SIGNED AND DATED personal income tax returns
7. Last three years SIGNED AND DATED business tax returns (For sole proprietorships attach Schedule C, Form 1040, profit & loss from business)
8. A two year projected income statement
9. For a partnership, submit partnership agreement
10. Official filed d b a and articles of incorporation from Secretary of State Office
11. Resume(s) of principle owner(s) of the business, and key officer(s)
12. Complete Personal Financial Statement(s)
13. Letters of financial support and/or approved financial agreement(s)
14. Proof of attempt(s) to secure private financial support from traditional lending institutions
15. For franchises, a copy of franchise contract and all supporting documents provided by the franchisor
16. Valid U.S. Drivers license to be copied for each applicant or borrower
17. Valid U.S. Social Security card to be copied for each applicant or borrower



18 Credit reports dated within 30 days of the application for each applicant from Experian and Transunion

B The Program may require a market analysis for any proposed project. Should this occur, the market analysis should include the following:

- 1) business or product definition such as the mix of goods, merchandise, and/or services to be produced or sold
- 2) market description including primary and secondary trade areas, potential customer categories, major competitors, and marketing strategies
- 3) develop a "Needs Assessment" through the use of statistical data and an evaluation of such items as market trends, unmet customer demands, customer surveys, data supporting this need and potential success

B Describe and document ownership of collateral and its certified market value to be used for the loan

## SECTION VI PROJECT UNDERWRITING CRITERIA

All projects must demonstrate that they are economically viable. Economic viability is a basis to deny a request for assistance. The loan application will be reviewed on the basis of recognized business credit and real estate financing principles including capacity and collateral and the firmness of the project. In addition, loans will be awarded on a competitive basis based on the number of applications and fund availability. The NIICD will use the following competitive criteria in making its determination:

### 1. Capital

- A Owner (primary) investment of 10 percent if cash, or 15% if cash plus furniture, fixtures, and equipment or some eligible fund use as identified by CP&R BP guidelines
- B Secondary investment should be obtained from either traditional commercial lending institutions or nontraditional/governmental entities. Traditional commercial lending is highly desired and more favorable
- C Capital income to be realized should be in the form of cash, cash equivalents, investments or securities as a result of the project. Capital income is measured from highest to lowest liquidity
- D Capital assets are expected to be gained such as land, buildings, equipment and other real property. Business projects that increase in physical capital assets are highly desired with land, buildings and other real property being of greatest value

### 2. Credit

- A Acceptable credit scores are between the ranges of 600 and 850. Scores between 700 to 850 are highly desirable with scores between 600 to 699 being acceptable. If required, applicant(s) with scores less than 600 must obtain a co-applicant/borrower whose credit score when averaged with the applicant(s) will average above 600. In addition, co-applicants must agree to become guarantors to secure the loan
- B Paid/Current accounts are favorable. Based on the credit report, ninety (90) percent or more of total accounts reflected as paid or current is highly desirable. Paid/Current accounts of 80 percent is acceptable, while less is not

- C Total debt to equity ratio measures risk associated with the use of leverage (debt). A debt to equity ratio of .5 or less is highly desirable, while .51 to .75 is acceptable. A ratio of .76 or higher is unacceptable.
- D Current ratio measures ability to meet current obligations. A current asset to current liabilities ratio of 1.5 to 1 is highly desirable, while 1 to 1 is acceptable. A ratio of .99 or less is unacceptable.
- E Derogatory marks include lawsuits, judgments, bankruptcies and collection accounts. Two (2) or fewer is highly desirable, while three (3) to (4) is acceptable. Five (5) or more derogatory marks are unacceptable. In addition, only one (1) derogatory mark can be either a court judgment or bankruptcy and it must be at least 5 years since the date of discharge. Lastly, short statement of 300 words may be required to summarize the particulars of the judgment, or bankruptcy in question. Collection accounts must be at least 2 years old from date opened on the credit report.

### 3. Collateral

- A Collateral in the form of cash or cash equivalents is highly desired with liquidity being the measuring tool. Land and buildings are acceptable, while others such as inventory and accounts receivables are not.
- B Borrower equity of 100 percent in all said collateral is highly desirable, while 51 percent or more is acceptable. Less than 50 percent is undesirable.
- C Collateral that appreciates or that is interest bearing is highly desirable, while collateral that retains its value and does not decrease or increase is acceptable. Collateral that depreciates is not desirable. Equipment may be used as collateral, but will be considered at 80 percent of its market value and must have a useful life of at least five (5) years. In addition, the useful life of collateral may not exceed the payback period of the loan.
- D Business assets are the preferred type of collateral, while combinations of business and personal assets are acceptable, but business assets must secure the loan at a 4 to 1 ratio to personal assets. Personal assets alone are not desired as stand alone security for a loan, but may be considered on a case-by-case basis when cash or real property is pledged.
- E Personal guarantees are highly desired by all borrowers or investors who have a 10 percent or more interest in the business. Personal guarantees from all borrowers or investors who have a 20 percent or more interest in the business is acceptable. Personal guarantees not obtained by individuals with 20 percent or more in the business is unacceptable.

