

**SOUTH BERKELEY
REVOLVING LOAN FUND**

Administrative Plan

EDA #07-39-02523

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INTRODUCTION

Utilizing a \$500,000 grant from the federal Economic Development Administration (EDA), a revolving loan fund was developed by the City of Berkeley to address economic decline in certain areas of South Berkeley. The South Berkeley Revolving Loan Fund (RLF) was originally established to operate in targeted areas of South Berkeley including the lower Sacramento Street area and the Adeline/Alcatraz commercial area. EDA approved the original RLF Administrative Plan on September 29, 1980. Several modifications to the original RLF Administrative Plan were subsequently adopted by the City Council. On July 25, 1985 the City Council adopted Resolution No. 52,843-N.S. reconstituting the Loan Administration Board (LAB). EDA approved a revised RLF Plan on October 7, 1986.

Since the creation of the RLF, a total of 30 loans have been originated in the original Target Area, totaling \$1,478,417. In recent years that Target Area has been largely saturated with RLF loans. With little business turnover, opportunities for additional RLF lending were limited. However, conditions of economic distress still exist throughout all of South Berkeley, and there is a demonstrated need for additional financing for businesses to address economic decline and assist in development of commercial areas.

Consequently, in October 2002 the City of Berkeley requested approval from EDA to enlarge the target area for the RLF to include additional areas within South Berkeley. On February 26, 2003, EDA approved expansion of the target area to include census tracts 4233, 4234, 4235, 4239/Block Group 2, and 4240; plus both sides of San Pablo Avenue facing census tracts 4233 and 4240. On the west side of San Pablo Avenue, only businesses with addresses on San Pablo Avenue are eligible for loans. The expanded target area ("Target Area") is generally bounded by Dwight Way on the north, San Pablo Avenue and the Emeryville border on the west, the Oakland border on the south, and Fulton Avenue and Deakin Street on the east (see attached map, Exhibit G).

PART I: THE REVOLVING LOAN FUND STRATEGY

The RLF will supplement private financing for tenant improvements, equipment and working capital for businesses, to the extent that private financing is unavailable. The RLF is designed to address economic distress and help implement the City's economic development strategy for South Berkeley as summarized below. The following sections provide a list of key strategies and serve as a guide for the revolving loan fund.

A. ECONOMIC ADJUSTMENT STRATEGY OVERVIEW

1. Nature and Scale of Economic Problems in South Berkeley

The South Berkeley area continues to be home for many of the City's lowest income and minority residents and is one of the more economically depressed areas of the City. Household incomes in the Target Area continue to lag well behind the City overall. Per capita income in 1990 in the expanded target area was about \$13,300, well below \$18,720 for the City overall. The expanded Target Area is home to many of Berkeley's minority and low-income residents. While much of the City has benefited from the region's economic growth of the late 1990's, the South Berkeley community remains the location of many of the city's incidents of criminal activity, drug trafficking and usage, and struggling businesses. South Berkeley businesses are the first affected by economic downturns and are typically the last to recover.

For the two year time-period extending from July of 2000 through June of 2002, the Alameda County unemployment rate was 3.5% in July of 2000, increasing to 6.7% by June 2002. For this same time-period, the City of Berkeley's unemployment rate increased from 3.3% to 6.2%. OED staff calculated the annual unemployment rate for the Target Area to be 5.0% in July of 2000 and increasing to 9.2%

by June of 2002. The national unemployment rate for that same, two-year time-period increased from 4.2% to 6.0%. The unemployment in the Target Area averaged 2% higher than the County and National figures and about 2.3% higher than the City overall.

South Berkeley's commercial areas can be characterized as older commercial strip areas serving primarily expanded neighborhoods or sub-regional market areas. The areas underserve the retail and shopping needs of the surrounding residents who must travel beyond these shopping areas for frequently needed items such as food and groceries. Physical deterioration of buildings, vacancies, and lack of pedestrian amenities have also contributed to the economic decline of the Target Area

Portions of the Target Area also suffer from social problems connected with drug activity and property crimes. These activities have discouraged local residents from shopping in these areas, as well as having an adverse impact on business attraction. The City and the community feel strongly that the RLF can be effectively utilized to assist in the ongoing revitalization of the commercial areas.

Businesses in the Target Area often are unable to access private capital for financing business expansion and improvements. Those who can meet private capital procurement requirements may do so at higher prices than businesses in more affluent areas. Use of RLF funds in tandem with private financing can be expected to reduce the risk of private financing, thereby increasing the availability of private capital to businesses.

2. Economic Adjustment Strategy Development

The basic guiding document for economic development in South Berkeley is the South Berkeley Area Plan. The Plan was developed in 1990 through a collaborative effort of community leaders, residents, businesspersons and property owners meeting over several months as the South Berkeley Area Plan Committee. The Plan was adopted by the City Council in 1991. In 1997, the City initiated the San Pablo Avenue Revitalization Program, which includes all of San Pablo Avenue in the Target Area. In 1997, a well publicized and attended workshop was held to solicit community input on the revitalization strategy for San Pablo Avenue. In 1998, the South Berkeley City Council Subcommittee conducted a series of workshops in the Target Area designed to update the Area Plan. Those workshops resulted in a South Berkeley Community Development Action Strategy, which was adopted by the City Council's South Berkeley Subcommittee in July 1998.

3. Area Resources/Assets

The commercial areas within the Target Area are primarily developed with a mix of smaller retail and service businesses. Some light industrial and food processing establishments also exist along San Pablo Avenue. The Target Area is adjacent to the industrial portion of West Berkeley, which has experienced continuing growth in biotechnology, pharmaceuticals, environmental services and food processing. There is some potential to attract some of the growth in these sectors to sites in the Target Area. Portions of the Target Area also have potential for continued development of finance and professional service businesses.

The Target Area possesses a number of resources and potential opportunities for economic development and growth, including:

- availability of commercial zoned vacant or underutilized parcels along major traffic corridors,
- commercial districts with their own character;
- organized merchant associations in some areas;
- a rapid transit station with good bus connections;

- recent and planned public improvements along major corridors;
- a high degree of community involvement and support for economic development and revitalization efforts;
- commitment of a significant amount of City and federal resources, including the recent installation of public improvements around the Ashby BART station, transportation enhancements along San Pablo Avenue, a number of City grants for business façade improvements, the commitment of City funds for development of infill housing and ongoing City support of the South Berkeley Neighborhood Development Corporation.;
- availability of good educational and training resources through the University of California, Vista Community College, the City’s Work Source Program and other employment training programs. In particular the University of California is a major draw for high tech businesses, many of which have ongoing relationships with the University.

The City has identified the following industry clusters as having the most potential for expansion and attraction efforts:

- Healthcare, including pharmaceuticals, medical devices, biotechnology and healthcare services;
- Environmental, including environmental technology and environmental services;
- Business services, including locally serving professional services, business related services, technical services and finance and real estate services;
- Light manufacturing, including food processing;
- Retail Trade.

The healthcare, environmental and business service clusters all show potential for creation of better paying jobs. Therefore, the City will give the highest priority to financing expansions and attracting new businesses in those clusters. In its business attraction efforts the City will assure that RLF funds are not used to relocate jobs from one commute area to another.

4. Strategic Adjustment Goals and Objectives

The South Berkeley Area Plan placed heavy emphasis upon economic development strategies aimed at addressing poverty and economic distress issues in the area. The Economic Development Element of the Plan sets forth the following goals for improving economic conditions in South Berkeley:

- Goal 1: *Promote South Berkeley resident local investment and ownership in property and business.*
- Goal 2: *Encourage South Berkeley community Participation in the Social and Political Processes that will determine its future;*
- Goal 2: *Promote full employment for South Berkeley residents;*
- Goal 4: *Ensure the retention of the black and low-income community in South Berkeley as beneficiaries of economic revitalization, and reinforce existing ethnic and cultural traditions;*
- Goal 5: *Link south Berkeley to the citywide economy;*
- Goal 6: *Strengthen South Berkeley’s commercial sector without displacing existing businesses;*
- Goal 7: *Attract new businesses to South Berkeley.*

Some of the objectives in the Plan to achieve these goals are:

- *Promote resident ownership of South Berkeley’s businesses;*
- *Expand access to business assistance and resources for property acquisition;*
- *Encourage entrepreneurial efforts in South Berkeley;*
- *Retain existing South Berkeley businesses;*

- *Retain and create high quality jobs for South Berkeley residents;*
- *Retain and attract Berkeley businesses that offer high quality employment opportunities which match South Berkeley residents' occupational and skills profile;*
- *Promote City and nonprofit participation in businesses and housing enterprises;*
- *Promote public/private partnerships between the City, non-profit organizations and businesses;*
- *Promote investment in South Berkeley on the part of private investors, banks and the City;*
- *Provide financial assistance for commercial rehabilitation and seismic upgrading.*

The South Berkeley Community Development Action Strategy reaffirms these goals and objectives, while providing a more specific work program to reach them.

5. Implementation Programs and Activities

The City is implementing the following programs in the Target Area that are designed to support the objectives of the economic adjustment effort. The City focuses its business retention and attraction programs in the Target Area. The City works with financial institutions to access private capital for business expansion and attraction and for development of key properties. The RLF is used in tandem with private financing, and assistance to borrowers in seeking and applying for financing is provided under a contract with the Oakland Business Development Corporation. Employment and business assistance programs are targeted to the Area. Capital improvement programs and projects are planned for the Area. (see below under the Business Development Strategy for a more complete discussion of these programs and activities.)

