

RESOLUTION NO. 87-164

RESOLUTION ADOPTING THE PROPERTY REHABILITATION LOAN AGREEMENT
CITY OF LODI HOUSING REHABILITATION PROGRAM

BE IT RESOLVED that the City Council of the City of Lodi does hereby approve the Property Rehabilitation Loan Agreement, dated December 2, 1987, between the City of Lodi, and the Bank of America, to facilitate the use of Community Development Grant funds for purposes of implementing the City of Lodi Housing Rehabilitation Program, a copy of said Loan Agreement is marked Exhibit A, and hereby made a part hereof.

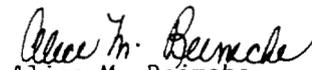
Dated: December 2, 1987

I hereby certify that Resolution No. 87-164 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 2, 1987 by the following vote:

Ayes: Councilmembers - Hinchman, Pinkerton, Reid, Snider and
Olson (Mayor)

Noes: Councilmembers - None

Absent: Councilmembers - None


Alice M. Reimche
City Clerk

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AMENDMENT TO
PROPERTY REHABILITATION LOAN AGREEMENT

THIS AMENDMENT is made by the CITY OF LODI (herein called "City") and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association (herein called "Bank").

R E C I T A L S

City and Bank on December 10, 1987, entered into a Property Rehabilitation Loan Agreement. City and Bank modify said Agreement as follows:

1. Paragraph B of "RECITALS". Omit the phrase "certain owners or".
The City's program allows only for loans to owner-occupants.
2. Paragraph 33 of "Deferred Payment Loans." Amend paragraph to include the following: "Bank agrees to disburse funds on behalf of City for Deferred Payment Loans. Said funds will be debited from City's Warehouse Account and paid in the form of a cashier's check to applicant and contractor. City, or its agents, will conduct progress inspections of the property to be rehabilitated and direct Bank to disburse checks accordingly. Bank will maintain a general ledger card to track disbursements on each Deferred Payment Loan during the construction period and report on the status of each loan to City on a monthly basis."
3. Paragraph 49 of "General Provisions". Omit entire Paragraph.

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IN WITNESS WHEREOF, this Amendment is executed by City acting by and through its City Council, pursuant to Resolution No. 87-164 authorizing such execution, and by Bank.

Dated this 10th day of December, 1987.

CITY OF LODI

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION

BY Evelyn M. Olson
Mayor

BY Christine P. Southgate
Christine P. Southgate
Assistant Vice President
Corporate Community
Development #3246

ATTEST Alice M. Reimche
City Clerk

Concurred by:

James S. Wägele
James S. Wägele
Vice President
Corporate Community
Development #3246

APPROVED AS TO FORM:

Attached is a true and correct Copy of the original Resolution

Ron Stein
Ron Stein
City Attorney

PROPERTY REHABILITATION LOAN AGREEMENT

THIS AGREEMENT is made by the City of Lodi, a municipal or political subdivision in the State of California (herein called "City"), and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association (herein called "Bank").

RECITALS

A. City has authorized a Housing Preservation Program as part of an adopted Community Development Block Grant Program (as may be amended and modified from time to time) hereinafter collectively called "Program".

B. As part of City's implementation of Program, City has requested Bank make below-market interest rate property rehabilitation Loans ("Loans" or "Program Loans") to certain owners or owner-occupants of residential real property (of 1-4 units) within City and approved by City as recipients of Loans ("Applicant" or "Applicants"). The purpose of the Loans will be the rehabilitation of said real property in accordance with Program. In addition, City may have requested a choice of several types of Loans be made available to Applicants.

C. To support these objectives, and based on an initial deposit of Community Development Block Grant funds, Bank is willing to provide City and Applicants with Collateralized Loans, Interest Subsidy Loans, Deferred Payment Loans, and other services at rates and terms not available to the general public or to City independent of this Agreement.

D. The terms and conditions of this Agreement are subject to the provisions governing lump-sum drawdowns for property rehabilitation in HUD Regulations as defined in Community Development Block Grant Regulations CFR 570.513.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual agreements made herein, and for other good and valuable consideration, City and Bank agree as follows:

DEPOSIT OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

1. Within ten (10) business days of execution of this agreement, City shall deposit \$133,658.00 in Community Development Block Grant Rehabilitation funds available to City under the Housing and Community Development Acts of 1974 and 1977, as amended, as part of this Agreement.