### 4. Community Impact

- A Projects within the NCMP target area are highly desirable, while projects within the City of Austin's Incorporated city limits (Full Purpose Area) are acceptable. Projects outside the desired or acceptable boundaries are not acceptable. Projects in the limited purpose area (LPA) and extended territorial jurisdiction (ETJ) are not eligible.
- B Businesses that provide access to new goods and services are highly desirable while businesses that provide access to existing goods and services are acceptable. Businesses that do not provide access to a good or services are not acceptable.

Or,

- Businesses that increase access to needed goods or services or goods and services that have a documented unmet demand are highly desirable, while businesses that do not meet a need or unmet demand, but increase access to goods and services are acceptable  
Businesses that do not increase access, or meet a needed demand for a good or service are not acceptable
- C Physical improvements to aesthetically under developed areas are highly desirable, while improvement to developed areas are acceptable Improvements to aesthetically well developed are not favorable
  - D Private investment received from friends, family, employees, customers, or industry colleagues is highly desired, while investment from venture capitalist is acceptable No private investment is unfavorable
  - E Businesses with 100 percent women and/or minority ownership are highly desirable, while businesses with 51 percent or more either woman and/or minority ownership are desirable Businesses with 50 percent or less either women and/or minority ownership are not as favorable
  - F Business projects located within the CP&R are highly desired, while projects located within the Austin city limits but not in the CP&R Zone are desired Projects not located within the CP&R Zone, or the Austin city limits are not desired
  - G Increase net worth Increase net worth of business and owner = 2, increase net worth of business or owner = 1, does not increase net worth of either business or owner = 0

## 5. Economic Feasibility

- A Financing that is secured and documented with signed commitment letter(s) including terms are highly desirable, while financing that has been initiated before or simultaneously with an application for NCMP funding, but not secured and documented by commitment letters is acceptable Applications for NCMP funding alone are not acceptable, unless recommended by staff
- B Management (or borrowers) that possess six (6) years or more combined experience education or training is highly desirable, while management that possess three (3) to five (5) years combined experience, education or training is acceptable Management that possess two (2) years or less experience, education or training is unacceptable
- C Products and services that are of a quality above industry standards are highly desirable, while products and services that meet industry standards are acceptable Products and services that are below industry standard are unacceptable
- D Marketing strategies that are economically and strategically sound and that support the establishment of a competitive advantage sound are highly desirable, while marketing strategies that are economically and strategically sound, but do not establish a competitive advantage are acceptable Marketing strategies that are not economically or strategically sound are unacceptable
- E Market analysis that fully support financial and performance projections are highly desirable, while marketing analysis that partially support financial and/or performance projections are acceptable Marketing analysis that does not support financial and/or performance projections is unacceptable

## SECTION VII LOAN APPROVAL PROCESS & TIMELINE

### A Review Process

The NIICD is responsible for establishing a process to review, recommend and approve all complete requests for Program assistance. All requests for Program assistance are subject to fund availability. Only applications meeting all applicable requirements of the Program may be considered for approval and funding.

The Program may establish a CP&R Business Loan Program Committee or by NIICD discretion refer loan applications to the NCMP Loan Committee. Both Loan Committees serve the same purpose which is to provide lending expertise to review and make recommendations regarding the approval for the requests for assistance from eligible applicants.

If the City Manager or designee establishes and appoints a CP&R Business Loan Program Committee, a four (4) member selection committee shall be made up of professionals as defined in Section 1, Program Administration, C Definitions. Members will be appointed by the City Manager or *designee*. Three (3) members may constitute a quorum. The selection committee will later approve or reject the proposal based on a simple majority vote. The committee may reject applications outright, request additional information, or suggest alternative ideas and financial structuring to the Borrower. The committee will consider the proposals using the award criteria above. Although the City will consider the advice and recommendations of the Loan Committee, the Committee is operating in an advisory capacity only and the City is not obligated to following the recommendations by the Committee. The City may accept in part or whole, or reject the recommendations of the Committee.

The Loan committee will make its final recommendations on each proposal to the City Manager (or her/his designee). If loan amount exceeds the City Manager's authority, it will require City Council approval by resolution. The City Manager (or her/his designee) may then authorize the City to enter into the necessary agreements to carry out the agreed upon financial assistance. All documents, loan instruments, and program income agreements used in this Program shall be developed by and approved by the City Attorney.

