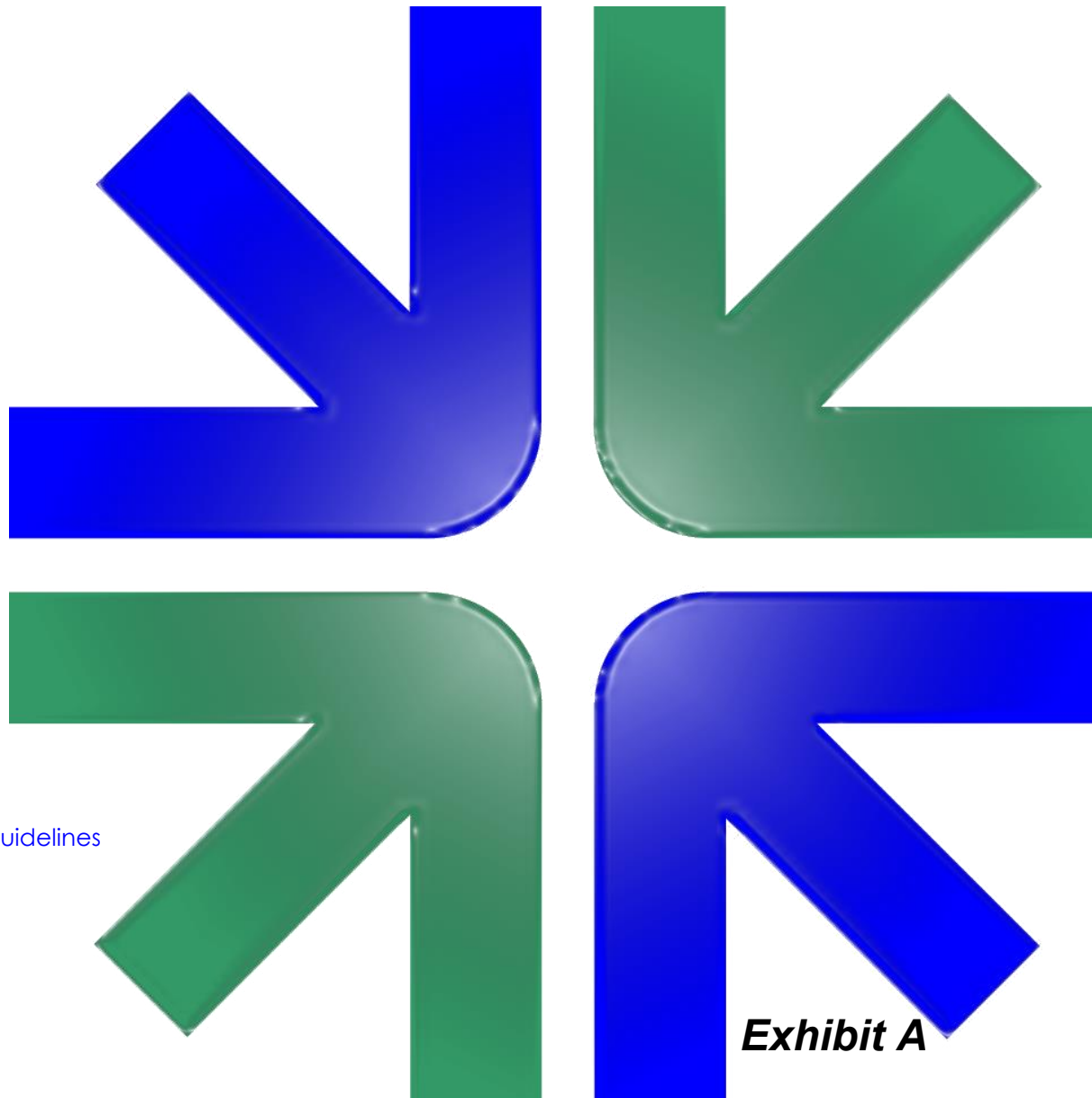


City of Emeryville

# Façade Improvement Grant Program



*DRAFT Program Guidelines*

*February 2017*

***Exhibit A***

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## Introduction

The City of Emeryville has an extensive history of supporting small businesses through financing assistance for the rehabilitation and upgrade of commercial buildings.

In 1997, the City established the Façade Grant Improvement Program to provide financial grants to businesses for upgrading the exteriors of buildings located on San Pablo Avenue and Park Avenue. In 2002, the program was revised to increase the maximum grant size from 50% of improvement costs to 75% of improvement costs, with a maximum grant amount of \$75,000. In 2009 the program was expanded again, to allow all businesses within neighborhood business districts to participate, including portions of 65<sup>th</sup> Street, Adeline, Powell and Hollis.