2. City's deposits of Community Development Block Grant funds shall be made in one or a combination of the following forms:

(a) A deposit to the Warehouse Account, the funds in which are unallocated to Loans but may be allocated to grants. The Bank shall pay to City interest on the Warehouse Account at the Bank's usual Public Agency interest rate (for savings deposits of similar type, maturity, and size), at the time of deposit.

(b) The purchase from Bank of time certificate(s) of deposit or other Bank instruments from which all proceeds will be allocated to future Program Loans. Bank, at its option, may charge City a service charge for the purchase of certain instruments and/or for the early withdrawal of funds from a time certificate.

3. City retains full access to all deposits which are unallocated to Program Loans. City agrees all interest earnings will be paid to accounts not allocated to Program Loans in accordance with HUD Regulations.

4. At the time of individual Loan funding, Bank shall have authority to transfer funds from either of the accounts described in (a) or (b) above into a Collateral Account(s) which will be non-interest bearing. City relinquishes the use of and control over the Collateral Account(s). The Collateral Account(s) will be used only for the Loan purpose described in this Agreement.

APPLICATION PROCEDURES

5. At the request of City, Bank shall consider making Loans to qualified Applicants directed to Bank by City. City shall notify the respective Applicant(s) in writing of any such request it makes to the Bank. The notification shall contain the following statement: "The City of Lodi has requested Bank of America National Trust and Savings Association, to consider making a specific extension of credit to you."

6. A qualified Applicant shall be identified by City or its agents, using City's established standards, which must consider, without limitation:

- (a) Applicant is "the owner of record" of the property subject to rehabilitation (if Applicant is a non-owner, Applicant must have a lease on the property which extends six months beyond the term of the Loan);
- (b) Applicant has verifiable income(s) which can be used to repay the proposed Loan;
- (c) City has determined that the proposed Loan, given Program options available, will best serve the rehabilitation needs

of Applicant and the Program objectives;

- (d) Refinancing is not available under this program;
- (e) The balance of all liens against the property to be rehabilitated shall not exceed 90% of Bank's loan value of the property.

7. With respect to each Loan application, City shall furnish to Bank:

- (a) an introductory letter stating that City desires Bank to consider making a Loan to Applicant;
- (b) a breakdown of the costs involved in the rehabilitation work to be performed on Applicant's real property;
- (c) a preliminary working drawing of the rehabilitation work;
- (d) an estimate of the value of the real property offered as security for the Loan;
- (e) a copy of any contractor bid accepted by Applicant;
- (f) a statement that City has satisfied itself with respect to the competence and reliability of the particular contractor who will perform the rehabilitation work;
- (g) a consent to release loan information.

8. For each loan, Applicant shall furnish to Bank;

- (a) a copy of signed personal Federal Income Tax Returns for the past two years including all attached schedules;
- (b) applicant's personal financial statements dated not more than 60 days prior to application date;
- (c) a signed Fair Lending Notice;

- (d) a legal description of the Real Estate to be rehabilitated;
- (e) all information required on Bank's standard loan application form.
- (f) if applicant is a non-owner/leaseholder on the property to be rehabilitated, a copy of the lease which must extend six months beyond the term of the Loan.

CREDIT DECISION

9. Bank shall perform its customary credit evaluation with respect to the Applicant, render its judgment with respect to the creditworthiness of the Applicant, and furnish to City a recommendation whether to proceed with the Loan. City's employees shall not express opinions to Applicants as to whether a loan will be approved. Bank will determine the appropriate Loan terms on each individual Loan.

COLLATERALIZED LOANS: TERMS AND CONDITIONS

10. If Bank approves a Loan, Bank will indicate to City which of the following Loans the Bank is willing to originate:

- (a) a 100% Collateralized (0% Bank risk) Loan at a 3.00% interest rate;
- (b) a 90% Collateralized (10% Bank risk) Loan at a 3.75% interest rate;
- (c) a 70% Collateralized (30% Bank risk) Loan at a 5.50% interest rate;
- (d) a 50% Collateralized (50% Bank risk) Loan at a 7.00% interest rate;
- (e) a 30% Collateralized (70% Bank risk) Loan at a 8.75% interest rate.

11. If Bank does not approve a Loan, City may recommend that the Bank proceed with the Loan as a Deferred Payment Loan at an interest rate established by City.