### B Timeline for Non Federal Projects

#### Day 1 to 14 –Review of Application (14 Days)

- Review application for eligibility
- Review application/project for national objective
- Review application for completeness based on checklist and applicant/organization type
- If application is incomplete, notify applicant in writing of application deficiencies
- If application is deemed complete, conduct staff analysis
  - 1 Credit Review
  - 2 Financial ratio and analysis (Current, quick, cash, asset turnover, inventory turn over, profit margin on sales, gross margin on sales, debt/equity, and debt to total assets)
  - 3 Business Plan Review
    - a Business information
    - b Market analysis
    - c Marketing strategy
    - d Operations
    - e Management & Personnel
    - f Financial Status (Financial P&L (Income), Cash Flow Statements and Balance Sheet)
    - g Financial Projections- Proformas (Yr 1 Month-to-Month, Yr 2 & Yr 3 Year-to-Year)
    - h Supporting documents, letters of financial support, commitment letters, lease or purchase agreements bids, budgets

#### 4 Personal Financial Statement

- Score application using - Score Card
- If score is appropriate then recommend to Loan Committee, if not then notify applicant in writing of score card results and available options
- Prepare Program staff summary to NHCD management & NCMP Loan Committee

#### **Day 15 to 30 – Loan/Grant Committee Review (16 Days)**

- Schedule Loan Committee meeting
- Conduct Loan Committee meeting
- Members vote and make recommendations (approve, approve w/conditions, denied)
- Prepare Loan Committee Summary
- Notify applicant of results

#### **Day 31 to 44 – Contract Negotiation & Development (14 Days)**

- Work through any issues, concerns or matters identified by Program staff, NHCD management or the Loan Committee
- Finalize terms or structure of deal to as mutually agreeable as possible based on Program guidelines
- Provide final documentation of insurance, equity investment, collateral and/or financing
- Send Law Department term letter input form
- Send Law Department loan or grant input form
- Staff review of final loan documents
- Borrower review of final loan documents
- Participating lender(s) or equity contributor review of final loan documents
- Coordination of loan closing with title company, if required
- Review of HUD-1, if required
- Certified funds delivered at closing as required
- Closing instructions and final loan documents from all lenders delivered to closing company/site

#### **Day 31 to 38 – Terms & Process Requirements. (8 Days)**

- Borrower register with City of Austin Vendor Database
- Provide City with copies of insurance certificates on ACCORD form satisfying Insurance Requirements (Exhibit B)
- Provide Risk Management with Insurance Requirements (Exhibit B) and copies of insurance certificates on ACCORD form
- Initiate CARR Process (Internal NHCD process)

#### **Day 45 to 47 – Loan/Grant Execution. (3 Days)**

- Execute loan documents
- File required recordable documents with Travis County and/or Texas Secretary of State Office
- Distribution of executed/recorded documents to all parties

#### **Day 48 to 52 – Contract Set-Up. (5 Days)**

- Provide completed CARR Form w/attachments to NHCD Finance (Internal NHCD Process)
- Provide executed loan documents with transmittal memo/attachments/exhibits to NHCD Finance
- Provide insurance requirement approval correspondence from Risk Management to NHCD Finance

#### **Day 53 to 82 – Release Funds. (30 Days)**

- Funds are disbursed based on either Reimbursement or Direct Pay for Performance as determined by Program staff and/or policy
- Borrower submits to NHCD Program staff "Pay/Draw Request Form" with invoices, receipts, cancelled checks and other documentation as required
- Submit documentation as required by NHCD Finance

- City of Austin Finance Department reserves up to 30 days from the date of receipt of an acceptable and approved check request by any City Department/Vendor/Contractor

**Please notice that Council Action and the Environmental & Fund Release Processes are not required. This saves at a minimum 35 to 40 days.**

## SECTION VIII GRIEVANCES AND APPEALS

Persons aggrieved by any action or inaction of the Division, Department or the CP&R Business Loan Program Committee, which occurs in the implementation of these policies and who wish to appeal said action or inaction must do so by submitting said appeal in writing to the Assistant Director within fifteen (15) days of the action or inaction deemed aggrieving by said person. The Program Manager of the Division is charged with administrative responsibility for reviewing said appeals or grievances. He/she shall submit to the Assistant Director a written summary of each grievance received, along with an explanation of administrative action taken or recommended within fifteen (15) days of his/her receipt of the written grievances from the Assistant Director. The Assistant Director will communicate his/her decision regarding the appeal to the aggrieved in writing within fifteen (15) days of his/her receipt of the written grievances from the grievant. If the grievant is not satisfied with the Assistant Director's decision, he/she may appeal to the Director. An appeal to the Director must be filed no later than fifteen (15) days from the date the grievant receives the Assistant Director's written decision. The Director constitutes the highest administrative appeal.

## SECTION IX FUNDING AND FUNDS MANAGEMENT

### A Funds Available to Program

Funds available to the Program shall be set forth by separate ordinance and shall be augmented by such other funds as may be specified from time-to-time by City Council ordinance.

### B Funds Management

All funds held in the name of this Program shall be administered as determined by the City Manager and may be managed by a financial institution and as authorized by separate ordinance. Funds on deposit, loan repayment funds, and program income shall be returned to the City program account for recycling into new projects under the NCMP unless otherwise directed by City Council.

