CITY OF KINGSBURG
ECONOMIC DEVELOPMENT INCENTIVE

DEVELOPMENT BASED FORGIVABLE LOAN
PROGRAM GUIDELINES

PROGRAM PROPOSAL:
DEVELOPMENT BASED FORGIVABLE LOAN PROGRAM

Overview

This program is designed to assist property owners with gap financing alternatives that promote the long-term economic sustainability for the City of Kingsburg. The Kingsburg City Council has designated "residual property tax funding," to be used for new development and/or rehab projects that would otherwise not occur without such funding. Prior to 2011, California law allowed local governments to create redevelopment agencies (**"RDAs"**) that assisted in the economic redevelopment of various areas. RDAs provided a form of tax increment financing. Cities could use the funds to help attract businesses to depressed areas, cleanup contamination, and make improvements to public areas to promote quality of life. In 2011, the California legislature passed AB 26, which essentially eliminated these agencies throughout the state. Limited RDA powers were transferred to successor agencies, which were required to fulfill all outstanding obligations of the RDA.

After the elimination of RDAs, the property taxes that once went to the Kingsburg RDA are now placed in a county-wide Redevelopment Property Tax Trust Fund (**"RPTTF"**). The state recognized that RDA successor agencies are still required to fulfill financial obligations that were entered into prior to the elimination of RDAs. The City has an approved "Last and Final Recognized Obligation Payment Schedule (ROPS)" by the California Department of Finance. As such, the City receives an apportionment from the RPTTF to fulfill the ROPS obligations. If funds remain in the RPTTF after payments are made for the ROPS obligations for each successor agency, the remaining funds are considered residual RPTTF funds and are distributed proportionally to the taxing entities that would have received tax revenues from the former RDA project areas. The City's share of RPTTF funds will be used to fund this loan program. The program will operate as follows:

- City Assistance – City will provide a 50/50 match for qualified improvements up to $75,000. Amounts requested over $75,000 will be considered by the City Council. Matching funds can be from private investment.

- Example: A building owner is spending $200,000 on fire sprinkler and additional structural building repairs. They can request funding for eligible ADA improvements, fire sprinklers and other necessary life safety items. For determining the 50/50 match, all building improvements will be considered as a whole as opposed to per improvement.

- Per Property Limit - Up to $75,000 per property (unless council approves a larger amount).
- Program Budget – The RPTTF residual amount is dependent upon property tax collection. Currently, approximately $150,000 is collected annually. Council can discontinue this program at any time.
- Property owner must be willing to keep the space for commercial use for a minimum of ten years after loan approval. The loan will be forgiven on a pro-rata percentage each year the space is kept in compliance.

Location

The property must be located within an eligible commercial district within the city limits.

Approved Projects

It is the desire of the City Council to maintain flexibility when considering potential improvement projects and their long-term benefit to a viable, diverse local economy. In order to streamline the application process and to provide clarity with regards to 'pre-approved' improvements, the following shall be considered permitted improvements, with application approval made by staff.

1. ADA Improvements (e.g. path of travel and restroom)
2. Life Safety Improvements (e.g. Seismic and Fire suppression); these improvements must be approved by the City.
3. Utility improvements required in order to accommodate a business that provides increased sales and/or property tax. Applicant must show deficiency exists and is required (for example: power upgrades required by PG&E).

Procedures

- Applicants must apply before Project construction begins (demolition may begin earlier) and will have twelve months to complete the Project after the application approval date.

- Projects must score a minimum of 10 points out of 17 to be eligible for consideration for the program.

- Property owners must submit an application and supporting documentation as required by the City.

- On a monthly basis, applications will be reviewed and evaluated based on the attached scoring criteria as may be amended from time to time by the City. If multiple Projects are submitted in one month, Projects will be ranked in scoring order from highest to lowest score. Projects that receive the most points will be approved for funding. Once the annual fund balance for the program is exhausted, funding will be unavailable until the next annual budget. If funds are budgeted for the next budget year, any approved but unfunded applications will be funded first to extent budget funds are available for the program If two applications are received in the same month and receive the same amount of points and there is limited funding, funds will be awarded to the applicant that is first to have its application approved by the City.

Property Owner Qualifications

- Applicants and affiliated persons and/or entities for this program must not be delinquent in obligations to pay loans, fines, liens, or other obligations to the City of Kingsburg, as determined by the City.