6. Organizational Structure and Management

The City of Berkeley's Office of Economic Development (OED) is responsible for managing the ongoing economic development program for South Berkeley. The Economic Development Manager reports directly to the City Manager and supervises staff that carries out economic development and business assistance activities in the Target Area. OED staff administers the RLF and provides business assistance in the Target Area. OED works closely with the South Berkeley Neighborhood Development Corporation (SBNDC), community organizations and merchants associations in implementing the program.

The RLF Administrative Plan will be reviewed annually to coincide with the annual certification to EDA, which requires that the RLF plan is consistent with the local economic adjustment strategies for South Berkeley. OED will be responsible for updating the RLF Plan as necessary to ensure consistency with updates of the local economic adjustment strategy.

B. THE BUSINESS DEVELOPMENT STRATEGY

a. Objectives of the Business Development Strategy

The RLF is designed to assist in achieving the following economic development objectives and benefits for the Target Area:

- Provide financing mechanisms through which public investment will stimulate concomitant private investment in the commercial revitalization of South Berkeley that otherwise would not have occurred.
- Provide a programmatic framework for the effective rehabilitation and conservation of South Berkeley's commercial facilities.
- Provide incentives for the retention, expansion and location of firms in South Berkeley that will promote increased employment opportunities for residents, a stronger non-residential tax base, and more opportunity for residents' participation in economic activities.

- Increase minority enterprise development in the South Berkeley Target Area.
- Increase women's business development in the South Berkeley Target Area.
- Link RLF borrowers with the City's First Source Employment program.
- Increase the growth potential of businesses in the Target Area.
- Establish linkages with the area's existing economy to ensure the RLF Funds are not used as a substitute for private investment.
- Generate additional tax revenues for the City of Berkeley.
- Assisting firms in meeting environmental standards.
- Encouraging the development of vacant land and the rehabilitation of dilapidated or vacant buildings in the South Berkeley Target Area.

b. Targeted Sectors

The City has targeted the following industry clusters in the Target Area for business assistance:

- Healthcare, including pharmaceuticals, medical devices, biotechnology and healthcare services;
- Environmental, including environmental technology and environmental services;
- Business services, including locally serving professional services, business related services, technical services and finance and real estate services;
- Light manufacturing, including food processing;
- Retail Trade.

c. Types of Business Assistance

OED assists businesses in the Target Area with a full range of local economic development activities. OED works to attract new businesses to South Berkeley in the targeted sectors by identifying and marketing targeted vacant sites and buildings in close coordination with the commercial real estate community. OED assists new business in obtaining permits and financing. Assistance is provided to existing to expand, including assistance with financing through the RLF and other available financing, assistance with permits and assistance with business planning through a contract with the Oakland Business Development Corporation. Employers are provided assistance in obtaining qualified employees that are also local residents through the City's Work Source Employment Program.

d. Programs

Programs and activities that area being undertaken to address identified needs in the Target Area include:

- Business Assistance

The City has targeted its business retention and expansion program efforts to the specific industry clusters in the Target Area. Businesses are provided a full range of business assistance including assistance with financing, permits, project planning, business planning, etc. The City provides assistance in financing and business planning through a contract with the Oakland Business Development Corporation.

- Business Attraction

The City has focused its business attraction efforts on key vacant and underutilized sites in the Target Area.

- South Berkeley Revolving Loan Fund (RLF)

The City will originate RLF loans in the expanded Target area. OED will continue to work with businesses that request RLF information and work with the Oakland Business Development Corporation on business financing requests.

- South Berkeley Neighborhood Development Corporation (SBNDC)

The City funds the South Berkeley Neighborhood Development Corporation (SBNDC) to assist in its business development strategy by developing key projects, convening business networking meetings and providing other business assistance services.

- Business District Advertising

The City assists business districts in marketing and promotion activities by purchasing banners and assisting in marketing campaigns.

- Encouraging Business or Merchant Associations and Networking

The City assists in forming and supporting merchant groups.

- Public Improvements

The City continues to seek funding for needed public improvements in the commercial districts in the Target Area from local and outside funding sources, like the federal Transportation for Livable Communities program. The City has developed a specific public improvements plan for public improvements along San Pablo Avenue designed to make it more pedestrian friendly and to tie in with planned transit upgrades, including new express transit stops at the Dwight Way and Ashby Avenue intersections.

- Façade Improvement Grants

The City has assisted 25 businesses in South Berkeley to complete facade improvement with grants from the City. If more funds become available in the future, the OED will undertake marketing efforts in the community.

- Problem Properties

OED Staff works with the City's Problem Properties Committee. The Committee meets on a weekly basis. OED staff has been working with the owners of problem properties in the Target Area.

- Export Program

Through an agreement with the Bay Area World Trade Center, the City provides technical assistance directly to Berkeley businesses, including South Berkeley businesses, to assist them in establishing and expanding their business into the global market place.

C. **THE FINANCING STRATEGY**

1. Financing Needs and opportunities

Businesses in the Target Area need financing for asset acquisition and working capital. Financing is needed both for expansion of existing businesses and for attraction of new businesses in targeted sectors. The greatest financing need in South Berkeley is for financing for equipment and tenant improvements for businesses that are expanding. There is also a need for financing for acquisition of commercial real estate, including the commercial portions of mixed-use buildings. On a limited basis, the RLF will consider acquisition loans. The greatest need in the Target Area is for loans in the 50,000 to \$125,000 range.

Low-cost financing can also be a significant incentive for businesses to locate in vacant or under-utilized sites, thus achieving the dual goals of business attraction and blight elimination.

2. Public and Private Funding Availability

Access to reasonably priced capital for near bankable businesses continues to be a problem in the Target Area. Businesses are often unable to access financing due to the following:

- The cost of private financing, including SBA loans, is too high for many smaller businesses;

- Most commercial lenders are reluctant to process SBA loans that are less than \$100,000;
- Many businesses are unable to provide the required collateral for conventional and SBA loans;
- Some business owners need assistance in preparing viable business plans in order to apply for financing;
- Business owners in the area are often unaware of financing options that are available to them and need assistance identifying the best financing options for their businesses.

Business owners with viable operations are constrained if they lack sufficient time in business or do not have assets that can provide an easily liquidated source of secondary repayment. Banks often require a stronger business and credit history than is available for many businesses in the Target Area. Conventional business loans frequently require higher interest rates and fees and quicker amortizations. Bank financing is generally unavailable for start-up capital.

There is a need for longer-term loans, for loans with lower equity requirements, for loans in the \$50,000 to \$100,000 range, for businesses without established banking relationships, such as firms that began with owner-equity. The gap exists not because the businesses are poor investments, but because they are not the preferred investments for banks. Through careful screening of loan applicants and creative loan structuring, the RLF will reduce the reluctance of conventional lenders to meet needs of riskier, but creditworthy firms. By making lower cost financing available, the RLF will improve access to private financing by lowering the overall cost of capital.

3. RLF Financing Niche

In general the RLF will target financing to those industry clusters showing the greatest potential for growth, creation of higher paying jobs and economic impact. The highest priority will be given to loans to businesses in the healthcare, environmental services and business services clusters. High priority will also be given to loans to light industrial and food processing businesses. Priority will be given to loans to retail businesses where they finance a project that helps to eliminate blight and upgrade a commercial area and which will lead to other investment in the area.

Financing for startup businesses will be limited to 25% of the total portfolio. Startups include new businesses and those in business for less than 2 years. Given the inherent risk associated with start-up companies, high quality secondary sources of repayment must be pledged by the company principals or other appropriate guarantor. Loans will generally be made to small businesses, which are defined as businesses with annual sales of \$1,000,000 or less or otherwise meeting the SBA's definition as a small business.

The targeted businesses will generally need financing and technical assistance. Identified needs will be met by referrals to business workshops done by the Small Business Administration (SBA) and local economic business assistance programs. Businesses may receive assistance in developing business plans from several local organizations, including the East Bay Small Business Development Center, SCORE (Service Corps of Retired Executives), the Women's Initiative for Self-Employment, and the Sustainable Business Alliance. Businesses needing more specific assistance in developing financing and loan applications will be referred to the Oakland Business Development Corporation under a contract for services.

The RLF will provide financing in the form of loans only. The loans will typically have longer repayment terms and lower interest rates than available private loans (See Section D below for loan terms).

The primary use of RLF will be to assist existing businesses to expand. RLF funds shall not be used to relocate jobs from one commute area to another.

4. RLF Impact

The RLF will work to build on the assets of the Target Area and target those business sectors that show the greatest potential for expansion and that provide the best fit for the overall development strategy for the Area. The main anticipated impacts of the RLF are:

- Strengthening the local economy by providing financing to existing and start-up businesses;
- Stimulating private investment through leveraging commercial financing and referring businesses to other investors with available resources;
- Providing business opportunities for residents of the Target Area;
- Enhancing the job opportunities by providing financing to viable, long-term businesses that will create stable, higher paid jobs.

D. FINANCING POLICIES

RLF loans may be made to qualifying businesses for working capital, tenant improvements, equipment and machinery and real property acquisition.

1. Loan Size – The standard maximum loan size is \$100,000. Under exceptional circumstances the LAB may approve a loan up to \$125,000, where a larger loan is necessary to assist in the expansion or attraction of business in a targeted industry cluster, with significant job creation. Working Capital Loans are limited to \$15,000. Loans amounts for fixed assets (tenant improvements) are limited to \$100,000. The categories of Working Capital, Machinery/Equipment and Fixed Asset loans may be combined into one loan request. Real estate acquisition loans are available up to \$100,000, but only in situations where needed to attract a business in a targeted industry cluster to the Target Area.