The Façade Grant Program was well received and provided assistance to numerous small businesses over the years with nearly \$1 million in grants approved. However, the funding and administration of this program was provided by the Emeryville Redevelopment Agency. In 2012, the State of California dissolved all redevelopment agencies statewide, effectively ending the program.

Despite this, the City's commitment to supporting small businesses has remained, and the City's Economic Development Strategy for Fiscal Years 2014-2015 and 2015-2016 includes a Strategic Goal to "Support small and local businesses." Also, in January 2016 the City Council established its Priorities, Goals and Strategies for the period Fiscal Years 2016-2018. One of the Goals was to "Support and adopt policies to support worker owned businesses and small businesses."

On November 15, 2016 the City Council held a study session to discuss the establishment of a Business Tax Rebate Program. During this discussion it was noted that City staff had received several requests for façade improvement funds, and as a result the City Council directed staff to revive the Façade Improvement Grant Program.

On January 18, 2017 the Economic Development Advisory Committee (EDAC) reviewed draft guidelines based on the prior Façade Improvement Grant Program. It was noted that the funding environment had changed since the original program was active, and that the current funding environment and evolving business needs necessitated changes to the program. The EDAC established a subcommittee to provide recommendations on a Façade Improvement Grant Program and the subcommittee provided input to staff. The subcommittee's recommendations are included in the following Program Guidelines. The Program Guidelines outline the Façade Improvement Program, including the program objectives, eligibility criteria, maximum grant sizes, and application requirements and process.

## Façade Improvement Program

### *Program Objectives*

The Façade Improvement Program has two distinct but related objectives, as follows:

1. Improve the appearance of the City's neighborhood commercial areas by encouraging upgrade of dilapidated commercial buildings
2. Encourage small businesses to lease vacant commercial properties by lowering the capital outlay required for tenant improvements and/or impact fees (i.e. leveling the playing field for under-capitalized small businesses)

### *Eligible Businesses*

All commercial building facades located on San Pablo Avenue, Park Avenue and Adeline Street; and in areas designated as "Neighborhood Retail Overlay" by the General Plan are eligible for Façade Grants. Please see Attachment A for a map showing eligible areas.

If the applicant business is a tenant, the building owner must also apply as co-applicant

Applicants must have no active investigations pending for violations of City codes, including the Minimum Wage and Paid Sick Leave Ordinance, Fair Workweek Employment Standards Ordinance, or other City regulations.

New construction projects and buildings occupied by the following types of businesses are *ineligible* for funding: gun stores, pawn shops, check cashing businesses, liquor stores, Adult Oriented Businesses (as defined by Section 9-2.303 of the City Planning Regulations), cigarette stores, video game and gambling establishments.

### *Eligible Improvements*

Exterior improvements including painting, signs, doors, windows, awnings, exterior lighting, parapet improvements, plastering, landscaping, permanent outdoor patio areas *not* in the City's right of way, and design and permit fees for these types of improvements are eligible.

"High-visibility interior improvements", defined as improvements that are visible from the exterior of the building and/or are areas normally occupied by customers (i.e. dining room, lobbies, sales floors), design and permit fees for these types of improvements are also eligible.

Improvements must be of high quality and be designed by a licensed architect.

Improvements that were completed prior to execution of a Grant Contract are *ineligible* for funding.

### *Façade Grant Amount*

Grants pay 75% of the total costs of eligible improvements, including soft costs, up to a maximum of \$75,000.

For example, assume the total cost of a façade improvement project is \$100,000, of which the materials cost is \$50,000 and the remaining \$50,000 is labor, design and permitting costs. For this project, the maximum grant amount is \$75,000 (75% of total \$100,000 cost), and the business pays \$25,000 of the project costs.



The number of grants approved per year is limited by the budget established by the City Council.

# Program Requirements

## *Application Process*

Annually, the City will establish a 30-day window for submittal of applications. Information regarding the program and application deadline will be posted on the City's website as well as mailed to every occupant and owner of property in the eligible areas.

If at the close of the application window the total amount of grant funds applied for exceeds the amount of program funds available, the applications will be scored and ranked as described below. The top ranking applications will be recommended for funding, up to the available amount of funds.

If the total amount of grant funds applied for is less than the amount of program funds available, all eligible applications will be recommended for funding, with any remaining funds available on a first come first served basis for the remainder of the fiscal year.