12. Rehabilitation Loans on mobile homes must be 100% collateralized at all times.

13. All Loans shall be documented using the Bank's standard forms.

14. In addition to the cash collateral as described above, the installment note shall be secured by a deed of trust covering the real property that is the subject for the rehabilitation for which the proceeds of the Loan are to be used.

15. The term of each Loan shall be determined by Bank but shall not exceed fifteen years (15) years, and the installment note shall be amortized in equal monthly installments over its term. Interest will be calculated on a simple interest basis for the installment note and payable to the Bank.

16. Each Loan shall be supported by a deposit to the Collateral Account in the amount equal to the collateral requirement for that Loan. Once the note and deed of trust are signed by the Applicant and the non-recission form is returned, the Bank will transfer the collateral for that Loan from the Warehouse Account to the Collateral Account. Within ten (10) business days after the end of each quarter, Bank shall remit to City the amount by which the Collateral Account exceeds the collateral requirements for each Loan based upon the outstanding balance of each Loan. Funds that Bank thus remits to

City shall be deemed funds that have been on deposit in the Collateral Account for at least 30 days. If, due to defaulted Loans, the collateral account balance is less than the collateral requirements of outstanding Loans, Bank may transfer from the Warehouse account to the Collateral Account, sufficient funds to cover the deficit. If funds in the Warehouse Account are insufficient to cover the deficit, City will remit the amount due to Bank in the form of a cashier's check within 30 working days.

17. If progress payments are requested by City, Bank may, at its option, disburse entire Loan proceeds to an escrow account, to be established with an agency, named or appointed by City. Any fee for services rendered may be part of Loan proceeds.

18. If a Loan remains in default for a continuous period of ninety (90) days on account of nonpayment of any sum of money due pursuant to the terms thereof or of any instrument or document related thereto, Bank may withdraw from the Collateral Account and pay to itself an amount equal to the then outstanding principal balance of the Loan multiplied by the same percentage as the percentage of the Loan amount that was deposited to the Collateral Account, plus 100% of accrued unpaid interest on the Loan through the 90th day of default. Bank shall have no recourse against City or the Collateral Account for any amounts in excess of those permitted under this paragraph. During any ninety (90) day default period, Bank shall perform its customary collection procedures with respect to the Loan. After a withdrawal from the Collateral Account, in the case of a Loan for which the deposit to the Collateral Account was less than 100% of the Loan amount:

- (a) Bank need not assign the deed of trust to City upon completion of the withdrawal but may, for its own account, exercise rights under the deed of trust to recover the remaining outstanding and unpaid principal of the Loan plus accrued unpaid interest thereon after the 90th day of default.
- (b) At City's election, if Bank does not exercise its rights under the deed of trust, Bank shall assign to City such rights as may be necessary for City to attempt to recoup any funds withdrawn from the Collateral Account in connection with any Loan default. City agrees to recoup funds, as much as possible, for the benefit of Bank as well as itself. Funds recovered shall be credited as follows:
 - (1) to withdrawals from the Collateral Account;
 - (2) to the costs of recovery;
 - (3) to Bank's Loan charge-off.

19. If Bank subsequently recovers funds with respect to a defaulted Loan (as, for example, but without limitation, if a voluntary sale of the property takes place), Bank shall, after deducting the previously unreimbursed percentage of Loan loss to which Bank is entitled plus Bank's cost of recovery, return and pay over to City all surplus amounts.

INTEREST SUBSIDY LOANS

20. Interest Subsidy Loans will be made only to applicants deemed creditworthy by Bank. Applicants will be subject to standard Bank credit criteria governing conventional home equity loans. Bank will bear all of the credit risk for such Loans, which will be and remain assets of Bank.

21. The term of an Interest Subsidy Loan, and the Loan terms other than interest rate, will be the same as those applicable to Bank's conventional home equity loans, and will be documented using Bank's standard forms. The Loans will contain due-on-sale clauses, and, to the extent permitted by law, Bank will not permit a Loan to be assumed. The Loans will not contain provisions for a prepayment charge.

22. The interest rate for an Interest Subsidy Loan will be designated by City.

23. At origination of a Loan, Bank will transfer an interest subsidy payment from the Warehouse Account into an account designated the Interest Subsidy Account. Funds transferred to the Interest Subsidy Account are irrevocably committed to interest subsidy payments for Interest Subsidy Loans. City relinquishes all use and control of funds in the account.

