

I move to postpone Item 74 with the following direction to City Staff:

- Immediately initiate a two stage program with the first stage of the program allowing Live Music Venues to apply for eligibility for the Program and be provided Case Management and Professional and Technical Support as outlined in this direction.
- Eligible Applicants shall be those that meet the Purpose of the Program and other requirements included in this direction.
- The second stage of the program shall allow for Eligible Applicants to submit a Final Application for grants as outlined in this direction.

[Redline below show changes to the REVISED Program Guidelines staff emailed out last night.]

~~City of Austin—Economic Development
Austin Live Music Venue Relief Grant
DRAFT Program Guidelines~~

~~1.0 Introduction and Purpose~~

~~The Austin City Council created the Austin Live Music Venue Relief Grant through Ordinance No. 20201001 052. The Austin City Council approved a one time allocation of \$5,000,000 for this program. The Austin Live Music Venue Relief Grant will be structured as a grant program for eligible live music venues located in a City of Austin Council District. Applicants may apply for funding up to \$40,000 per month for six months. Total grant awards per applicant will not to exceed \$160,000. Live music venue operators can use these funds for eligible expenses incurred after March 1, 2020.~~

~~The Live Music Venue Fund intends to benefit live music venues that:~~

~~The Purpose of the Program is to ensure the long-term survivability of live music venues and industry in the City, it is not intended to merely provide for the short term ability of live music venues to survive the pandemic, and is intended to benefit live music venues that:~~

- ~~Have been closed or operated with significantly-reduced operations (operating below 75 percent of operational capacity compared to this time in 2019) since some point in March 1, 2020, because of the city's response to COVID-19;~~
- ~~The business faces a substantial likelihood of closing permanently absent assistance;~~
- ~~There is a very low likelihood of a similar business re-opening in the same or nearby location due to increased rents or other market factors;~~

- The business or industry faces uniquely difficult challenges pivoting to alternative operating models for generating revenue sufficient for survival under extended public health emergency orders;
- Assistance provided will significantly contribute to helping reasonably ensure that the business will not fail for at least a sufficient period of time to help provide a realistic path to recovery and sustainability;
- Their failure and loss would have the greatest detrimental impact on the city's civic infrastructure, economic recovery and preservation of its unique culture, character and brand;
- Were adversely impact by the cancellation of South by Southwest and subsequent events;
- Have been impacted by other COVID-19 related disruptions; and/or
- Have virus mitigation and protective equipment needs.

1.1 Community Benefits

The community benefits to be achieved through this program include not only helping the business, but also helping that industry's and other industries' survival, job creation and retention, post-pandemic economic recovery, maintaining a strong tax base, maintaining civic infrastructure, and preserving the City of Austin's unique culture, character, heritage and brand. Awarded live music venues will be provided the necessary support for ensuring success, since this investment will germinate broader economic recovery and job growth in Austin, including but not limited to:

- Preventing iconic Austin businesses, that attract in-state and out-of-state tourists, from closing;
- Improving the quality of life for residents and visitors;
- Spurring economic development opportunities for small business;
- Supporting workers in the targeted businesses and industries that will, in turn, be able to sustain other businesses and industries (including at staging companies, artist service organizations, studio spaces, etc.) that also contribute to the unique character, brand and culture of our city;
- Helping people with low and middle incomes;
- Expanding local audience outreach through collaboration and partnerships;
- Innovating safe live music guidelines for workforce development and growth; and
- Promoting Austin's live music sector and other music industries to tourists and global audiences.

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

In order to be considered for funding, applicants must meet the following eligibility criteria:

- ~~Have been closed or operated with significantly reduced operations (operating below 75 percent of operational capacity compared to this time in 2019) since March 1, 2020.~~
 - Operate as a Live Music Venue (see Section 3.1 Live Music Venue Definition)
 - Have a physical address in a City of Austin City Council District
- ~~Be current on all local and state license requirements~~
 - Have incurred or plan to incur COVID-19 mitigation and protective equipment expenses
 - Meet or exceed the City of Austin's recommended COVID-19 safety guidelines, which can be found online at www.austintexas.gov/covid19

3.1 Live Music Venue Definition

For the purposes of this grant program, "Live Music Venue" is defined as 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.