## *Scoring Criteria*

Applications will be scored by a panel of City staff members using the following guidelines:

Lease term: 10 points awarded to applications for owner occupied buildings or lease terms with 10 years remaining from the application deadline, 7 points for lease terms between 5 and 10 years remaining, 5 points for lease terms between 3 and 5 years remaining, 2 points for lease terms between 1 and 3 years remaining, 1 point for lease terms with less than 1 year remaining.

Length of time property has been vacant: 10 points awarded for applications for properties that have never been occupied *and* have been vacant for one year or more at the application deadline, 7 points for properties that were previously occupied but have been vacant for one year or more, 5 points for properties that have been vacant for up to one year, 1 point for a property that is currently occupied.

Existing condition of building: applications will be ranked against each other for relative condition of building, with 1 point awarded for the application for a property in the least need of an aesthetic upgrade (i.e. in the best condition), 2 points for the next-least needed, and so on.

The applications will then be ranked in order of total scores, with funding recommended for the highest scoring applications.

### *Application Requirements*

All projects will require planning division permits, and may require building permits as well. Early consultation with the Planning and Building Division is recommended prior to submitting an application for funding.

To ensure efficient use of program funds, applications must be submitted with at least two construction bids.

### *Façade Grant Contract*

To be eligible for reimbursement, a Façade Grant Contract must be executed before work is begun. The Façade Grant Contract sets the terms and conditions of the grant funding.

The Façade Grant Contract describes the payment process, where grant funds are provided to the applicant on a reimbursement basis. First, applicants must approve the work and pay the contractor, then submit documentation of the applicant's approval and payment of the contractor to the City in a reimbursement request. The City then reviews the reimbursement request and reimburses the applicant.

All receipts must be submitted as well as proof of payment (i.e. cancelled checks) as part of the reimbursement request.

### *Other Requirements*

Contractors must comply with the California Labor Code, including but not limited to requirements regarding hours of labor, nondiscrimination, payroll records, apprentices, worker's compensation and prevailing wages. Applicants must require its contractors to submit certified copies of payroll records to the applicant.

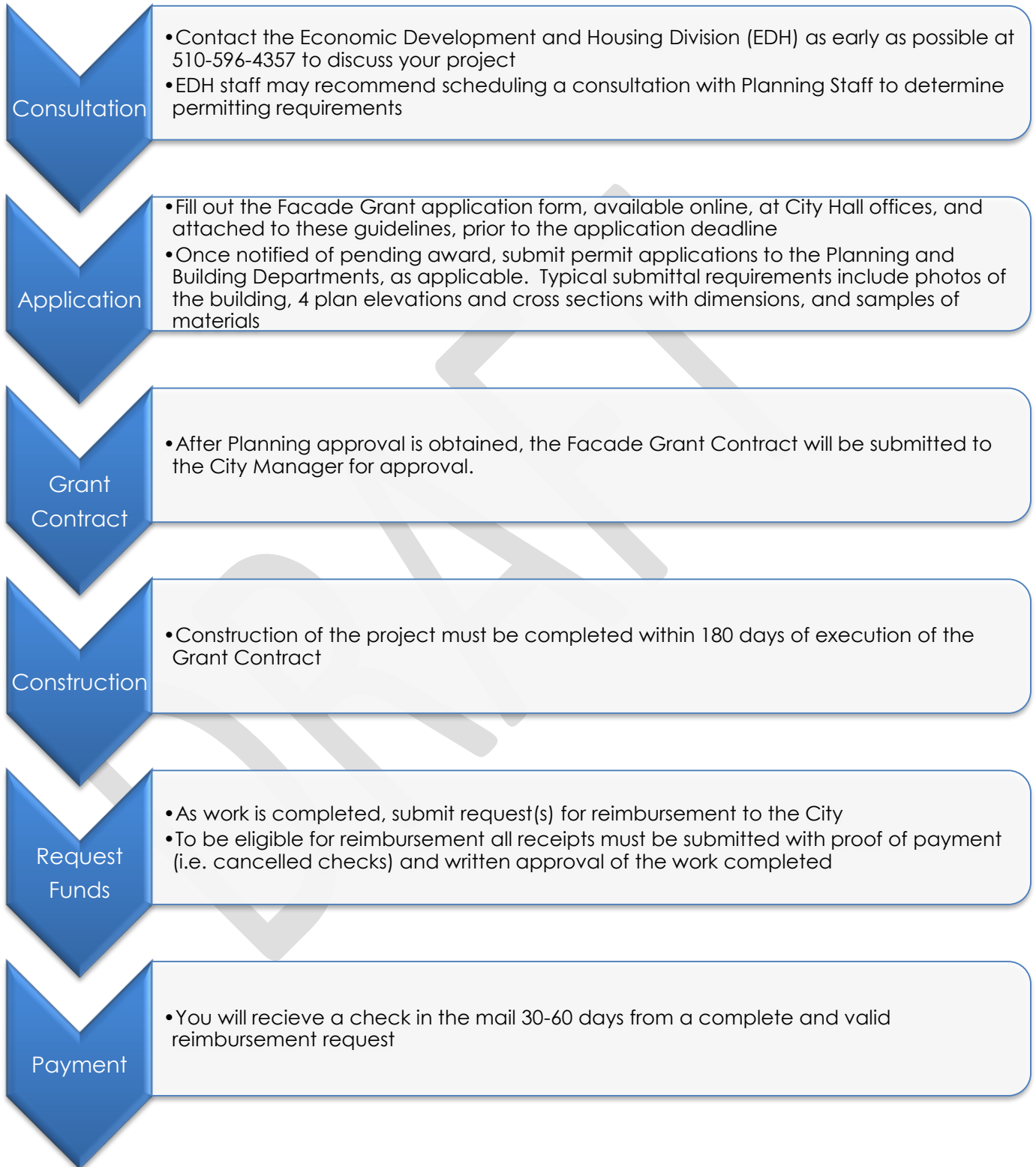
If a contractor is used, the applicant must provide a copy of the applicant's contract with each contractor performing grant-funded work. The contractor(s) must have a valid California Contractor's license.