2. Interest Rates - Interest rates on loans will be fixed. The standard RLF interest rate on RLF loans will be equivalent to the Prime Rate at the time of loan approval by the LAB. The LAB may raise the interest rate commensurate with the degree of risk of a loan. The LAB may approve a rate below the standard rate but only under exceptional circumstances of economic hardship or community benefit, but in no event will the rate be less than four percentage points below the current money center prime rate quoted in the Wall Street Journal. The minimum or floor interest rate for RLF loans is four percent (4%).

3. Loan Fees – Loan fees will be up to 1% of the amounts loaned.

4. Payment Terms - Payments will generally be made monthly; however, customized payment structures may be extended to borrowers depending upon their individual cash flow needs. In the case of multiple disbursement loans for equipment or tenant improvements, there may be an interest-only period until the loan is fully disbursed, generally not more than 180 days. Temporarily reduced or deferred payments may be considered as options in structuring a workout plan

5. Loan Terms - In general, loan terms will not exceed the average useful life of the assets being financed. The loan term will be the lesser of the average useful life of the asset being financed or the term based upon the borrower's ability to pay. Smaller loans will generally have shorter terms. Loan terms are limited as follows:

- a. Working Capital Loans: 3-5 years maximum;
- b. Fixed Asset Loans (tenant improvements): 7-15 years depending upon asset life and collateral;
- c. Equipment Loans: 3-7 years maximum;
- d. Real Property Acquisition: 15-25 years depending upon asset life and collateral.

6. Private Leveraging/Participation - The RLF may participate in other financing institutions' loans and/or lines of credit. Overall, the RLF will leverage a minimum of two private dollars for each RLF dollar loaned. This leveraging requirement applies to the portfolio as a whole rather than to the individual loan. Private investment is capital invested by the borrower or others or financing from private entities such as banks.

7. Equity/Borrower Injection General Requirement - For each individual loan the equity requirement will generally range from ten to twenty percent of the total project cost. While equity in the form of a cash injection is preferable, for working capital loans, the LAB may allow a borrower's net working capital to count for the equity requirement. Businesses may be required to inject funds into the project depending upon:

- a. whether the business has adequate equity, generally determined to be defined as debt-to-net worth ratio, which is 3:1 or less;
- b. the overall strength of the business;
- c. collateral coverage; and,
- d. availability of cash to put into the project.

These elements are all considered in determining the equity required for each project. Exceptions may be made on a case-by-case basis depending upon the particular project. In general, existing equity or existing cash injection into the business indicates a reasonable level of commitment to the business; therefore consideration will be given to existing equity in determining new equity required as a result of the project being financed.

8. Collateral: Collateral pledged for each loan will depend upon the loan amount, the overall risk of the credit, and the availability of personal and business assets to be pledged as collateral. In general, the market value of pledged collateral will equal or exceed the loan. The value of pledged collateral will be verified through a market analysis, appraisal, or other means that are deemed appropriate for the particular project. Collateralized security may include, but not be limited to, interest in machinery and equipment, furniture and fixtures, building, property, inventory and receivables. Security in the personal assets of principals who owns 10% or more interest in the borrower's firm may be required as additional collateral. Such security can include property outside the business, including, but not limited to real estate of principals. Personal guarantees will normally be required of principals with 20% or more interest in the borrower's business. The City will secure loans by recording Deeds of Trust on real property (in subordinate position as necessary and prudent) and UCC-1 filings to secure equipment, fixtures, furniture, receivables, and inventory. Loans will be secured by collateral to the maximum extent possible to ensure an adequate secondary source of repayment. Generally, collateral pledged through UCC-1 filings for RLF loans shall not be pledged to other lenders or for other obligations of a business.

9. Credit Memorandums - each application will be reviewed for standard underwriting criteria. A credit memorandum will be signed by the OED project manager and OED Manager and presented to the LAB. Generally the credit memo will address the following: location in the Target Area, management ability, market feasibility, primary source of repayment, secondary source of repayment, leverage, environmental issues, job creation, credit history and the project's economic impact. All credit memos will include an analysis on the non-substitution documentation to verify that funds are not replacing private or commercial financing. Credit memorandums will also address other program requirements, such as the ratio of funds loaned to jobs created.

10. Financing Restrictions – RLF Capital may not be used to:

- a. Acquire an equity position in a private business;
- b. Subsidize interest payments on an existing loan;
- c. Provide the equity contribution required of borrowers under other Federal loan programs;
- d. Enable a borrower to acquire an interest in a business, either through the purchase of stock or through the acquisition of assets, unless the need for RLF financing is sufficiently justified and documented in the loan write-up. Acceptable justification could include acquiring a business to substantially save it from imminent foreclosure, or acquiring it to facilitate a significant expansion or increased investment;
- e. Provide loans to a borrower for the purpose of investing in interest bearing accounts, certificates of deposit or other investment not related to the objectives of the RLF;
- f. Refinance debt unless:
 - 1) There is a sound economic justification and the City sufficiently documents in the loan write-up that the RLF is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender(s) or to lowering the cost of financing, or
 - 2) An RLF loan uses RLF income and/or recycled RLF funds to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan. This action may be undertaken only if there is a high probability of receiving compensation within 18 months from the sale of assets sufficient to cover the RLF's expenses plus a reasonable portion of the outstanding loan obligation; or
- g. Finance any activity that serves to relocate jobs from one commuting area to another. (A commuting area is that area defined by the distance people travel to work to and from the Berkeley area) This non-relocation requirement shall not apply to a business which:
 - 1) Has moved or will move into the Target Area for reasons unrelated to RLF assistance;
 - 2) Has relocated to the Target Area prior to the date of the applicant's request for RLF assistance;
 - 3) Will expand employment in the Target Area substantially beyond employment in the area where the business was originally located;
 - 4) Is relocating from technologically obsolete facilities to remain competitive
 - 5) Is expanding into the new area by adding a branch affiliate of subsidiary while maintaining employment levels in the old area(s);
 - 6) Is determined "exempt" by EDA.

Additionally, the businesses that receive a RLF loan will sign "First Source" Agreements with the City. The businesses then utilize the City of Berkeley's WorkSource One-Stop Career Center for the recruitment and referral of Berkeley applicants for new and replacement employment.

E. PORTFOLIO STANDARDS AND TARGETS

1. Lending Targets

The goal of the RLF is to target industry clusters to produce the following ranges for allocation of the portfolio:

- Healthcare, environmental services, business services: 50-65%
- Light industry: 10-35%
- Retail: 15-25%

A maximum of 25% of the portfolio shall be loaned to start-up businesses. Exceptions made to exceed this target shall be made only in situations where repayment is guaranteed through a very strong collateral position.

2. Private Investment Leveraging Ratio

The portfolio shall maintain a private leverage ratio of 2:1, or \$2 of private dollars or funds to every \$1 in EDA funding.

3. Cost Per Job

- a. Every project shall have a new job creation or jobs saved component.
- b. The portfolio shall target a cost per job ratio of \$20,000 or less.
- c. The maximum cost per job for any single loan will generally not exceed \$30,000.

F. LOAN SELECTION CRITERIA

Each application must demonstrate that financing is not otherwise available on terms or conditions that would permit completion and/or the successful operation or accomplishment of the project activities to be financed. The primary evidence for this will be the analysis provided in the credit memo supported by outside documentation, for example, bank decline letters.

Priority in processing loan applications will be given to applications that further the targeting of RLF funds as outlined in Section E. above. Loan applications will be considered for processing, if:

1. Staff can demonstrate credit worthiness based upon the financing policies of this plan;
2. The project is consistent with the business development strategy;
3. The loan will meet program goals to facilitate in the creation of higher paying, higher skilled, private sector jobs, diversify and strengthen the economy, and stimulate private investment. Priority will be given to those projects that provide the highest economic benefit; and
4. The loan is consistent with the goal of maintaining a diversified portfolio.

G. PERFORMANCE ASSESSMENT PROCESS

The portfolio goals will be monitored at the time of the annual report to EDA. If targets are out of line or a trend is noticed in this direction, these trends will be analyzed to determine if any modifications to the Plan and/or portfolio are required. This will be accomplished by utilizing the current database software that is utilized to generate the EDA report.

The EDA Administrative Plan will be reviewed annually as part of the annual certification. Changes will be made to the plan as deemed appropriate to ensure the plan is consistent with the area's current economic development strategy and that the RLF is being operated in accordance with policies and procedures contained in the approved plan. (13CFR308.14).

PART II: REVOLVING LOAN FUND ORGANIZATIONAL STRUCTURE AND OPERATIONAL PROCEDURES

A. ORGANIZATIONAL STRUCTURE

1. Overview

The City's Office of Economic Development Department (OED) is responsible for the implementation of the South Berkeley revitalization program and administration of the RLF. An Economic Development Project Coordinator, under the general direction of the Economic Development Manager, is responsible for developing, completing, coordinating, and servicing the loans generated by the RLF. OED staff work closely with private lenders to secure financing for businesses in coordination with City financing mechanisms. The City of Berkeley contracts with The Oakland Business Development Corporation to provide assistance to RLF clients, including loan packaging and business counseling, and to coordinate technical assistance resources including assistance from banks, colleges, minority business development assistance centers, business development organizations and trade associations. The City's Housing Department is responsible for servicing of all RLF loans using standard loan servicing software. The Housing Department provides monthly reports on the status of all outstanding loans to OED for monitoring purposes.