- All other properties owned by applicant in Kingsburg must be in good standing and must be in compliance with all applicable Laws, as determined by the City.

Property Qualifications

- Eligible properties are properties used solely for retail or commercial uses. Owner will be required to maintain retail or commercial uses for a minimum of 10 years after completion of all improvements to the property.

- New construction is eligible if all other program requirements are met.

- Only owners of properties may apply under the program. Owners may make an application for more than one property.

- The property must be an eligible commercial zone.

- Facades visible from the public right of way must be an improved condition and comply with all applicable Laws. City funding under this program may not be used to improve facades, unless specifically approved by the City Council. Facades must be in a condition that does not detract from or change the architectural character of the building. When feasible, the original design of the facade should be restored so that it is contextually appropriate with the age and character of the building. Applicants may also participate in the City's Façade/Alley improvement program, if eligible funding exists.

- The property must comply with all applicable Laws on the completion of the rehabilitation. The City will inspect the property to ensure compliance. The City will evaluate on a case-by-case basis an application for rehabilitating only a portion of the building as part of the submitted project. The use of green construction methods and energy efficient design is encouraged.

- The property must be in compliance with applicable City zoning regulations.

- The City has the right to inspect the property annually for a period of ten (10) years after completion to confirm appropriate uses and the building complies with all applicable Laws.

Rehabilitation Process

- Certified architectural drawings must be provided to the Building/Planning Department as part of the application process. When applicable, the Project should submit for Site Plan Review to ensure compliance with city standards (per municipal code).

- All applicable state and local permits must be acquired, and associated documentation must be supplied to the Building/Planning Department.

- Funding is provided on a reimbursement basis, contingent upon receipt of required documentation. Progress draws are allowed once a month for no less than 10% of the total amount of the program loan. A 10% retainage on all draws will be paid at the completion of the Project after the project receives an unconditional Certificate of Occupancy.

- All work must be completed by contractors licensed by the State of California. Contractors and subcontractors must also hold a City of Kingsburg business license and be in good standing under such license prior to the commencement of work.

Funding Terms/Scope of Work

- The City will fund up to 50% of the total cost to finance City approved improvements based on funding availability (not to exceed $75,000) for eligible expenses).

- Loans will be documented as follows:

    - The Loan will be evidenced by a secured promissory note ("**Promissory Note**") and a first deed of trust ("**Deed of Trust**") prepared by the City. If the Deed of Trust will not be a first Deed of Trust recorded against title to the property, eligibility to participate in the program will be determined by the City on a case-by-case basis.

- Annual Promissory Note payments will be forgiven so long as the property owner complies with all provisions of the Development Agreement, Promissory Note and Deed of Trust and the property continues to be used solely for retail/commercial uses for a period of ten (10) years.

- The loan to value ratio for all debt secured by the property on the date of recordation of the Deed of Trust shall be no greater than 80%, which must be supported by an appraisal approved by the City prior to funding. If a loan to value ratio greater than 80% is proposed, outside collateral sufficient to provide 80% loan to value ratio will be required. Personal guarantees may be required for additional collateral and will be evaluated on a case-by-case basis

- Proposed improvement costs will be evaluated based upon submitted quotes for work, as well as City staff estimates and comparisons to construction costs of similar projects.

- The applicant and applicant's construction and development team must have capacity to complete the project as demonstrated by past projects.

- A title company is selected by the City shall issue a lender's policy of title insurance to the City insuring the Deed of Trust as a first Deed of Trust recorded against title to the Property (or a junior lien approved by the City). The applicant shall pay all escrow fees, cost of the lender's policy of title insurance, recording fees and associated fees and costs.

- Non-compliance with program requirements includes but is not limited to, failing to comply with all applicable laws, including, without limitation, City property maintenance requirements, failure to acquire and maintain annual business licenses, failing to timely pay all real property taxes and assessments; default under any lien, encumbrance or deed of trust recorded against title to the property; failing to complete the project within the timeline approved by the City and failure to maintain the space for commercial purposes.

- The City and the property owner will execute a development agreement (**"Development Agreement"**) that will outline the requirements and conditions of program performance, including timelines and scope of work. A property owner's breach of any provision of the Development Agreement shall constitute a breach under the Promissory Note and Deed of Trust.