## SECTION X FINANCIAL ASSISTANCE

### A General

CP&R BLP is designed to encourage maximum leverage of private equity and private financing and minimize the public subsidy cost while addressing Program goals within CDBG eligibility requirement. No speculative purchases or building mothballing will be considered under this Program.

The total of City assistance plus all other debt with higher lien priority shall not exceed 115% of the appraised market value of the completed project.

### B Funding Terms

Construction period-only loans, in general, will accrue interest on the amount disbursed from the date of a disbursement with interest capitalized and repayment due at the earlier of construction completion or date of take-out financing, not to exceed an 18 month period. Combination construction period and permanent loans, in general, shall accrue no interest for construction period or of one year from initial disbursement, whichever is less. The Program will require full amortization of principal and interest in equal monthly payments.

C      Conditions of Assistance

- 1      Property is to be secured by mortgage in either first, second lien priority. Third lien position request will be considered on a case-by-case basis, and will require project collateral to exceed total project value or total financing by at least 20 percent, whichever is the greater of the two.
- 2      Equipment or property must possess a useful life of at least 5 years or more. Equipment or property will be secured in either a first or second lien position ONLY.
- 3      Assistance generally will be non-recourse with recovery rights limited to project property and income therefrom, but collateralized or recourse loans may be required.
- 4      Contractors and all subcontractors providing work under this Program are to be licensed and must meet insurance and bonding requirements of the City and/or State or Federal entities as required by contract. The contractor and/or subcontractor are to be knowledgeable of and responsible for quality workmanship and for proper business practices.
- 5      All work is to be covered by normal required permits and approvals of affected agencies.
- 6      All work must be inspected by the City Department of Planning and Development to insure conformance with code and must be verified for proper completion by city staff to insure compliance with specifications prior to final payment. The final inspection cannot be scheduled until field inspectors have signed off all permits taken out.
- 7      All eligible improvement work performed pursuant to a commercial rehabilitation loan must include a 12 month warranty from the date of accepted completion by the loan recipient and the City. This warranty must cover the quality of materials used and workmanship. The warranty is the responsibility of the loan recipient.
- 8      Projects may have a requirement that funds, both public and private be drawn down at a pro-rata share based on percentage of participation.
- 9      A minimum 10% cash equity investment of project costs is required for all projects or, total borrower equity investment including project specific business needs such as equipment, furniture and fixtures, and other physical or financial capital as determined must total 15% of total project cost.
- 10      Secondary investment is encouraged from partners, associates, philanthropists, friends and family. Secondary investment by non-business partners is acceptable, but if greater than 10 percent by any one individual or group a subordination agreement may be necessary as well as borrower/investor agreements concerning business assets, and payment of dividends or loans.
- 11      Debt Service Coverage must be greater than 1.1 in all years or months in cash flow proformas. Proformas must demonstrate sufficient cash flow throughout life of project and equal to loan terms.
- 12      Firmness of the project must be determined satisfactorily. The borrower must demonstrate that there are no impediments to initiating the project except for the CP&R Business Loan Program award. Project estimates must be firm, precise, and detailed. The lenders, equity participants, and other participating investors must provide evidence of their authority, capacity, (except regulated lending institutions who do not have to demonstrate capacity) and intent to participate in the project.

- 13 Demonstrate need for Program financing (Necessary or Appropriate Determination) to obtain assistance from CP&R Business Loan Program, all the financial participants in the project must clearly declare in letter form that they are unable to provide additional funds in the project and demonstrate that without the CP&R BLP's participation in the project they will not be able to proceed because they will not be able to produce an economically viable project
- 14 The loan must be recyclable by means of repayment by the borrower. The funds will flow directly from the City or its agent to the borrower to be repaid directly to the City or its agent.
- 15 Acceleration of principal repayment for developer deals will be enforced in instances where developer projects which are very successful and either throw off substantial cash flow or significantly appreciate in value shall provide the City accelerated payment of principal on the loan. Developer projects whose cash flow and appreciation in value exceeds certain percentage (percentage to be negotiated prior to closing) will apply a minimum of 20% of the cash flow in excess of that certain percentage to the principal balance of the loan.

When Non-profit Organization Participation is identified it must be documented and verified. The applicant must provide adequate data to determine that a non-profit organization has ownership of the project.

