

RESOLUTION NO. 20201203-012

WHEREAS, on September 17, 2020, the City Council adopted Resolution No. 20200917-062, directing the City Manager to explore and identify ways to support and to increase the survivability of those most vulnerable in Austin's hardest hit sectors: childcare, music and arts venues, restaurants and bars; and

WHEREAS, on October 1, 2020, the City Council adopted Ordinance No. 20200901-052, amending certain Fiscal Year 2020-2021 department budgets to fund the Save Austin's Vital Economic Sectors (SAVES) Fund to support COVID-19 emergency relief; and

WHEREAS, on October 15, 2020, the City Council passed Resolution 20201015-075 adopting guidelines for the Legacy Business Relief Grant program and directed staff to return with additional recommendations for enhanced program guidelines;

NOW, THEREFORE,

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

The City Council approves the enhanced program guidelines, in Attachment A, for the Austin Legacy Business Relief Grant, a \$5,000,000 program to help support Austin-based live music venues impacted by the COVID-19 pandemic.

ADOPTED: December 3, 2020

ATTEST:


Jannette S. Goodall
City Clerk

City of Austin – Economic Development
Austin Legacy Business Relief Grant
REVISED DRAFT Program Guidelines
Updated 12.2.2020

1.0 Purpose

The Purpose of the Program is to ensure the long-term survivability of Legacy Businesses in the City of Austin. It is not intended only to provide immediate short-term support, but also to help Legacy Businesses owners receive technical assistance and enhanced funding so their businesses have a greater likelihood of remaining open through the pandemic. Achieving this purpose accomplished several community benefits, including retaining local jobs, maintaining a strong tax base, and maintaining civic infrastructure.

1.1 Definitions

The following definitions shall be used for the purposes of this grant program:

- **Art Gallery/Museum:** Facility whose principal function and mission is to exhibit, present, and/or sell artistic work in a variety of media produced by an artist, artist collective, or arts and culture organization, accessible by public audiences.
- **Art Venue:** A performance venue/theater or museum/art gallery, as defined in this section.
- **Bar:** A business engaged in the preparation and/or retail sale of alcoholic beverages for consumption on the premises. At least 49% of the gross income must be derived from the sale of alcohol for on-site consumption.
- **Legacy Business:** A business that has operated from a publicly-facing physical (brick and mortar) business for at least 20 years in an area that is currently within a City of Austin Council District. The Legacy Business may have changed locations during its twenty (20) years but must have been located and/or headquartered in an area that is currently in a City of Austin Council District during all twenty (20) years.
- **Live Music Venue:** An establishment where live music programming is the principal function of the business and/or the business is a live music destination, and where the venue clearly establishes the ability of an artist to receive payment for work by percentage of sales, guarantee or other mutually beneficial formal agreement for every performance. A live music venue is a destination for live music consumers, and/or its music programming and is the primary driver of its business as indicated by the presence of at least five (5) of the following:
 - Defined performance and audience space;
 - Mixing desk, public address (PA) system, and lighting rig;
 - Back line;

- At least two of the following: (i) sound engineer, (ii) booker, (iii) promoter, (iv) stage manager, or (v) security personnel;
 - Charges cover charge to some music performance through ticketing or front door entrance fee;
 - Markets specific acts through show listings in printed and electronic publications;
 - Hours of operation coincide with performance times; or
 - Programs live music at least five nights a week.
- **Performance Venue/Theater:** An Austin-based establishment whose principal function and mission is to present live performances, plays, live music, film screenings, or other performances of artistic work produced by an artist, or arts and culture organization, accessible by public audiences.
 - **Restaurants:** An establishment engaged in the preparation and retail sale of food and beverages for on-premise consumption, off-site consumption, or in a ready-to-consume state. At least 51% of the gross income must be derived from the sale of prepared food.

2.0 Program Fund and Fund Source

Funding in the amount of \$5,000,000 is available in the Fiscal Year 2020-2021 General Fund Emergency Reserve Fund. Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds are not used for this program.

3.0 Eligibility Criteria

Applicants must meet all the following criteria to be eligible for this grant program:

- Applicant's business meets the definition of a Legacy Business, as defined in Section 1.1.
- Applicant's business operates as an art gallery/museum, an art venue, a bar, a live music venue, a performance venue/theater, or a restaurant, as defined in Section 1.1.
- Applicant attests they incurred or may incur COVID-19 mitigation and protective equipment expenses.
- Applicant attests to having challenges pivoting the business to alternative operating models for generating enough revenues for survival under COVID-19 public health orders.
- Applicant demonstrates that assistance through this program reasonably ensures the business will not fail.
- Applicant is committed to maintaining the business' unique contribution to the City's special culture and brand.
- Applicant operates the business in a manner that meets or exceeds the City's COVID-19 safety guidelines, which can be found online at www.austintexas.gov/covid19.

3.1 Ineligibility Criteria

Applicants are ineligible for this grant program if any of the following apply:

- Applicant's business does not meet all the eligibility requirements in Section 3.0.
- Applicant's business is permanently closed.

- Applicant's business does not have a physical (brick and mortar) location.
- Applicant's business must be located in a City of Austin City Council district.
- Applicant received assistance through another Save Austin's Vital Economic Sectors (SAVES) Fund grant program.
- Applicant's business is debarred from contracting with a governmental entity.
- Applicant's business does not have an Employer Identification Number.
- Applicant's business meets any of the following:
 - The business is engaged in multi-level marketing (i.e. network marketing, pyramid selling);
 - The business derives more than a third of its annual revenue from gambling activities;
 - The business' service to customers includes adult entertainment;
 - The business' primary activities involve lobbying;
 - The business is a governmental entity; or
 - The business is a non-profit organization.
- Applicants who are full time, permanent City of Austin employees.