2. Loan Administration Board (LAB)

The City of Berkeley's Loan Administration Board (LAB) is the responsible entity that reviews and approves loan applications referred from the City staff. The LAB shall consist of nine (9) members, one appointed by each City Council person in conformance with the City of Berkeley's Fair Representation Ordinance. Thus the LAB is a sub-division of the City of Berkeley to which the City delegates the responsibility of loan review and approval in accordance with the policies adopted by the City Council in this Plan. Resolution No. 52843-N.S. mandates membership and eligibility criteria of the LAB. At least 3 LAB members must be persons with knowledge of and reasonable experience with credit analysis and decisions. At least 2 members must be persons who operate a business in Berkeley, and at least one member must possess knowledge of and reasonable experience with business law.

The Loan Board will generally schedule meetings monthly, and will agree to review transactions requiring quick action on an "as needed" basis. Organizational and operational matters, including loan decisions, will be made by a majority vote of the appointed members of the Board. A quorum will exist whenever at least half of appointed members are in attendance. However, at least one LAB member with financing experience (similar to the type of loans to be made) must be present for each loan decision. No loan will be committed, no major loan modification or waiver agreed to, no loan foreclosure action initiated without formal prior review and comment (in the form of LAB minutes) of the Loan Board. Staff will recommend on interest rates, terms and conditions for all loans. The LAB will make the final determination on the pricing and other terms of all loans from the RLF.

3. Conflict of Interest

No officer, employee, or member of the City Council, LAB or other City board or commission that advises, approves, recommends or otherwise participates in decisions concerning loans or the use of RLF funds, or person related to the officer, another employee, or any member of the City Council, LAB or other City board or commission by immediate family, law, or business arrangement, may receive any benefits resulting from the use of RLF loan or grant funds. In addition, the City may not lend RLF funds to an employee of the City or any member of the City Council, the LAB or other City board or commission. Immediate family is defined as parents, grandparents, siblings, children and grandchildren, but does not include more distant relatives, including cousins, unless they live in the same household. Exception: A benefit or loan may be conferred if the officer, employee, LAB member, City Council member or other

board or commission member affected first discloses to the City on the public record the proposed or potential benefit and receives the City Attorney's written determination that the benefit involved is not so substantial as to reflect adversely upon or affect the integrity of the RLF's decision process or of the services of the officer, employee, or member of the City Council, LAB or other City board or commission. LAB members are responsible for disclosing any possible conflict of interest that may exist with respect to a particular action of the LAB.

An officer, employee, or member of the City Council, LAB or other board or commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment or any other thing of monetary value, for him or herself or for another person, from any person or organization seeking to obtain a loan or any portion of the RLF funds. Former LAB members and/or officers are ineligible to apply for or receive loan or grant funds for a period of one year from the date of termination of his/her services.

Loan board members that have other professional relationships (i.e., a banker with loan to borrower) with a prospective borrower cannot be present for deliberations, but may respond to questions from other members of the LAB, to avoid the appearance of a conflict of interest. All LAB members will be required to comply with local and state conflict of interest policies and filing requirements.

B. LOAN PROCESSING PROCEDURES

OED staff will work to publicize the RLF and identify eligible applicants, and will:

- Contact businesses through commercial and industrial brokers;
- Market the RLF through commercial banks that serve the Target Area;
- Publish at least one article per year in a local newspaper or periodical noting the availability of the RLF, its intent and how to access it;
- Market the RLF through direct marketing and through business associations.

1. Standard Application Requirements

Each potential borrower will be required to initially complete the City's standard Pre-Application (Exhibit C). Staff will review the Pre-application to determine if it meets the general intent and purpose of the RLF. In evaluation of applicants, staff will consider whether the project/loan:

- Meets the targeting criteria and is in one of the targeted clusters
- Demonstrates a reasonable assurance of repayment
- Is consistent with the portfolio job/cost ratio established for the RLF
- Leveraging of private dollars (minimum of 2:1 target for the RLF portfolio)

Potential borrowers are required to submit the following documents with their application:

- Three years of business and personal tax returns, all schedules
 - IRS Form 8831 (Request for Transcript) or IRS Form 4506 (Request for Copy) may be required
- Three years of business financial statements, to contain as a minimum, balance sheets and profit & loss statements (quarterly and/or monthly statements may be required as appropriate).

- Personal financial statement dated not more than three months prior to the loan application. Required for each principal with 10% or more ownership in the applicant company, and may be required for individuals with management responsibilities.
- Business plan with financial projections
- Proof of hazard and liability insurance
- Accounts receivable and accounts payable aging schedules, dated the same date as most recent business financial statement;
- Schedule of debts to include: 1) original amount of debt; 2) current balance outstanding; 3) Payment amount(s); 4) interest rate; 5) collateral; 6) status (current/delinquent).
- Financial projections, generally to include: 1) a description of the assumptions behind the financial projections, 2) a projected cash flow for a minimum of 12 months; 2) a projected balance sheet and income statement for at minimum of 12 months; 3) other as may be necessary to adequately assess the application.

Borrowers shall be approved based upon a reasonable assurance and determination of repayment ability and potential economic benefits to the community, i.e., number and quality of jobs they will create, amount of taxes generated,, extent to which they expand a targeted industry cluster and relation to other businesses and services.

2. Credit Reports

Standard commercial credit reports on all principals owning 10% or more of a business under consideration for a loan and the business will be ordered and reviewed. Credit reports for individual employees with management responsibility may also be required. Adverse credit deficiencies that would cause the underwriter to question the ability and or willingness of the potential borrower to repay the loan will be deemed a valid reason for declining the request. A summary review of the results of the credit reports shall be a part of the loan write-up. Costs of credit reports shall be borne by the borrower, whether or not the loan is approved.

3. Uniform Commercial Code (UCC) Lien Search

Where personal property is being taken as security (i.e. equipment, or business assets), a UCC search shall be completed to determine any existing liens. A real estate title report will be required in those instances where real property is being taken as collateral.

4. Appraisal Reports

Where existing fixed assets and/or real properties are being used as primary collateral, appraisal or other valuation determinations will normally be obtained. Appraisals will utilize qualified appraisers having expertise appropriate to the assets being pledged. The cost of these appraisal(s) shall be for the account of the borrower, whether or not the loan is approved.

5. Environmental Reviews

The City of Berkeley has an environmental review process in accordance with the intent of the National Environmental Policy Act (NEPA) of 1969, as amended (P.L. 91-190), as implemented by the "Regulations" of the President's Council on Environmental Quality (40 CFR, Parts 1500-1508). The borrower will be required to comply with applicable laws and statutes, including, but not limited to the following:

- a. The Clean Air Act, as amended (42. USC. 749) et seq);
- b. The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.);
- c. The Coastal Zone Management Act of 1972, P.L. 92-583, as amended (16 U.S.C. 1451, et seq.);

- d. Executive Order 11988, Floodplain Management (May 24, 1977), and regulations and guidelines issued thereunder by the Economic Development Administration;
- e. Executive Order 11990, Protection of Wetlands (May 24, 1977);
- f. The Endangered Species Act of 1973 P.L. 93-205, as amended (16 U.S.C. 1531, et. seq.);
- g. The Safe Drinking Water Act, P. L. 93-523, as amended (42 U.S.C. 300f-300j-0);
- h. The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271, et seq.);
- i. The Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended (41 U.S.C. 6901);
- j. The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), P.L. 96-510, as amended, by Superfund Amendments and Reauthorization Act of 1986 (SARA) (41 U.S.C. 9601, et. seq.)
- k. The National Historic Preservation Act P.L. 89-665 (16 U.S.C. 470, et seq.), (36 CFR Part 800);
- l. Coastal Barriers Resources Act P.L. 97-348 (16 U.S.C. 3501, et seq.); and
- m. All state and local environmental review requirements with all applicable Federal, state and local standards. The RLF will ensure that potential borrowers' environmental submittal is reviewed.
 - A site inspection of the property by a qualified inspector will be conducted, as well as an environmental audit, as appropriate.
 - Loans that will lead to alteration of the physical environment (i.e. construction) will require compliance with the California Environmental Quality Act (CEQA), PRC Section 21000, et seq.
 - A determination will be made whether a Phase I or Phase II environmental assessment is warranted for hazardous waste, given the size of the loan versus whether an unsecured position in a contaminated property is an acceptable risk for the RLF,
 - A mechanism to mitigate adverse impacts.

The LAB will disapprove any loan project that would adversely (without mitigation) impact flood plains, wetlands, significant historic or archeological properties, drinking water resources, or nonrenewable nature resources. The RLF will utilize the services of qualified personnel to review environmental questionnaires for compliance with the above. Environmental review under CEQA will generally be carried out as a part of the City's issuance of permits for a project. However, in cases where City permits do not require environmental review, RLF staff may require independent environmental study or investigations to assure compliance with all local, state and federal environmental laws and regulations.

6. Standard Collateral Requirements

Loans will be secured to the fullest extent possible to protect the interests of the RLF as a secondary source of repayment. The RLF will obtain a perfected interest in a borrower's assets, including outside assets of related parties, as appropriate. Loans may be secured with the following types of assets:

- Real property
- Machinery & equipment
- Inventory
- Accounts Receivable
- Stock pledges
- Patents and other intellectual properties

- Securities
- Intangibles
- Personal and/or corporate guarantees

A personal guarantee will normally be required of any principal having a 10% or more ownership in the company being considered; it shall also be required of the principal(s) trust(s) deemed to be controlled by him or her. Personal guarantees may be collateralized with liens or property. Appropriate hazard and liability insurance shall be required, and key man life insurance shall be considered depending on the size and nature of the transaction and the health and ages of the principals. The City of Berkeley shall be named as a Loss Payee on the appropriate insurance policies. Trust deeds will be obtained and supported by lenders title policies in those cases where real property is pledged as collateral. Liens on all personal property will be perfected by UCC-1 filings. UCC searches will be conducted to determine encumbrances and to ensure the RLF obtains desired lien position.