- 16 Minimum borrower & private sector financing leverage criteria of 60/40. The Program is to serve as a catalyst to trigger private sector investment in commercial redevelopment areas. Projects with higher leverage ratios are looked upon favorably. The minimum leverage formula should be

$$\text{Leverage Ratio} = \frac{\$ \text{ Private Investment} + \text{Other Public} + \text{Equity (60\% or more)}}{\text{CP\&R BLP (40\% or less)}}$$

Private Investment Amount may include

- 1 Conventional private sector mortgage,
- 2 Purchase money mortgage
- 3 IRB's,
- 4 Leases equal to the life of the loan or in proportions thereof,
- 5 Land lord investment (build-out allowance and/or full or partial forgiveness of rental payments,
- 6 SBA 503, 504 and SBA 7 (a) Guaranteed Loan Programs or similarly guaranteed loan programs,
- 7 Second or third party investor equity,
- 8 Equity investment to remain in the project throughout life of the Program loan

Public Investment may include

- 1 Direct loans or grants made by federal or state agencies
- 2 Non profit and community lending and development organizations

Please Note: To be counted in the numerator the investment must be made in eligible fixed assets -

## SECTION XI

### LOAN RENEGOTIATION

In the event of loan repayment difficulties not due to applicant neglect, malfeasance, or misfeasance and upon recommendation by the Loan Committee, the City Manager (his/her designee) is authorized to revise the loan repayment terms to defer or to partially defer payments and/or extend the original loan terms up to an additional two years (not exceeding a total ten year term). However, the City is



under no obligation to consider renegotiation if it is determined that to do so would be a detriment to the Program or the City

## SECTION XII            DEFAULT

A default shall exist if any use of CP&R BLP funds for any purpose other than authorized in the CP&R Contract or any breach of any covenant, agreement, provision, or warranty of (i) the Borrower made in the CP&R BLP application, or (ii) the Developer made in any agreement entered into between the Borrower and any participating party relating to the project

## SECTION XIII          WAIVER OF PROVISIONS

The City Manager (or said authorized official) may waive compliance with any provision of the guidelines if to do so does not violate any federal, state, or City law or regulation and is in the best interest of the City of Austin

**CITY OF AUSTIN  
CP&R BUSINESS LOAN PROGRAM (CP&R BLP)  
DEPARTMENT OF  
NEIGHBORHOOD HOUSING AND COMMUNITY DEVELOPMENT  
(Revised September 28, 2007)**

**CP&R BLP LOAN SCORE CARD**

Note: Five (5) categories identifying twenty-six (26) criterions each worth two (2) points each

**I. Capital**

A Owner investment	2	1	0
B Secondary investment	2	1	0
C Capital Income	2	1	0
D Capital Assets	2	1	0

---

**I Capital Point Score**

---

**Note: Capital Scoring Criteria**

- A Owner investment Less than or equal to 9% <= 0, Greater than or equal to 10% >= 1, Greater than or equal to 15% >= 2
- B Secondary investment Commercial (traditional) = 2, governmental/nontraditional = 1, none = 0
- C Capital income Cash & cash equivalents = 2, Investments = 1, Other = 0
- D Capital assets Land and/or buildings = 2, Equipment = 1, Other = 0

**II. Credit**

A Score	2	1	0
B Paid/Current	2	1	0
C Total debt to equity ratio	2	1	0
D Current ratio	2	1	0
E Derogatory Marks (DM)	2	1	0

---

**II Credit Point Score**

---

**Note: Credit Scoring Criteria**

- A Score (500 < 579 = 0, 580 < 699 = 1, 700 < 850 = 2).
- B Paid/current accounts 90% or more of accounts PD = 2, 89-80% or more of accounts PD = 1, 79% or less of accounts PD = < 0
- C Total debt to equity ratio (Debt/net assets) – leverage ratio assessing risk created by the use of leverage Less than 5 = 2, 51 > 75 = 1, Greater than 76 = 0
- D Current ratio (Current assets/current liabilities) - liquidity ratio measuring ability to meet current obligations Greater than or equal to 1.5 = 2, from 1.51 to 1.0 = 1, Less than 1.0 = 0
- E Derogatory marks (DM) 5 or more DM = 0, 3 to 4 DM = 1, 2 or less DM = 2) Includes judgments, bankruptcy, and collection accounts

### **CP&R BLP Score Card (continued).**

#### **III. Collateral**

A Assets	2	1	0
B Equity	2	1	0
C Depreciation/Appreciation	2	1	0
D Business/Personal assets	2	1	0
E Personal Guarantor(s)	2	1	0

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#### **III Collateral Point Score**

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##### **Note: Collateral Scoring Criteria**

A Assets Cash & Cash equivalents = 2, Land & buildings = 1, Accts Receivable & inventory = 0

B Equity Borrower(s) Equity in collateral 100% > = 2, 51% > = 1, less than 51 % = 0

C Depreciation/appreciation Collateral appreciates/interest bearing = 2, remains constant = 1, depreciates = 0

D Business/personal assets Fully collateralized by business assets = 2, Combination of Business and personal at a ratio of 4 to 1 = 1, Other = 0

E Personal Guarantor(s) Secured by all who own 10% or more = 2, all who own 20% or more = 1, other = 0

Note Community Impact and Economic Feasibility identify (12) criterions each worth two (2) points each