24. The amount of the interest subsidy for a particular Loan will be determined by Bank using its Community Development Interest Subsidy

Formula. This formula calculates the subsidy amount required to recover the cost to Bank of the difference between Bank's current rate for a conventional home equity loan at the time the Loan is made, and the interest rate charged to the applicant.

25. In the event of prepayment of an Interest Subsidy Loan, Bank will calculate the amount of unused Interest Subsidy for the period that begins 90 days after the date of prepayment and ends on the maturity date of the Loan. Bank will remit that amount to the Warehouse Account.

26. In the event an Interest Subsidy Loan remains in default for a continuous period of ninety (90) days on account of non-payment of any sum of money due pursuant to the terms of the Note or the Deed of Trust, Bank will continue to debit the Interest Subsidy Account for the monthly interest subsidy payment due through the completion of foreclosure. Upon completion of the foreclosure, Bank will calculate the amount of unused Interest Subsidy for the period that begins on the date of completion of foreclosure and ends on the maturity date of the Loan. Bank will remit that amount to the Warehouse Account.

DEFERRED PAYMENT LOANS

27. Deferred Payment Loans are Loans funded by the City with no immediate repayment schedule. At City's request, Bank shall prepare all necessary Loan documents for Deferred Payment Loans with City designated as obligee and return all documents to City.

28. Each Deferred Payment Loan shall be funded in whole by City, evidenced by a promissory note and secured by a Deed of Trust, which deed will be recorded by Bank.

29. Unless indicated otherwise by City, Deferred Payment Loans shall be at 0% interest.

30. Prior to the making of the first Deferred Payment Loan under this, Commission shall furnish to Bank a written description of the established rates and terms for its Deferred Payment Loans and shall deliver this information to Bank's Corporate Community Development Department #3246.

31. Promptly upon assignment to City, City shall pay to Bank a fee of ONE HUNDRED DOLLARS (\$100.00). Bank will collect from Applicant actual out-of-pocket fees or charges including property appraisal, title company, and recording fees, as required to originate City's Deferred Payment Loan; these fees may be included in the Loan proceeds.

32. Upon assignment of the Deferred Payment Loan to City, Bank shall have no responsibility whatsoever for said Loan, except if requested by City, Bank will provide installment collection loan servicing for any Deferred Payment Loan at Bank's prevailing rate for such services.

33. For Deferred Payment Loans, City authorizes Bank to make a lump sum disbursement by cashier's check to Applicant(s) or, if requested by City, to City, from the Warehouse Account. If progress payments are

requested by City, Bank may disburse entire Loan proceeds to an escrow account, to be established with an agency, named or appointed by City. Any fee for services rendered may be part of Loan proceeds.

GRANTS

34. Upon City's request, Bank will disburse funds from the Warehouse account by Cashier's checks to Applicant's designated by City as "Grant Recipient(s)." Bank retains the option of charging a fee for this service.

OTHER ALLOWABLE FEES AND CHARGES

35. With respect to any Loan, Bank shall, at its option, recover from the Applicant the following out-of-pocket expenses:

- (a) Credit report;
- (b) Appraisal reports (required on any Loan involving Bank risk);
- (c) Title report and title insurance, if required by the Bank;
- (d) Recording of deed and other lien costs;
- (e) Tax and lien service.

36. Out of pocket expenses charged to applicants may be financed as part of the Loan proceeds, or at City's option, may be paid by City.

37. Applicant will pay a late fee at the Bank's prevailing rate for late payments (currently minimum charge of \$5.00 and a maximum charge of \$15.00 for any payment not received by Bank within 10 days of when it is due).

GENERAL PROVISIONS

38. On City's request, Bank shall, for its customary fees, accept for collection purposes, pursuant to Bank's then current installment collection procedures, a Program Loan that has been transferred to City.

39. Bank covenants and agrees that nothing in this Agreement or any agreement made pursuant hereto shall be deemed or construed by Bank to make City a surety or guarantor of any Loan, and that Bank's rights with respect to a Collateralized Loan shall be limited to those set forth in this Agreement.

40. City and Bank shall comply with all applicable statutes and regulations, including without limitation, where applicable, the Federal Truth in Lending Act and Regulation Z thereto, the Consumer Credit Reporting Act, and the Equal Credit Opportunity Act and Regulation B.

41. Except as specifically required by this Agreement, City waives any right it may have to require Bank to:

- (a) proceed against any Applicant or other person;
- (b) proceed against or exhaust any collateral for the relevant Loan; or
- (c) pursue any other remedy in Bank's power.