7. Standard Equity Requirements

The range for equity requirements will generally be 10-30% depending on risk or other factors. Business acquisition and start-up company loans normally require 20-30% minimum equity participation or investment by new owners with exceptions approved by the Program Manager where circumstances warrant. Assets (e.g. equipment), which are added to a project from outside sources, may be considered part of the equity investment, provided they are lien free.

8. Loan Write-Up

Written loan presentations to the Loan Administration Board will be signed by the Manager of Economic Development and will contain at a minimum the following information:

1. Borrower is in the Target Area approved by EDA.
2. Borrower: Detailed description of the borrower; i.e., is it a corporation, partnership, sole proprietorship, Subchapter S? List owners and their percentage of the business.
3. Guarantors: List the names and relationships of the guarantors to the owners of the business as appropriate.
4. Business: Briefly describe the business.
 - (a) Loan Request: State the amount of the request, the monthly amortization, and term.
 - (b) Interest: Indicate the rate and whether it is fixed or floating.
 - (c) Use of Funds by category.
 - (d) Loan Fees: The maximum fee charged will be 1%. Applicants shall be responsible for any outside costs incurred for processing, such as appraisals, environmental reports, credit reports, etc.
5. Collateral: Describe the collateral pledged for this loan, and indicate the secured position of the RLF. If property is being pledged, show the present market value and the net equity available for all properties pledged. Date of appraisal, name of appraiser and loan to value must also be included.
6. Purpose: Describe in detail the purpose of the loan, i.e., fixed asset financing, working capital, etc. Be specific about sources and uses of proceeds to complete the project. Any proposed exceptions to loan policies need to be explained.
7. Public Benefit: Describe the benefit of this loan in terms of jobs retained and/or created. Indicate the value of this borrower to the community. If it is located in an enterprise zone or revitalization zone, indicate which one. Jobs saved are defined as jobs that would be imminently lost without RLF assistance.
8. Job/Cost Ratio: Divide the total loan amount by the number of jobs saved and/or created as a result of this loan.

9. Necessary and Appropriate: A borrower is not eligible for RLF financing if credit is otherwise available on terms and conditions that would permit completion and/or the successful operation or accomplishment of the project activities to be financed. This section describes the reason why credit is not available~ elsewhere and should indicate what supplemental evidence supports this representation. The second part of this section will state why this loan is an appropriate use of funds.
10. Background and History of Business Operation: Describe the history and background of the business, including a brief industry analysis.
11. Financial Analysis: Indicate the source of information for the analysis. Describe the Company's financial performance as reflected by its financial statements, with special emphasis on revenues and operating income, leverage, cash flow, and debt capacity. Projection should be consistent with historical performance unless there is an extraordinary event such as a new contract. Any significant changes in financial positions or performance of the company will be explained.
12. Personal Financial Analysis: Write an analysis of the principal's and guarantor(s) personal financial statements. Any significant changes in financial position or performance will be explained.
13. Credit Report: Indicate the results of the credit reports obtained on the principals, guarantors, and company.
14. Environmental Problems. Discuss any environmental review in connection with the loan, including, any City environmental review and the results of any required Phase I or Phase II environmental study. Attach an environmental checklist or other review that is relevant to consideration of the loan. Indicate what actions the borrower must take to comply with any environmental findings or requirements.
15. Recommendation: Support funding recommendation based on analysis of the business' industry, its place in that industry, financial analysis, and ability to repay.
16. Findings: Indicate if borrower is eligible, under criteria established in the RLF Plan and EDA Grant Agreement.

Accompanying this Loan Write-up will be spread sheets of the Company's financial statements, most recent years' financial statement (if financial statements are not available, tax returns should be included), personal financial statements of the Principals, and financial projections.

9. Procedure for Loan Approvals

When a loan is approved, staff will draft a resolution stipulating the terms of approval and obtain the signature of the chairperson of the Loan Administration Board. The minutes of the LAB meeting shall reflect this approval and be circulated to all members of the Loan Board. RLF staff shall be directed to prepare and send a commitment letter with a time expiration date signed by the Manager of Economic Development to the prospective borrower, stating the terms and conditions of the committed loan consistent with the written credit memo to the LAB, and any provisions or changes recommended by the LAB. It shall also state "this commitment is based on the fact that there have been no material adverse changes in the credit condition of the borrower since statements and information has been submitted to the RLF. If any such material adverse changes have taken place, this commitment is void and not in effect."

10. Loan Decline – Appeal Process

The LAB will act upon recommendations for loan approval with the knowledge that the due diligence and underwriting on each loan has been completed, and upon reliance that the financial exhibits provided in the application are correct. Where a loan is denied by the LAB, an applicant may request further review by the LAB if the applicant can provide additional information that addresses the

concerns of the LAB about the proposed loan. However, LAB decisions on loans are final and binding and cannot be appealed to the City Council.

C. LOAN CLOSING AND DISBURSEMENT PROCEDURES LOAN CLOSING AND DISBURSEMENT PROCEDURES

1. General Closing Requirements

- a. Proof of equity, such as current bank account statements showing the needed funds on deposit, will be required for all loans requiring an equity injection;
- b. If existing debt is being converted to equity, or subordinated, evidence such as a subordination agreement, the original note, the conversion agreement, corporate resolutions and copies of shares issued will be required.
- c. Where another lender is involved in the financing of a business an inter-creditor agreement setting forth the respective rights of the parties shall be required where appropriate for the protection for the RLF.

2. Loan Closing Documentation Requirements

- a. All loans will require a promissory note and a loan agreement.
- b. All loan documents will be reviewed and approved by the City Attorney prior to loan closing.
- c. Sole proprietorships using a “doing business as/dba” will be required to provide copies of fictitious name filings.
- d. Partnerships will be required to provide copies of the partnership agreements and buyout agreements if applicable.
- e. Corporations will normally be required to provide copies of the Articles of Incorporation, By Laws, certificates of good standing, and corporate resolution to borrow.
- f. All loans will require a security agreement where personal property secures a loan.
- g. Perfection of collateral will require UCC filings on equipment and fixtures, inventory and receivables, recording deeds of trust on real property, and certificates of title or stock registration, as appropriate.
- h. UCC searches will be performed before loan board review to determine position. UCC searches may also be performed after loan closing and UCC filings to confirm that the desired lien position was actually obtained.
- i. Lenders Title insurance will be required for all financed real property.
- j. Vehicle titles will show the City of Berkeley as lien holder. If a third party owns the collateral, hypothecation and assignment agreements shall be required.
- k. All principals with 20% or more ownership will normally be required to provide continuing guarantees, and subordination agreements, as appropriate.
- l. Inter-creditor Agreement, if necessary, to preclude prior lien holder from increasing debt, and/or to delineate collateral and responsibilities of lenders.
- m. Prior to closing, the borrower will present the required hazard and liability insurance policies, and any other insurance coverage such as key life insurance, as required.
- n. Lease assignments will be taken as appropriate.

The Loan Agreement shall contain covenants that shall require the borrower to comply with the Federal statutory and regulatory requirements that apply to activities carried out with RLF loans. The Loan Agreement shall contain a provision to protect and hold the Federal government harmless from and against all liabilities that the Government may incur as a result of providing an award to assist (directly or indirectly) in site preparation or construction as well as the renovation or repair of any facility or site. This applies to the extent that such liabilities are incurred because of ground water, surface, soil or other conditions caused by operations of the RLF Recipient or any

of its predecessors on the property. The Loan Agreement shall also include a list of the Federal requirements that apply to RLF Borrowers as provided in Part III.B. of the U.S. Department of Commerce Economic Development Administration Revolving Loan Fund Standard Terms and Conditions of September 30, 2002, as may be amended.

3. Loan Disbursement Requirements

- (a) The borrower will certify in the loan agreement that the funds are to be used for the purposes intended as specified in the loan application. A positive covenant shall be included in the loan agreement stating the purpose of the loan. A breach of this covenant shall be deemed an event of default and the loan may be called.

- (b) For working capital loans, cash flow projections or other documentation will be required to determine the loan amount and the schedule for loan disbursement.

- (c) If the proceeds are for the purchase of equipment, fixtures, or vehicles, the borrower must show original invoices, and the check will be made payable to the vendor or jointly to the vendor and business.

In instances where construction is in progress, a building control account will be established as necessary to assure avoid mechanics liens.

D. LOAN SERVICING PROCEDURES

1. Loan Payment and Collection Procedures

The Housing Department of the City will provide borrowers with payment coupons, receive and deposit loan and interest payments into an interest bearing RLF bank account, and advise RLF staff when funds are received. Monthly reports of disbursements, receipts of interest and principal and any past due accounts will be provided. Timely notification of any payment due and not paid will be provided.

Late fees (which will be incorporated in the body of the Promissory note) shall be 5% of the payment outstanding and begin accruing on the next calendar day after the payment is due. If funds are not made good within 15 business days, late fees shall commence.

2. Loan Monitoring Procedures

- a. Annual financial statements (defined to include a balance sheet and profit and loss statement, compiled by an independent accountant or certified by the chief financial officer and president) shall be required on all loans; quarterly financial statements may be required during the initial years of a loan. RLF staff shall monitor these and other dated requirements such as insurance renewals, and UCC renewals. If documents are not received on a timely basis, designated staff will be responsible for correcting the deficiency. Provisions will be made in the Loan Agreement that audited statements may be required.
- b. RLF staff will be required to visit each borrower quarterly for the first 12 months and determine whether the business is on line with its business plan.