#### **IV. Community Impact**

A NCMP Target Area	2	1	0
B Access to Goods/Services	2	1	0
C Physical improvement	2	1	0
D Private investment	2	1	0
E Women/minority owned	2	1	0
F CP& R Target Area	2	1	0
G Increase net worth	2	1	0

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#### **IV Community Impact Point Score**

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##### **Note: Community Impact Scoring Criteria**

A NCMP target area Within target area = 2, Within City of Austin Full Purpose = 1, Within LPA/ETJ = 0

B Access to goods/services Provides access to new goods/service = 2, access to existing goods/services = 1, Increase access to goods/services Increase access to a needed good/service = 2, increase access to goods and services = 1, does not increase access, or meet a needed demand for a good or service = 0

C Physical improvement Aesthetically under developed area = 2, aesthetically developed area = 1, aesthetically well developed area

D Private investment Friends, family, employees, customers, industry colleagues = 2, venture capitalist = 1,

E Woman/minority owned 100 percent woman & minority ownership = 2, 50 percent minority and/or woman = 1, less than 50 percent woman or minority ownership = 0

F CP&R Target Area Within target area = 2, Within City of Austin Full Purpose = 1, Within LPA/ETJ = 0

G Increase net worth Increase net worth of business and owner = 2, increase net worth of business or owner = 1, does not increase net worth of either business or owner = 0

**CP&R BLP Score Card (continued).**

**V. Economic Feasibility**

A Financing	2	1	0
B Management (Borrower)	2	1	0
C Product/Service	2	1	0
D Marketing strategy	2	1	0
E Market Analysis	2	1	0

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**V Economic Feasibility Point Score**

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**Note: Economic Feasibility Scoring Criteria**

- A Financing Secured prior to applying = 2, submitted simultaneously = 1; incomplete = 0
- B Management Possess 6 years or more combined experience, education/training = 2, Possess three (3) to five (5) years combined experience, education/training = 1, Possess 2 years or less combined education and experience = 0
- C Products/service Products/services are above industry standards = 2, meet industry standards = 1, below industry standards = 0
- D Marketing strategy Strategy economically and strategically sound that establish a competitive advantage = 2, marketing strategy that is economically and strategically sound, but does not establish a competitive advantage is acceptable, marketing strategy that is not economically or strategically sound is un acceptable
- E Market analysis Analysis conducted and fully supports financial and performance projections = 2, analysis conducted and partially supports financial and/ or performance projections = 1, fails to support projections = 0

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**VII Overall Score**

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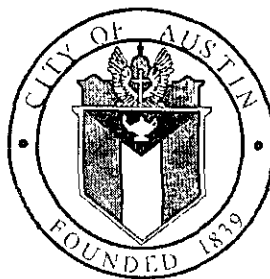
**Score Ranges**