3.2 Ineligibility Criteria

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

- The applicant does not meet the eligibility criteria in Section 3.0
- The applicant does not meet the definition of "Live Music Venue" in Section 3.1
- Full time, permanent City of Austin employees are ineligible to receive these funds.

3.3 Previous Grant Recipients

Applicants who received a prior CARES Act funded grant or loan may apply for this program.

3.4 Applicants with Multiple Sites

Live music venue operators with multiple locations may apply for each location.

3.5 Case Management and Professional and Technical Support

Eligible Applicants shall be provided access to up to twenty (20) hours of attorney and/or certified public accountant services, as part of initial case management assistance part of the application process, to help those Eligible Applicants further develop and refine their final application to demonstrate assistance received will best meet the purposes of this program, as set out in Section 1.0, above. These attorneys and CPAs will come from a pool of experts made available by the City.

3.51 Limitation on Number of Eligible Applicants

If the number of Eligible Applicants exceeds 50, then the City may narrow the eligibility criteria, consistent with the intent and purpose of this program.

3.52 Interim and Emergency Support Necessary to Participate in the Application Process

Eligible Applicants that are facing imminent failure and will not otherwise be able to participate in the development and refinement of their application, will be entitled to request that minimum financial assistance, not to exceed \$20,000, necessary to survive long enough to participate in the application process (meaning there are no non-monetary steps or actions that can reasonably be taken to otherwise survive to participate in the application process).

3.6 Final Application and Awarding of Grants

Grants shall be awarded based on the final applications submitted by the Eligible Applicants in consultation with the case management assistance they receive. Awards shall be made to best achieve the purpose of this program and shall, when appropriate, try to leverage the funding available so that the resource can go further. It is recognized that there will be some subjectivity involved in awarding grants.

3.61 Types of Grants Awarded

Award of grants may take different forms, to achieve different purposes, and may be in different amounts as may best determined to facilitate the purposes of this program as set out in Section 1.0, above. The City may delegate to an economic development corporation the awarding of grants. Grants awarded in this program may be combined with, or used to help leverage, other public and third party resources and participation. If an economic development corporation is used, such corporation may combine the resources here provided with separate or third party resources and it may participate as an investor, landlord or otherwise, to best maximize the purposes, intent and City provided funding associated with this program.

3.6 Commercial Tenants

Applicants who rent or lease their property ~~must~~should attempt, as part of the case management and application process, to demonstrate a commitment from the property owner to enter into a more favorable and/or more long-term rent or lease agreement ~~for or sale agreement with~~ the applicant. If a property owner is unwilling to enter into ~~a more favorable rent or lease~~such an agreement, the applicant ~~can submit~~may still apply with the submittal of documents demonstrating a good faith effort to work with their property owner to negotiate a more favorable agreement. Whether or not such an agreement can be reached is a factor that can be considered in awarding final grants and such impacts the consideration of the purposes and intent of this program, as set out in Section 1.0, above.

4.0 Equity Consideration

The City of Austin is focusing on undoing the policies and practices that have led to historic systemic inequities with special attention paid to business ownership, employment, artist of color and genre development, and audience outreach and development. To address these systemic inequities, applicants are required to submit a detailed “Live Music Venue Equity Strategic Plan.”

Awardees will be provided training and support to ensure these plans are actionable and implemented within one year of the grant award. These opportunities will be created and administered in collaboration with City of Austin departments, local music venues and businesses operated by people of color, and EDD’s workforce development partners for the music industry.

Applicants should consider the following options and concepts for creating a customized and detailed “Live Music Venue Equity Strategic Plan” as part of their application:

Undoing Systemic Racism Training and Equity Process with Musicians (Required):

- Participation in workshops for live music venue leadership and staff with topics covering equity in hiring, institutional racism, and implicit bias; or
 - o Participation in a community-led process alongside musicians from historically marginalized backgrounds, with the goal of improving racial equity and inclusivity in the industry and better establishing professional standards to address issues raised by musicians of color such as timely pay and the elimination of any disparate treatment.