42. City waives any defense arising by reason of any disability or other defense of Applicant or any other person, or by reason of the cessation from any cause whatsoever, other than full payment, of the liability of an Applicant or any other person.

43. Bank and City acknowledge the "Special Purpose" nature of the Program and Program Loans. To serve this "Special Purpose," a Loan shall be considered in default after the date of a transfer of the property covered by deed of trust executed under this agreement; which, according to the provisions of the note, make the entire principal and interest of the note due and payable, regardless of Bank's ability or inability to enforce those provisions of the note.

44. This Agreement shall terminate one year from the date of execution. This Agreement may be terminated by either of the parties hereto, provided written notice of intent is given to the other party at least sixty (60) days prior to the termination date.

45. Any termination of this Agreement shall not affect Program Loans outstanding at the time of termination.

46. At termination, Bank shall retain the Collateral Account including funds sufficient to cover 90 days accrued interest on outstanding Loans; once outstanding Loans are fully paid, the residual funds in the Collateral Account will be refunded to City. If, at the time of termination, the Collateral Account funds exceed the specified percentages of the unpaid balances of Collateralized Loans, Bank will remit those funds to City within five (5) business days of the termination date.

47. Any communications between the parties hereto may be given by mailing the same, postage prepaid, to Bank at its Corporate Community Development Department, #3246, P.O. Box 37000, San Francisco, California, 94137, and to City at City Hall, 221 West Pine Street, Call Box 3006, Lodi, CA 95241-1910.

48. This Agreement and any agreement, document, or instrument attached hereto or referred to herein embody all terms and conditions mentioned herein or incidental hereto, and supersede all oral negotiations and prior writing in respect to the subject matter hereof. In the event of conflict between the terms, conditions, and provisions of this Agreement and any prior agreement, document, or instrument, in respect to the subject matter hereof, the terms, conditions, and provisions of this Agreement shall prevail.

49. City shall indemnify and hold harmless Bank against all claims and damages, alleged or otherwise, of whatsoever nature arising out of or in any way connected with the acts or omissions of any contractor performing rehabilitation work in connection with this Agreement; provided, however, that City's obligations under this paragraph shall not extend to negligent or wilful acts or omissions by Bank. All contractors shall operate as independent contractors and nothing herein is intended to affect such independent contractor status.

50. Bank, at its option, may decline to make additional Loans from and after the date if and when the principal balance of all Loans outstanding has exceeded THREE HUNDRED TWENTY THOUSAND DOLLARS (\$320,000.00).

51. Each Applicant shall be required to maintain a standard policy of hazard insurance covering the real property upon which the rehabilitation work is to be performed, in effect while any part of the Loan remains outstanding and which names Bank and City as loss payee.

52. The Collateralized Loans described in this Agreement, are priced on an average Loan size of \$10,000.00 which provides City favorable rates and terms based on this average Loan amount. Since operating costs associated with a smaller average loan size are significantly greater, if the average Loan size is not maintained, Bank may make adjustments affecting the pricing of future activity as follows:

- (a) increase borrower interest rates for new Loans;
- (b) increase collateral requirements for new Loans; or
- (c) assess an origination fee for new Loans.

These options are to be negotiated and mutually accepted by Bank and City.

53. This Agreement may be executed in as many counterparts as may be deemed convenient, each of which, when executed, shall be deemed an original.

54. The terms and operating aspects of this Agreement may be altered from time to time through a letter of understanding, accepted mutually by City and the Bank through its Corporate Community Development Department.

IN WITNESS WHEREOF, this Agreement is executed by City acting by and through its City Council, pursuant to Resolution No. 87-164 authorizing such execution, and by Bank.

Dated this 10th day of December 1987.

CITY OF LODI

BY _____
Evelyn M. Olson
Mayor

ATTEST _____
Alice M. Reimche
City Clerk

APPROVED AS TO FORM:

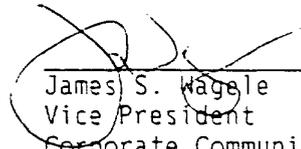


Ron Stein
City Attorney

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION

BY 
Christine P. Southgate
Assistant Vice President
Corporate Community
Development #3246

Concurred by:



James S. Wagle
Vice President
Corporate Community
Development #3246

Attached is a true and correct
Copy of the original Resolution

FINAL/0163P/11/25/87/CP:cl