**52 – 48 -- Recommend Approval**

**47 – 43 -- Recommend Approval with Conditions**

**42 – 37 -- Recommend Modify & Resubmit or Denial**

**36 < = -- Recommend Denial**



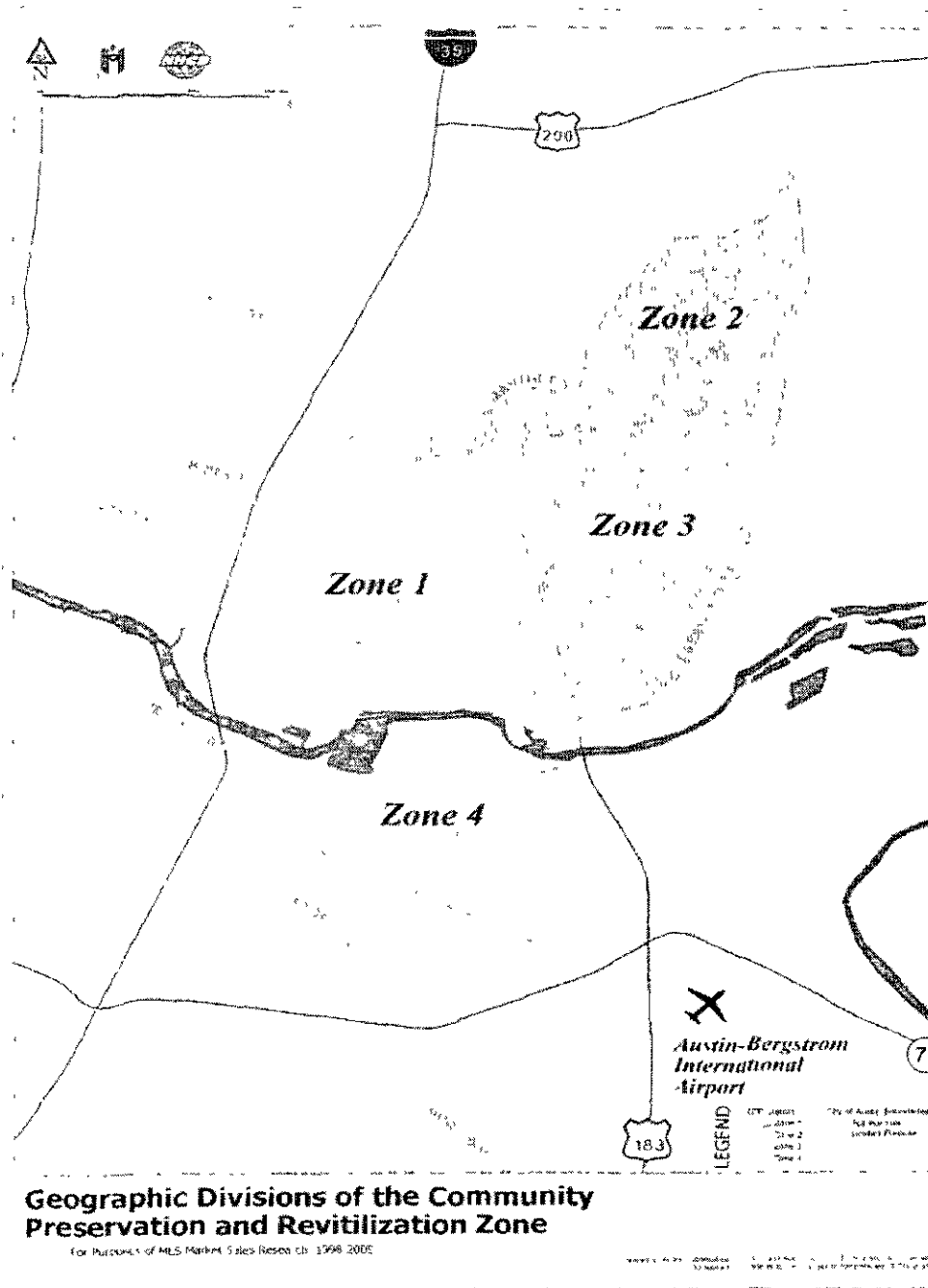
## REQUIRED ATTACHMENTS CHECKLIST

Please provide the following information

- 1 Line item Budget for proposed project
- 2 Complete business plan composed of four distinct sections description of business, marketing, finances and management
- 3 Capital improvement and supply list
- 4 Pro-forma income projection by month for first year, and annually for two additional years  
Provide assumptions upon which assumptions were based
- 5 Attach last three years and most recent profit & loss and balance sheet for your business
- 6 Attach last three years SIGNED AND DATED personal income tax returns
- 7 Attach last three years SIGNED AND DATED business tax returns (For sole proprietorships attach Schedule C, Form 1040, profit & loss from business)
- 8 Attach a two year projected income statement
- 9 For a partnership, please submit partnership agreement
- 10 Attach official filed d b a, and/or articles of incorporation from Secretary of State Office
- 11 Attach resume(s) of principle owner(s) of the business, and key officer(s).
- 12 Complete the enclosed Personal Financial Statement(s)
- 13 Letters of financial support and/or approved financial agreement(s)
- 14 Proof of attempt(s) to secure private financial support from traditional lending institutions
- 15 For franchises, a copy of franchise contract and all supporting documents provided by the franchisor
- 16 Valid U S Drivers license to be copied for each applicant or borrower
- 17 Valid U S Social Security card to be copied for each applicant or borrower
- 18 Credit reports dated within 30 days of the application for each applicant from Experian and Transunion

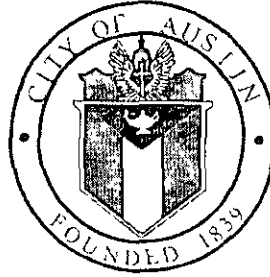
Return by mail or deliver to  
 CP&R BUSINESS LOAN PROGRAM  
 CITY OF AUSTIN  
 NEIGHBORHOOD HOUSING AND COMMUNITY DEVELOPMENT OFFICE  
 1000 East 11<sup>th</sup> Street Suite 400  
 PO BOX 1088  
 Austin TX 78767-1088  
 For Additional Information Contact Neighborhood Housing and Community Development Office, (512) 974-3100

**CP&R Zone Map (Eligibility Area is highlighted)**



CP&R BUSINESS LOAN  
PROGRAM

APPLICATION



I LOAN AMOUNT REQUESTED \$ \_\_\_\_\_

II BUSINESS INFORMATION

a) Business Name \_\_\_\_\_ Tax ID No \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Bus Phone \_\_\_\_\_ Home Phone \_\_\_\_\_  
Contact Person \_\_\_\_\_ Title \_\_\_\_\_

b) Type of Business Activity \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

( ) Sole Proprietorship  
( ) Partnership  
( ) Corporation Type \_\_\_\_\_  
In business since \_\_\_\_\_

c) Business Owners  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Address \_\_\_\_\_ Social Security No \_\_\_\_\_  
Date of birth \_\_\_\_\_ % Ownership \_\_\_\_\_  
  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Address \_\_\_\_\_ Social Security No \_\_\_\_\_  
Date of birth \_\_\_\_\_ % Ownership \_\_\_\_\_  
  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Address \_\_\_\_\_ Social Security No \_\_\_\_\_  
Date of birth \_\_\_\_\_ % Ownership \_\_\_\_\_