Live Music Professional Development:

Participation in professional development workshops and trainings to increase access and opportunities for people of color to develop within live music venues, including the following:

- Entrepreneurship, business planning, budgeting, insurance, and strategies for sustainable growth.
- Technical training in live sound mixing and audio engineering.

- Venue Internships for local high school and undergraduate students of color.
- Marketing and outreach development to increase communities of color patronage of local artists and live music venues.

Genre Diversity Development and Promotion:

- Developing ongoing Artist Residencies featuring emerging artists of color in all genres.
- Participating in “Genre Development Town Halls” featuring artists of color in all genres streamed from music venues and/or creative spaces in each City Council district. Additional marketing assistance from City and cultural tourism partners will be provided to promote these shows.

ATX Music Export and Exchange:

- Developing an export and exchange program with strong Black, Indigenous, and People of Color (BIPOC) music markets to provide Austin artists of color with touring opportunities to perform in new and diverse markets, while also bringing visiting artist of color to perform in Austin venues and creative spaces. Additional marketing assistance from City and cultural tourism partners will be provided to promote these shows.

Talent Buying, Co-production and Co-Marketing Collaboration:

- Collaborating with local BIPOC talent buyers/promoters to create and promote showcases of underrepresented genres and artists of color. Additional marketing assistance from City and cultural tourism partners will be provided to promote these shows.

Support Act Opening Slots:

- Venue talent buyers securing paid opening support slots for Austin artists of color in shows of local talent, as well as national and regional tours to grow the audience base and ticket sales of both the venue and the featured artists of color. Additional marketing assistance from City and cultural tourism partners will be provided to promote these shows.

Destination Events:

- Collaboration with community partners of color to produce scaled events highlighting and promoting the artistic diversity in Austin with a focus on ethnic cultural holidays and regular annual events. Additional marketing assistance from City and cultural tourism partners will be provided to promote these shows.

Co-Located “Music Hubs” and Venues:

- Collaboration with community partners of color to establish and promote co-located “Music Hubs” and venues through public-private partnerships that boost local creative industry capacity. Venue stakeholders participate in these Music

Hubs to create the synergy critical to developing and growing a wide array of genres and Austin artists of color, as well as venue/music business ownership by people of color.

4.1 Workers Rights and Labor Issues

Applicant will adhere to ~~labor peace provisions and~~ 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.

If the City determines that it is a market participant, such as when the City pays a third party to do work on City property or perform services for the City, then the City's labor peace provisions should apply in order to protect the City's proprietary interests.

4.2 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.

5.0 Eligible Expenses

Eligible expenses that will be used to calculate the award amount include:

- 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
- Operating or facility capital
- Assistance with the purchase of a venue
- Professional services ~~other than legal fees (i.e.: accountant, commercial real estate broker, etc.)~~
- Property taxes

The following types of expenses are not eligible for these grant funds:

- ~~Lost sales, donations or sponsorships~~
 - Costs that have been paid or will be paid by other COVID-19 grants/loans
- ~~Litigation/legal expenses in actions by or against the organization~~

6.0 Grant Award

Applicants may apply for funding up to \$40,000 per month for up to six months. Total grant awards per applicant will not ~~to exceed \$160,000. Grant awards will be determined by applicants' operating expenses, which will be calculated and verified by analyzing historical financial statements and tax returns. Operating costs listed in Section 5.0 will be included in this determination~~ exceed \$160,000.

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

- For an awardee, the Austin Economic Development Organization, 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

If, at any point it is determined that long term survival of an awarded business is not viable, termination of the grant may be considered.

The City of Austin anticipates awarding \$4,500,000 to \$5,000,000 to eligible program applicants. The total amount dispersed will depend on whether the City of Austin contracts with a third-party to administer the grant program ~~and/or whether the administrative and case management expenses are funded from other than this fund.~~ Administrative fees for third-party administrators can be as high as 10 percent of the total program fund.

7.0 Funding Disbursement

The City of Austin or a third-party program administrator will make every effort to distribute funding ~~within thirty (30) days after the application period closes and any necessary documentation from applicants is received. Grant awards will be paid to the awardee on a monthly basis for six months. as soon as possible following the rapid completion of the final application process, including the case management assistance.~~

8.0 Public Disclosure

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