- The City will inspect the property and identify all Law violations. All violations must be corrected new development or Rehab specifications and plans will be reviewed and approved by the City. All work must be performed in accordance with all applicable Laws.

- The Promissory Note and Deed of Trust will contain a due on sale provision requiring the payment of the remaining principal balance of the Promissory Note if the property is sold prior to the expiration of the ten (10) year term of the Promissory Note. However, the City will consider waiving enforcement of the due on sale provision and transferring the loan to a new owner if the prospective new owner and the property after sale, satisfies the program requirements outlined in this document. Any request by the property owner for the City's waiver of the due on sale provision must be made in writing and delivered to the City at least forty-five (45) days prior to close of escrow along with a copy of any Purchase Agreement, Escrow Instructions and related documents and any other documents requested by the City. The new owner must agree to allow the City to continue inspections throughout the entire ten (10) year term of the Promissory Note, and must executed an Program Assumption Agreement in a form acceptable to the City, specially assuming all obligations of the prior owner of the property under this Program, the Development Agreement, the Promissory Note and the Deed of Trust.

Eligibility

- All property owners in a designated commercial zone are eligible to apply. A conflict of interest may exist if an applicant or the applicant's immediate family is an employee, agent, consultant, officer or elected or appointed official to the City of Kingsburg, or if the applicant is an entity and its owners, shareholders, members or partners are any of the above-identified persons:

- If a conflict of interest exists, as determined by the City, the applicant must identify the potential conflict and, if applicable, recuse themselves from any vote or consideration of a proposed loan application.

SCORING CRITERIA

City funds as percentage of total improvement costs	50%	1
	>25% to 49.9%	2
	25% or less	3
Scale of renovation	Improvements will benefit a building that has 80-100% occupancy/lease but promotes new potential diversified commercial uses.	1
	Improvements will benefit a building that has 50%-80% currently leased/occupied commercial tenants.	2
	Improvements will benefit a building that has less than 50% currently leased/occupied commercial tenants.	3
Contributing building	The façade of the building needs restoration but will not be restored as part of the project	0
	The building façade is currently being restored or will be restored as part of the overall improvements.	2
Conversion	After renovation, non-intensive commercial activity, i.e. storage space, will remain inactive on the retail level	0
	Loan funds will be used to finance improvements related to the conversion to active commercial space.	2
Proposed Use	Improvements will upgrade existing commercial use of office/professional occupancy	1
	Improvements will upgrade existing commercial use of retail/restaurant occupancy	2
	Improvements will upgrade or *convert* existing commercial use to a retail/restaurant occupancy	3
Quality of Life Components	Project does not include any quality of life components.	0
	Project incorporates shared space or outdoor use (outdoor dining, etc.) that promotes activity.	2
Life Safety Improvements	Loan request is not for life safety related improvements.	0
	Loan request is for life safety related improvements.	2

APPENDIX "A"
PROGRAM UNDERWRITING GUIDELINES

Feasibility Analysis:

Project Viability

- Documentation of sufficient funding, including City funds, to cover all costs identified in the project's sources and uses form

- Information on past projects of similar scope to demonstrate applicant has ability to complete the project

Project Readiness

- Other funds are committed or will be committed within a reasonable period after application for rehab funds.

- Site control

    - Fee simple title at time of application and all times thereafter.

    - If not owned, must have enforceable right or option to purchase at time of application.

- Financial Analysis

    - Development Feasibility

        - Project development costs as provided by applicant reviewed by City staff to determine if reasonably based on similar projects and City staff estimates of cost

    - Operational Feasibility

        - Project cash flow from operations or renovations of the building

        - Project must show positive retail/commercial net cash flow for a period of 10 years operating costs must be reasonable

    - Underwriting - Project falls within the underwriting criteria established by the City in this Appendix "A" as amended from time to time

SUMMARY OF FEASIBILITY GUIDELINES

Criteria	Ranges-Limits
Maximum City Assistance	Up to 50% of total development cost. Maximum total loan is $75,000.
Collateral Requirements	Loan to value ratio no more than 80% If greater than 80% outside collateral to provide 80% loan to value ratio may be required
Construction Hard Costs	Minimum 75%
Developer fee (percent of Total Development Cost, not including developer fee)	Maximum 15%