III PROPERTY INFORMATION

a) Current Facility Owned (\_\_\_\_) Leased (\_\_\_\_)  
b) Is business relocating? \_\_\_\_\_ Address \_\_\_\_\_  
Leased (\_\_\_\_) Owned (\_\_\_\_) Size of Building \_\_\_\_\_ sq ft  
No of floors \_\_\_\_\_ Owner Occupied \_\_\_\_\_ %

IV EMPLOYMENT INFORMATION

A Total number of employees at time of application, \_\_\_\_\_ of these  
1 Number of full-time employees \_\_\_\_\_,  
2 Number of part-time employees \_\_\_\_\_

- B Total number of jobs proposed to be created, \_\_\_\_\_ of these
- 1 Number of jobs available to low and moderate income individuals \_\_\_\_\_
  - 2 Number of full-time jobs \_\_\_\_\_
  - 3 Number of part-time jobs \_\_\_\_\_

II USE OF FUNDS (attach budget)

Description	Cost
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

III COLLATERAL

Description	Value
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

VII SOURCE OF FUNDS (proposed)

			Rate	Term
CP&R Amount	\$ _____	_____ %	_____	_____ months
Bank	\$ _____	_____ %	_____	_____ months
Other Source	\$ _____	_____ %	_____	_____ months
Equity Funds	\$ _____	_____ %	_____	_____ months
Total Financing \$ _____	_____	100 %		

IV GUARANTORS

Name \_\_\_\_\_ Address \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

( ) Attach financial statements and cash flow information

APPLICANT

I hereby certify that all information contained in this document and any attachments is true and correct to the best of my knowledge

If applicant is a sole proprietor or general partner, sign here By \_\_\_\_\_

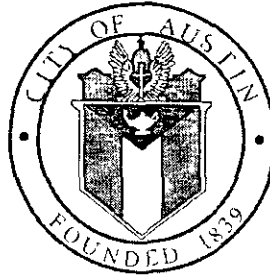
Title \_\_\_\_\_

If corporation sign below Corporate Name \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_ Attested by \_\_\_\_\_

Signature of Corporate Secretary





## FAIR LENDING NOTICE

**RIGHT OF PRIVACY ACT** This is to inform you, as required by the Right to Financial Privacy Act of 1976, that the Department of Housing and Urban Development and the Veterans Administration have a right to access financial records held by a financial institution in connection with the consideration of assistance to you. Financial records will be made available to the Department of Housing and Urban Development and the Veterans Administration without further notice or authorization, but will not be disclosed or released to another government agency or department or private entity without your consent except as required or permitted by law.

**FAIR CREDIT REPORTING ACT** Neighborhood Housing and Conservation Office, as part of the processing of your loan application, will request both a consumer and business credit report bearing information on your credit worthiness, standing, capacity, character, general reputation, personal characteristics, or mode of living. This notice is given pursuant to the Fair Credit Reporting Act of 1977, Section 606(a)(1). Pursuant to Section 606(b), you are entitled to such information within 5 days of written demand made within a reasonable period of time to Neighborhood Housing and Community Development Office, 1000 East 11<sup>th</sup> St., Ste 400, P.O. Box 1088, Austin, Texas 78702.

**EQUAL CREDIT OPPORTUNITY ACT** Pursuant to Section 209.9, Paragraphs (a)(2) and (b)(1) of Regulation B regarding Section 701(a) the following notice is given. The Equal Credit Opportunity Act prohibits creditors from discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, and age (provided the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income is derived from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency which administers compliance with this law, is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C.

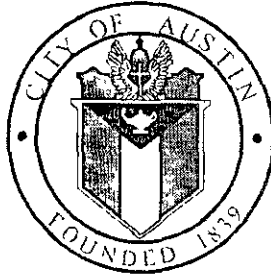
I/We Acknowledge receipt of a copy of this notice

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date



## CREDIT INFORMATION DISCLOSURE AUTHORIZATION

I/we hereby authorize you to release to the City of Austin, for verification purposes, information concerning

Employment history dates, titles, income, hours worked, etc

Banking and savings account records

- Mortgage loan information including open date, high credit, payment amount, due date, loan balance, interest rate and payment record
- Exchange any information with the financial institution that is processing the application pertaining to this loan

The above loan reports are for confidential use in compiling information regarding a commercial loan requested by the applicant(s) signing this form

A photographic or carbon copy of this authorization (being a photographic or carbon copy of signature(s) of the undersigned) may be deemed to be the equivalent of the original and may be used as a duplicate original

Your prompt attention to this matter will help expedite my loan application

Thank you,

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Date