RLF staff will then schedule annual visits with each borrower. Each visit will be documented by memorandum, and will contain a summary of the progress the business is making from a marketing and financial perspective, as well as an assessment of the business' future. This report shall be provided to the LAB.

Twice a year jobs saved/created data will be compiled by RLF staff and supplied to the EDA as part of the required semi-annual reports. All jobs will be reported in full time equivalents. All required loan documentation and special provisions will be monitored.

3. Late Payment Follow-up Procedures

- a. Upon being advised that a payment due was not made, RLF staff will contact the borrower promptly to determine the problem, if any exists.
- b. The servicing bank will send a written notice of delinquent payment 5 working days after due date with notification of late penalty, and will notify the RLF staff in writing.
- c. RLF staff will send a second written notice 30 days after the due date.
- d. RLF staff will send a third written notice 60 days after the due date.
- e. RLF staff will send a fourth written notice 90 days after the due date.
- f. During the first 30 days of delinquency, written and oral communication, as well as site visits by RLF staff will be utilized to resolve the delinquency.
- g. If, after 90 days a delinquency still exists and the loan has not been renegotiated or brought current, the loan will generally be determined to be in default and recovery of the security will commence.
- h. Any renegotiation of loan terms to remedy a default must be approved the LAB.
- i. If at any time during this 90-day period, the Economic Development Manager believes that the borrower cannot or will not bring the loan current, with Loan Administrative Board approval, RLF staff can declare the loan in default and begin recovery against collateral, if deemed appropriate.

4. Collection Procedures

The RLF staff will work to exercise all rights and privileges of a lender in order to collect the proceeds on delinquent loans. To ensure that the delinquent loan is collected in an appropriate, efficient, and timely manner, staff will:

- a. Prepare a plan of action with guidance by the Loan Administrative Board for collecting the loan and taking action against the collateral.
- b. Make sure all required loan documentation is in order.
- c. Consult with the City Attorney on all default notices and collection efforts and to insure that no laws or regulations will be violated by the collection effort and that all legally required actions are taken.
- d. Contact all other co-lenders as appropriate.
- e. List defaulted or chronically delinquent loans with credit bureaus.
- f. Notify the guarantors of the default and put them on notice that they are expected to make payment, in full, upon demand.
- g. Begin collection procedures and/or asset liquidation process.

5. Write-off Policy and Procedures

Loans with an outstanding balance that have been placed in default and remain outstanding after 180 days will generally be written off. However, collection efforts will continue until determined not to be cost effective or prospects for recovery no longer exist. A reasonable loss through defaults will be considered without establishing a loan loss reserve. All write-off's must be directed to the City's Finance Department for approval by the City Council.

E. ADMINISTRATIVE PROCEDURES

1. Procedures for Loan Files and Loan Closing Documentation

(a) All original primary loan documents will be maintained in the Loan/Collateral file, which will be stored in a secure location by the City Clerk. This file will contain the original note(s), loan

agreement, collateral perfection documents (UCC filings, deeds of trust, etc.), all other original legal documents, and will include the document checklist signed by the RLF staff member conducting the closing.

(b) The Credit File will contain copies of the appropriate legal documents needed to monitor the loan, as well as the original credit memo to the LAB, financial statements and tax returns, credit reports, personal financial statements, a copy of the commitment letter, copies of proof of insurance, site visit memorandum, job reports, and any other correspondence relating to the relationship between the borrower and the RLF. A chronological record shall be maintained recording all significant events by date with a brief description.

(c) Application File: The application file shall be established to contain the original application, business plan, financials, business plan evaluation, and any other documentation provided to evaluate the application. Best efforts will be made to maintain confidentiality of applicant records/applications.

(d) Record Retention: Loan files and related documents and records must be retained for the life of the loan and for a five year period from the date of final disposition of the loan. The date of final disposition of the loan is defined as the date of:

- i. Full payment of the principal, interest, fees, penalties, and other costs associated with the loan; or
- ii. Final settlement or write-off of any unpaid amounts associated with the loan

(e) Administrative records: The RLF staff must:

- i. Maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF income expended for eligible RLF administrative costs.
- ii. Retain records of administrative costs incurred for activities and equipment relating to the operation of the RLF for three years from the actual submission date of the last semi-annual or annual report which covers the period that such costs were claimed, or for five years from the date the costs were claimed, whichever is less.

(f) Make any retained records, even those retained for longer than the period described, available for inspection. The record retention periods, described in Chapter III, Part 316, Sec. 308.13, are minimum periods and such prescription is not intended to limit any other record retention requirement of law or agreement. In any event, EDA will not question claimed administrative costs that are more than three years old, unless fraud is an issue.

2. Procedures for Complying with EDA Reporting Requirements

A collection account will be established and maintained in coordination with the City Attorney and the City Treasurer in accordance with City regulations governing collections.

3. Grantee Control Procedures

RRLF staff shall, periodically review collateral files and credit files to determine if they are consistent, complete and correct. All accounts, books, records and loan files shall be reviewed and audited in accordance with City Auditor standards, and Federal Administrative and Audit Standards.

4. Plan Amendment Procedures

Any changes to this Administrative Plan must be approved by the LAB and City Council and shall be submitted to the EDA in writing for approval consistent with requirements of the EDA.

LIST OF EXHIBITS:

Exhibit A: Organizational Chart	Page	26
Exhibit B: Pre-Application	Page	27
Exhibit C: Application Checklist	Page	32
Exhibit D: Sample LAB Resolution	Page	33
Exhibit E: Sample Commitment Letter	Page	34
Exhibit F: Sample Loan Closing Worksheet	Page	38
Exhibit G: Loan File List Sheet	Page	41
Exhibit H: Sample Servicing Report	Page	42
Exhibit I: Sample Delinquent Letters	Page	44
Exhibit J: Map of Target Area	Page	45

Exhibit A - Organizational Chart:

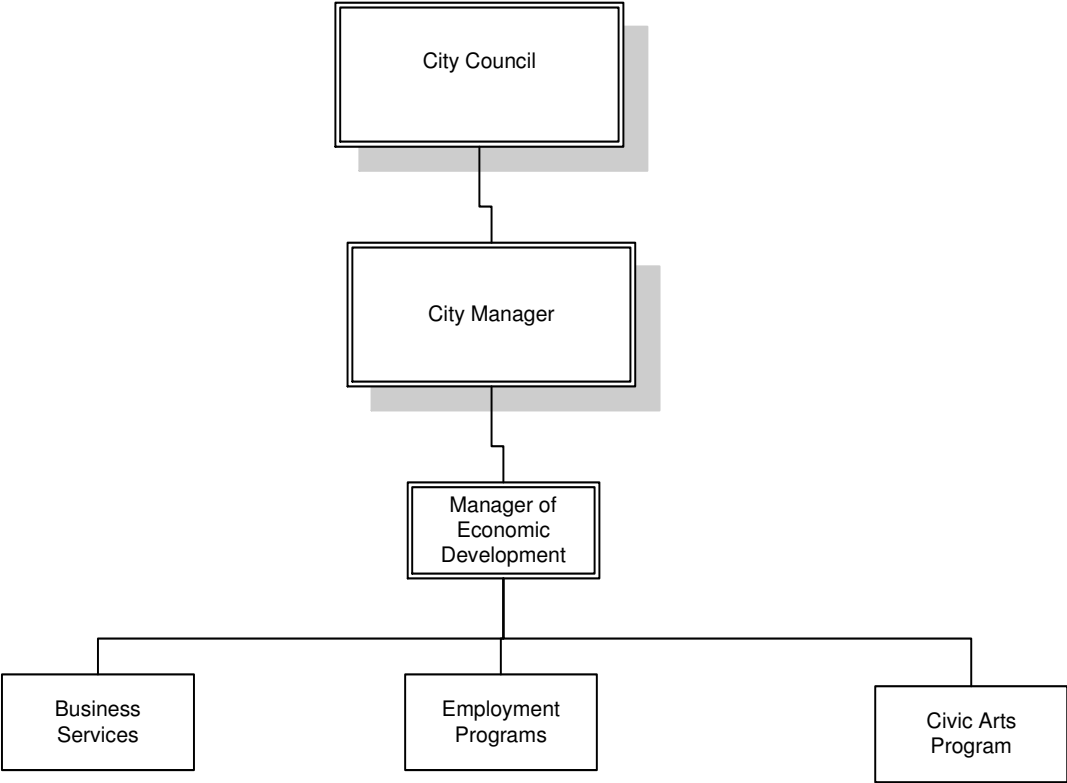
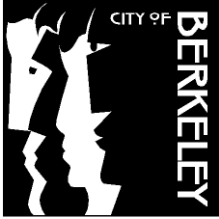


Exhibit B – Loan Application



Office of Economic Development

CITY OF BERKELEY LOAN FUND PRE-APPLICATION

Type of Loan: City-wide Loan Fund (CLF)
 South Berkeley Revolving Loan Fund (RLF)
 West Berkeley Building Acquisition Fund (WBBAF)

Amount of city loan request: \$ _____

Use of City Loan funds:

I. APPLICANT INFORMATION

Applicant's Name: _____ Title: _____ Date: _____

Name of Business: _____

Ownership: Proprietorship _____ Partnership _____ Corporation _____ Non-Profit _____

Business Address: _____

Phone: _____ SS# _____

Co-applicant: _____ Phone: _____

Address: _____

Business New to Berkeley
 OR
 Existing Berkeley Business- Date Established _____

Business License # _____ Federal Tax I.D. # _____

Landlord: _____ Phone: _____

Landlord Address: _____

Terms of Lease: _____

IF YOU ARE APPLYING FOR A WEST BERKELEY BUILDING ACQUISITION FUND LOAN PLEASE COMPLETE BELOW

Address of Proposed Building Purchase: _____

Seller's Name: _____

Address: _____ City: _____ State: ____ Zip: _____

Building Square Feet: _____ End Use(s): _____

Year Building Constructed: _____

Square Feet to be Owner Occupied: _____ % of Building to be Owner Occupied: _____

Narrative description of the business: _____

II. PROJECT FINANCING:

- A. Applicant Contribution*: _____
- B. Private Lender funds*: _____
- C. City Loan Request: _____

*Please submit evidence of all private funds (bank statements, letter of commitment and turndown letters).