3.2 Previous COVID-19 Grant or Loan Recipients

Applicants receiving assistance through another SAVES Fund grant program are not eligible for this program. Applicants who received federal CARES Act funding are eligible for the Austin Legacy Business Relief Grant.

3.3 Applicants with Multiple Sites

Applicants with multiple eligible operations may only apply for the fund once.

4.0 Emergency Support Grants

Applicants that meet the program eligibility in Section 3.0, agree to participate in technical assistance [program evaluation](#), and attest to immediate risk of closure but for emergency financial support will receive a one-time emergency support grant of \$20,000. For the purposes of this emergency support grant, "immediate risk of closure" means risk of closure within 30 to 60 days of submitting the application under the business' current operations. The City may clawback a \$20,000 grant from applicants that fail to participate in the mandatory technical assistance [program evaluation](#), as defined in Section 4.1. Also, applicants that fail to participate in the mandatory technical assistance [evaluation](#) might be ineligible for any further funding via other programs and/or grants if they do not complete the terms of this program.

4.1 Mandatory Technical Assistance Program

All eligible applicants must participate in a mandatory technical assistance [program evaluation](#) before applying for enhanced support grants, as defined in Section 4.2. [If the applicant is identified to need](#) ~~The technical assistance, this program~~ may include a program orientation, virtual cohort-style courses, and/or one-on-one technical assistance. Because the nature of the COVID-19 pandemic is dynamic, the City Manager shall develop the technical assistance program in partnership with third-party entities to ensure maximum benefit for grant applicants.

4.2 Enhanced Support Grants

Eligible applicants who complete the technical assistance requirements may apply for enhanced support grants, which are monthly disbursements up to \$40,000 per month for six months, not to exceed \$140,000. The monthly grant will be based on eligible operating expenses as defined in Section 4.3. Once the calculation is determined, the applicant will receive the same monthly disbursement until they reach the six month or \$140,000 limit.

Not all eligible applicants will receive enhanced support grants. All applications for enhanced support grants will be evaluated using a scoring matrix. City staff will publish the scoring matrix online prior to accepting applications for enhanced support grants. The enhanced support grants will be allocated to applicants that score the highest according to this matrix.

4.3 Calculating Maximum Possible Enhanced Support Grants

An applicant's maximum possible enhanced support grant amount will be based on the following eligible expenses for calendars year 2019 and 2020, which will require documentation:

- Rent or mortgage for commercial property, including triple net leases
- Utilities
- Payroll, payroll taxes and employee benefit programs such as health and life insurance
- Technology and software
- Sanitation/cleaning services or supplies
- Personal protective equipment (PPE) purchases/rentals
- Business and commercial property insurance
- Permits and regulatory fees
- Maintenance and repair
- Professional services (i.e. CPA, attorney, brokerage, payroll services, etc.)
- Property taxes

Applicants will be asked to submit the following as documentation to verify their expenses:

- 2018 and 2019 Federal income tax return
- Current balance sheet
- Twelve months trailing Profit & Loss statement
- Documentation expenses eligible for reimbursement
- Payroll records (to document number of employees) ([Sample](#))

A larger grant award may be considered if it is determined to be necessary and advisable:

- For an awardee, the Austin Economic Development Corporation, or other similar cultural trust organization, or third party which will then lease to the awardee, to purchase the awardees' location or otherwise to achieve a purpose that allows for greater long term business sustainability, or
- To sufficiently leverage an opportunity to ensure business survival and long term sustainability.

4.4 Termination of Enhanced Support Grant

If the business closes permanently during the grant award period, termination of the grant may be considered.

5.0 Commercial Tenants

As part of the Mandatory Technical Assistance ~~Program~~ (see Section 4.1), applicants who rent or lease their property should ~~demonstrate an~~ attempt to ~~demonstrate-secure~~ a commitment from their property owner to enter into a more favorable and/or more long-term rent or lease agreement or sale agreement with the applicant.

5.1 Workers Rights and Labor Issues

Applicant will adhere to worker safety protections and workers' rights as applicable to the facility and business operations in accordance with local, state, and federal laws. The City may find a breach of the program guidelines if a program participant is found to have violated workers' rights for a period of one year from grant award, either because of a substantiated finding as determined by the City and is not cured by the participant, of unfair labor practices, worker safety violations, violation of anti-discrimination laws, or violation of other applicable worker rights laws.

5.2 Anti-Discrimination Agreement

Applicants agree to comply with policies to support anti-harassment and anti-discrimination practices for business operations and work environment in the City of Austin. Applicants receiving grant awards shall be required to sign and comply with a City-provided form specifying non-discrimination and anti-harassment policies and practices. Evidence of noncompliance may be grounds for terminating a grant award and demanding repayment. At its discretion, the City may work with the recipient to develop a plan and timeline for becoming compliant.

6.0 Funding Disbursement

The City of Austin or a third-party program administrator will make every effort to distribute funding as soon as possible following the rapid completion of the final application process, including the ~~mandatory~~ technical assistance ~~program~~.

7.0 Public Disclosure

All information submitted by applicants as part of the grant application and administration are subject to the Texas Public Information Act.