III. USE OF FUNDS:

	Applicant \$	Private\$	CLF\$	Total\$
Working Capital	_____	_____	_____	_____
Machinery/Equipment	_____	_____	_____	_____
Capital Improvements	_____	_____	_____	_____
TOTAL	_____	_____	_____	_____

IV. BUSINESS INFORMATION:

Briefly describe your business, the distinct function of your product / service, your intended customers, your marketing strategy, and how the COBLF loan will assist your business development. If you have prepared a business plan, please submit it.

Please submit your most recent year-end financial statement, including income and expenses and balance sheet along with this pre-application form.

V. COLLATERAL OFFERED: _____

 _____ Value of Collateral: \$ _____

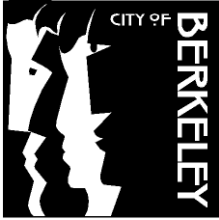
VI. OUTSTANDING DEBT: List all outstanding debts (not accounts payable).

CREDITOR	ACCT. #	ORIG. AMT.	CURRENT BAL.	MTLY. PMT.

VII. PUBLIC BENEFIT: As a result of the loan, will your business:

- a. Increase employment opportunities? YES NO
- b. Retain existing jobs? YES NO
- c. Expand a manufacturing enterprise? YES NO
- d. Have a positive environmental impact? YES NO
- e. Strengthen a key commercial corridor or re-use a long vacant property? YES NO
- f. Provide goods/ services presently not available? YES NO
- g. Substantially increase tax revenues? YES NO

Please describe the public benefits and quantify where possible.



Office of Economic Development

CREDIT AUTHORIZATION FOR THE CITY OF BERKELEY LOAN FUND PROGRAM

The following information is required to complete a credit investigation with respect to your loan fund application. This form is to be completed by every applicant, and each partner or shareholder holding a 10% or more interest in the business concern.

Legal Name: _____

Social Security #: _____

Birth Date: _____

Home Address: _____

Occupation: _____

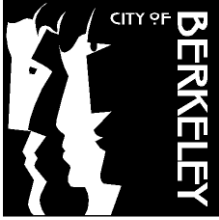
“With my signature below, I hereby authorize the City of Berkeley to contact and obtain credit reports from credit reporting agencies (Equifax, Dun and Bradstreet, etc.) And creditors with regard to the status of any past, outstanding or current indebtedness.”

By: _____
Signature

Printed Name

Date: _____

Exhibit C – Applicant Checklist



Office of Economic Development

CITY OF BERKELEY LOAN FUND APPLICATION SUPPLEMENTAL INFORMATION

Applicant should submit the following items as applicable and as requested by City staff.

- Financial Statement – Prior 3 years and current within 90 days
 - a. Balance Sheets
 - b. Income/Expense Statement
 - c. Articles of Incorporation/By Laws or Partnership Agreement (If Applicable)
 - d. Resume(s) of Principal(s) (normally those with 20% ownership or more)
 - e. Certificate of Good Standing (corporations only)

- Pro Forma Financial Projections (Including Notes & Schedules)
 - a. 1 year Income/Cash Flow Statement (Month to Month)
 - b. Additional 2 years Cash Flow Projections
 - c. Explanation of the underlying assumption supporting the cash flow projections

- Verification of business space (i.e. Deed of Trust, Lease/Rental Agreement, Purchase Agreement as applicable)
- Agreement of Landlord (for tenant improvement loans)

- Proof of Hazard and Liability Insurance

- Plans, Cost Estimates/Bids for Construction or Equipment

- Appraisals or independent evaluations on assets offered as collateral.

- Aging of Accounts Receivable and Payable within 90 days and list of vendors and addresses and account numbers for any accounts over 30 days.
- Schedule of Business Debts

- Individual Federal Income Tax Return – (if proprietorship or partnership) – Prior 3 years.

- Business Federal Income Tax Return – Prior 3 years.

- IRS Form 4506, Request for Copy of Tax Return

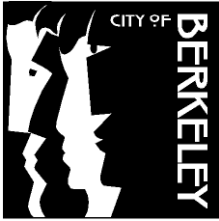
- Private Lender Commitment or Denial of funds letter(s).

- Copy of Business License

- Environmental Checklist (if required for project)

The City of Berkeley will be conducting a credit check of your business and (possibly) personal payment record.

Exhibit D – Sample LAB Resolution



Office of Economic Development

LOAN ADMINISTRATION BOARD
of the
CITY OF BERKELEY

The Loan Administration Board (LAB) administering the City of Berkeley's South Berkeley Revolving Loan Fund (RLF) met on _____, 200x to discuss the RLF loan to _____ and passed the following motion:

Moved by _____ to approve loan with the requirements recommended in the staff credit memo, and with the following additional requirements; 1) specific UCC-1 filing on _____; 2) blanket UCC-1 filing on all business assets; 3) direct disbursement of loan proceeds to vendors for equipment and to contractor for improvements; 4) 1st position on collateral; 5) signed tax returns; 6) audited financial statements for 200_; 7) other conditions:.

The staff recommendation on loan terms is as follows:

Principal Amount: \$ _____
Loan Term: Due in _____ months, amortized over _____ months
Interest Rate: _____ %
Monthly Payment: \$ _____ per month

Seconded by _____.

The Board vote with respect to this Motion was ___ Ayes, ___ Noes, ___ Abstentions.
Board Members Absent: _____

Chairperson
Loan Administration Board

Exhibit E

Sample Commitment Letter

Date

Borrower

Re: Loan Approval/Intent to Lend

Dear Borrower:

This commitment letter will confirm that on behalf of the South Berkeley Revolving Loan Fund, the Loan Administration Board of the RLF approved a commitment to make funds available to you substantially upon certain terms and conditions. This approval was made on _____.

1. Amount and Nature of Loan. Loan Amount (\$000,000.00) associated with the acquisition of the commercial property at _____.

2. Purpose. The loan funds will be used solely for the acquisition of the commercial equipment, and related soft costs.

3. Maturity and Payment of Loan. The amortization of loan will be ___ months , with a ___ - month call, and will be payable as follows: Principal and Interest payments, with interest commencing from date of note, with interest accruing at _____% fixed. The estimated payment amount is \$_____ per month, with first payment due the first day of the month following the original note date.

4. Interest. The stated interest rate on the loan will be _____ percent (_____%). Following any default, the interest rate shall increase to the maximum rate allowed by State of California Law after any default. Interest will be calculated based upon a 365-day year.

In the event any payment is more than fifteen (15) days past due, you will be assessed a late charge of five percent (5%) of the amount of such payment for each thirty (30) day period for which the payment is overdue.

5. Evidence of Obligation. The loan will be evidenced by a Loan Agreement and Promissory Note executed by you, together with the documents necessary to create and perfect security interests described herein.

6. Fees and Expenses. You shall pay all out-of-pocket expenses incurred by the RLF in connection with this transaction, including legal fees and disbursements of counsel and including by way of illustration, but not limited to appraisal costs, title insurance premiums and other related title company costs, escrow fees, UCC search fees and all recording fees, even in the event the transaction is not consummated. Security Arrangements. The loan will be secured by a second position deed of trust on the commercial real property located at _____; a first security filing on equipment of _____, guarantees of _____, _____, and _____; deed of trust on _____ personal residence at _____; and deed of trust on _____ personal residence at _____.

8. Conditions of Lending. The loan will be conditioned upon satisfaction of all required elements, for example, the following:

- a. Execution by you of all documents required by the RLF to evidence the loan or any of the security interests described herein.
- b. Approval by the RLF of the results of a title report and lien searches on equipment and fixtures.
- c. The absence of any adverse change in your business or financial condition.
- d. The City is satisfied that no hazardous waste or substances, toxic, waste, substances or pollutants are or have been used, generated, stored or removed on or from the real property to be covered by the deeds of trust described herein in violation of any federal, state or local law, rule or regulation. You will be required to indemnify the City against any such violations.
- e. Your obtaining irrevocable written commitments from other lenders and providing such additional funds as are reasonably necessary in the discretion of the City to permit you to complete the acquisition and purchase of the property located at: _____.
- f. Your provision of evidence that _____ is organized and qualified to do business in this state
- g. A copy of your current business license from the City of Berkeley.
- h. Payment of a loan fee in an amount equal to ____ percent (_%) of the loan at closing.

9. Covenants. In connection with the loan, you will be required to comply with all of the following:

(a) Within time periods specified in the Loan Agreement you will be required to provide annual, CPA compiled financial statements to the RLF.

(b) You will be required to provide evidence of adequate liability and property damage insurance in an amount and with a company satisfactory to the RLF as stipulated in the Loan Agreement.

10. Default.

The Loan Agreement and other loan documents will contain provisions making any breach of any term or condition thereof a default.

11. Miscellaneous.

a. Funds used by the RLF to make the loan are provided by the Economic Development Administration, (EDA), and as a consequence will be subject to certain restrictions and requirements, all of which will be described in the Loan Agreement.

b. You will not have any right to assign the loan or any of your interest therein.

c. Time is of the essence in the performance of all of your obligations hereunder.

d. This letter and the loan shall be construed and interpreted in accordance with the laws of the state of California.

e. **ORAL AGREEMENTS, PROMISES, OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY OR AMEND ANY TERMS OF THE LOAN, RELEASE ANY GUARANTOR, FORBEAR FROM ENFORCING REPAYMENT OF THE LOAN OR EXERCISING ANY REMEDY UNDER THE LOAN DOCUMENTS, OR MAKE ANY OTHER FINANCIAL ACCOMMODATION PERTAINING TO THE LOAN ARE NOT ENFORCEABLE UNDER CALIFORNIA LAW.**

This commitment is conditioned upon the preparation, execution and delivery of legal documentation in form and substance satisfactory to the RRLF and to its counsel, which documentation in addition to incorporating substantially the terms set forth above will include such other terms as are customary for transactions of this type. This commitment is further conditioned upon the strict compliance by the Borrower with all requirements of this commitment letter before the expiration date hereof.

Please evidence your approval of the foregoing to signing and returning the lender the enclosed copy (accompanied by the commitment fee referred to above) on or before _____. If such executed copy (and fee) is not received by the RLF by such date, then this commitment shall automatically expire and be of no further force or effect.

Sincerely yours,

Economic Development Manager

Accepted this _____ day of _____, 200x.

BORROWER:

By: _____

Its: _____

Exhibit F: Sample Closing Checklist

CLOSING CHECKLIST

Account Name: _____

Approved: _____

ITEM REQUIRED				
	Required		Received/Complete	
	Yes	No	Yes	No
A. Documents:				
ATTORNEY ENGAGEMENT LETTER				
1. Commitment letter completed				
1a. Commitment letter returned				
2. Loan Agreement				
3. Note				
3.a. Amended Note (Allonge)				
4. Deed of Trust				
4.a. Title Policy				
6. Assignment of Rents				
7. Assignment of (Commercial) Lease				
7. Guaranty (s)				
7.a. Acknowledgment and Consent				
8. Security Agreement				
8a. List of equipment for UCC.				
9. UCC-1 and/or UCC-2				
9a. UCC 11R				
10. Estoppel Certificate (5a/parties to Estoppel)				
11. Assignment of Cash Value/Life Insurance				
11a. Copy of Insurance Policy				
11.b. Personal residence				
12. Collateral Receipt for:				
13. Assignment Letter (dividends)				
B. Final Closing Process and Cross Check List				
	Required		Received	
	Yes	No	Yes	No
1. Escrow/Disbursement Instructions				
2. Copy of lender(s) approval/commitment/decline letter				
3. Tenant and owner lease agreements received				

4. Title Commitment				
4. (a) Title Policy #				
Contact Name:				
5. Organizational documents and borrowing resolutions				
6. Liability and fire protection insurance binders				
7. Copy of purchase agreement/and amendments				
8. Bills/invoices to be paid from escrow				
9. Copies of architect, engineer, and construction contracts				
10. Receipt of performance bond, as required				
11. Copies of all construction lien releases				
12. Copies of all reports, certificates, or other documents furnished by construction lender				
13. Real estate appraisal and all addendum and/or amendments				
14. A certified survey with a legal description conforming to the title policy and the deed of trust				
15. Evidence that required equity has been provided				
16. Other (list below)				
16a. Order check for closing				
16b. Final review of documents				
16c. All insurance binders received				
16d. Prepare data entry sheet				
D. DOCUMENTS TO BE REVIEWED AND/OR MODIFIED				
	Review Required?		Rewrite Required?	
	Yes	No	Yes	No

1.	Promissory Note				
2.	Security Agreement				
3.	Loan Agreement				
3.a.	UCC Filings				
4.	Participation Agreement				
5.	Continuing Guaranty				
6.	Other documents				
7.	Warrant Agreement				
8.	Copies of Subordinated Debt				
9.	Copies of Other Notes/Warrants				
10.	Inter-creditor Agreement				

Date Loan Closed: _____ Staff: _____

Exhibit G: Loan File Checklist

**REVOLVING LOAN FUND
PROGRAM CHECK LIST**

APPLICANT: _____	
MAILING ADDRESS: _____	
CONTACT: _____	PHONE (): _____
	PHONE (): _____
	FAX: _____
PROJECT ADDRESS: _____	

CHECK ONLY THOSE REQUIRED FOR APPLICATION:

<input type="checkbox"/> Application	<input type="checkbox"/> Business Plan	<input type="checkbox"/> Balance Sheet & Income Statement (projected)	<input type="checkbox"/> Tax Returns
<input type="checkbox"/> Interim Statements	<input type="checkbox"/> Aging of A/R, A/P & Taxes	<input type="checkbox"/> Projected Cash Flow (12) months	<input type="checkbox"/> Personal Financial Statement
<input type="checkbox"/> Personal Tax return	<input type="checkbox"/> Business Tax return		<input type="checkbox"/> Personal credit report
<input type="checkbox"/> Business credit report	<input type="checkbox"/> Purchase & sale agreement		<input type="checkbox"/> Construction schedule
<input type="checkbox"/> Bid or cost estimates	<input type="checkbox"/> Appraisal or valuation		<input type="checkbox"/> List of other collateral
<input type="checkbox"/> Legal or Parcel Numbers	<input type="checkbox"/> Organizational documents		<input type="checkbox"/> List of existing loans, commitments, or equity investment
<input type="checkbox"/> Copies of tenant leases	<input type="checkbox"/> Copies of building leases		<input type="checkbox"/> Environmental Questionnaire
<input type="checkbox"/> NEPA/CEQA or other environmental reporting requirements.	<input type="checkbox"/> Completed loan write-up		<input type="checkbox"/> Other

COMMENTS _____ 0

Completed By: 0 _____	Date: _____
Does reviewer recommend this application for consideration & approval	
_____ Yes	_____ No
Reviewed By: _____	Date: _____

Exhibit H:

Sample Servicing Report

LOAN SERVICING (Insurance, Job Reports, And Site Visits)

STARTUP LIST OF EXISTING AND PROJECTED JOBS: _____

JOBS REPORTS DUE: Semi-annual/Start date: _____

JOB CREATION OBJECTIVE: () MET: _____ (Date)

JOB RETENTION OBJECTIVE: () MET: _____ (Date)

Job Creation/Retention Reports Received:

Date: _____	Employee Status: _____
Date: _____	Employee Status: _____
Date: _____	Employee Status: _____
Date: _____	Employee Status: _____
Date: _____	Employee Status: _____

Insurance Certificate with the RLF listed as Loss Payee Required on:

- () FF&E () Vehicles () Real Estate () Inventory
- () Personal Residence () Key Man Life Insurance
- Other () General Liability

Company Name: _____

Collateral Covered: _____

Agent Name: _____ Agent Phone: _____

Expires: _____

Company Name: _____

Collateral Covered: _____

Agent Name: _____ Agent Phone: _____

Expires: _____

Comments on Expirations/Change of Coverage:

<u>LOAN MONITORING and SITE VISIT REPORT</u>					
BORROWER (File Name)					
CONTACT NAME:					
PHONE NUMBER:		REPORT DATE			
REVIEWER NAME:					
NAME OF STAFF INTERVIEWED:					
PROJECT SITE VISIT:	Yes	No	FILE REVIEW ONLY?	Yes	No
ORIGINAL LOAN PURPOSE (Use of Proceeds):					
			Days Delinquent		
STATUS OF LOAN:	Current				
	Delinquent				
LOAN AGREEMENT IN COMPLIANCE	Yes		No		
Comments					
JOB CREATION and/or RETENTION	Creation				
Full-time #	Part-time #		Minority/Ethnic Group		
	Hours worked per week:		Asian Pacific Islander		
FOLLOW-UP and/or REQUESTS TO BORROWER:					
DATE OF NEXT REVIEW:					

Exhibit I:

Sample Delinquent Letter

Date **+90 Day Letter**

Borrower

RE: South Berkeley Revolving Loan Fund, Loan #

Dear:

You are hereby notified that due to your failure to make the monthly payments due December, _____; January, February, March, April and May, 2000, each in the amount of \$_____, pursuant to the terms of that certain Promissory Note dated _____ in the original principal amount of \$_____ (the Note) given to you by the South Berkeley Revolving Loan Fund (RLF), you are in default under the terms of the Note.

Pursuant to the terms of the Note, the City hereby demands that you pay all payments now due, together with accrued interest, late charges, and any costs or fees incurred by the Authority in connection with the default as provided in the Note.

The current principal balance of the Note is \$_____ as of _____, with interest accruing on the principal balance from _____, the date of your default, at the rate of _____ (_____%) per annum. In addition, you are required to pay a late charge equal to five percent (5%) of the amount of the monthly payment due for each thirty day period after fifteen days from the due date of such payment. Late charges due as of the date of this letter total \$_____.

Payment of all amounts due, which total \$_____, must be made to the RLF at
.....

You are being given 30 days from the date of this letter to bring these payments current. Failure to do so will result in legal action against the corporation, and you personally.

Sincerely yours,

Economic Development Manager

Exhibit J – Map of Target Area