Construction of grant funded improvements must be completed within 180 days of execution of the façade grant contract. A time extension may be possible with prior City approval.

The quality of work must meet design plans and specifications as approved by the Planning Division and EDH in order to be eligible for reimbursement.

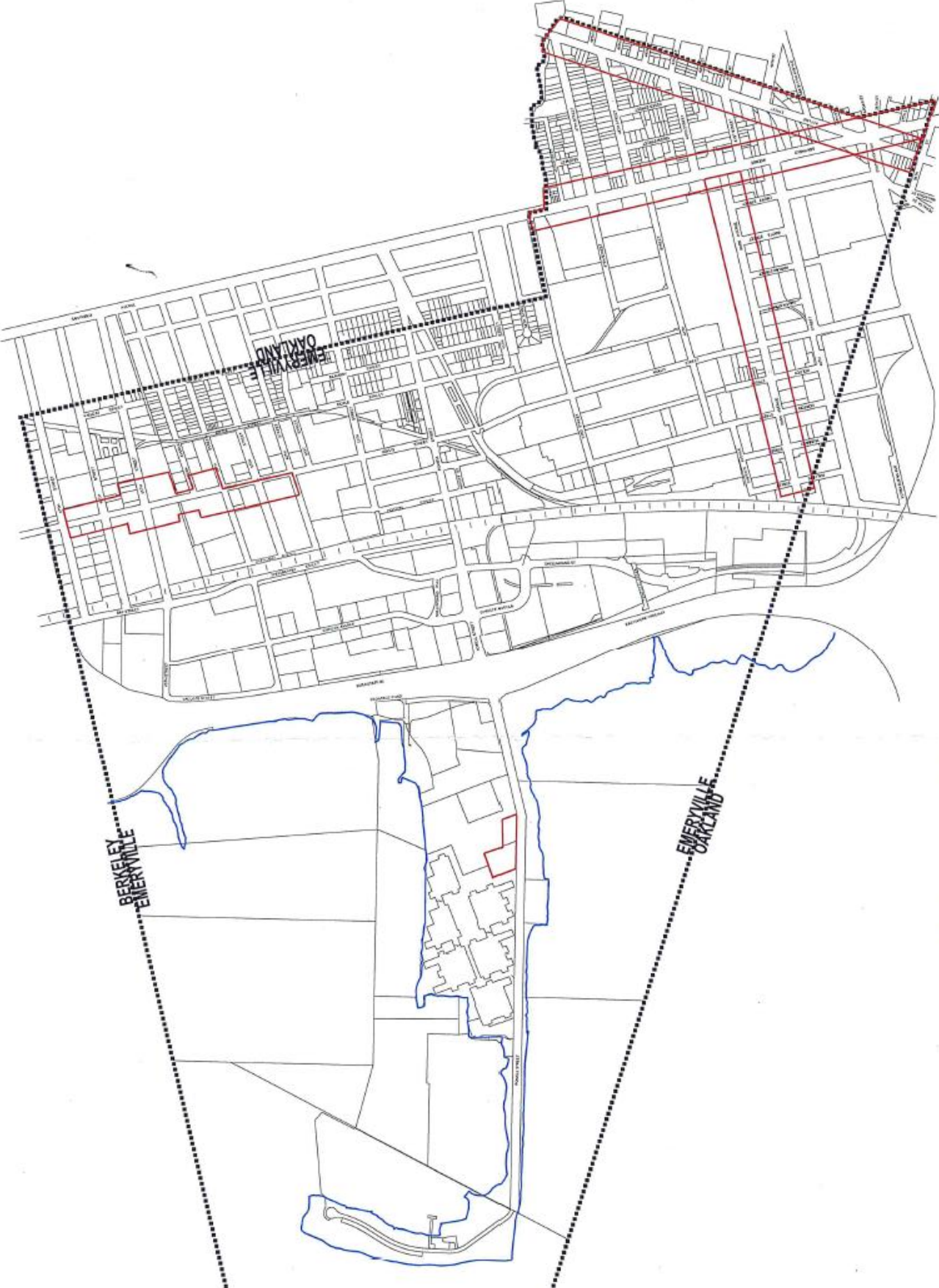


# Application Process





# Attachment A – Eligible Areas



# Attachment B - Façade Grant Program Application Form

## APPLICANT INFORMATION

Applicant is: Owner Tenant

Applicant Name: \_\_\_\_\_ Relationship to Business: \_\_\_\_\_

Home Address:

\_\_\_\_\_  
Street City State Zip

Phone Number \_\_\_\_\_ Email: \_\_\_\_\_

## BUSINESS INFORMATION

Business Name: \_\_\_\_\_ Business License #: \_\_\_\_\_

Business Address: \_\_\_\_\_ Emeryville, CA 94608

## BUILDING OWNER INFORMATION (note: if applicant is a tenant, building owner must apply as a co-applicant)

Building Owner Name: \_\_\_\_\_

Building Owner Address:

\_\_\_\_\_  
Street City State Zip

Phone Number \_\_\_\_\_ Email: \_\_\_\_\_

## FAÇADE IMPROVEMENT INFORMATION

Describe Proposed Façade Improvements (attach separate pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Cost of Façade Improvements: Design \$ \_\_\_\_\_ Permitting \$ \_\_\_\_\_ Construction \$ \_\_\_\_\_

Grant Amount Requested: \$ \_\_\_\_\_

Attach:  plans/drawings  Copy of current lease

[NEXT PAGE]

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**PROGRAM QUESTIONS**

Business NAICS Code: \_\_\_\_\_ Number of employees: \_\_\_\_\_ Gross Sales 2016: \$ \_\_\_\_\_

(check one) My business is  growing  stable  declining

(check one) For my business, the Façade Improvement Grant Program is  unnecessary  
 somewhat helpful  
 very helpful  
 critical

Please suggest any other incentives or assistance programs that the City could offer to help your business thrive:

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**SIGNATURE/CERTIFICATION:**

I, (print applicant name) \_\_\_\_\_ certify that (print business name) \_\_\_\_\_ is not subject to any active investigations for violations of City of Emeryville codes including but not limited to Planning, Building and Fire codes, the Minimum Wage and Paid Sick Leave Ordinance, or any other City code, ordinance or regulation. By signing below, I also certify that I am authorized to submit this application for a Façade Improvement Grant on behalf of the aforementioned business.

(applicant signature): \_\_\_\_\_

I, (print building owner name) \_\_\_\_\_ Owner of the property located at (business address) \_\_\_\_\_, Emeryville, CA have reviewed and approved the proposed façade improvement requested for funding in this application, and am applying jointly with \_\_\_\_\_ (print applicant name) for the City of Emeryville Façade Improvement Grant Program. (Building Owner signature): \_\_\_\_\_

Attachment C - Façade Grant Program Contract

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**CITY OF EMERYVILLE**  
**FAÇADE IMPROVEMENT GRANT PROGRAM CONTRACT**

By this CONTRACT entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the CITY OF EMERYVILLE (hereinafter called "CITY") and [BUSINESS NAME] (hereinafter called "APPLICANT"), the parties do mutually agree as follows:

**WHEREAS**, the City Council adopted the Emeryville General Plan (the "General Plan") on October 13, 2009; and

**WHEREAS**, the General Plan calls for the city to "...pursue retail uses that will serve the need of Emeryville residents, and encourage these uses to locate in the Neighborhood Centers" at Policy LU-P-28; and

**WHEREAS**, the General Plan also calls for "the development and retention of small business, start-up firms, partnership incentives and buildings that accommodate these businesses" at Policy LU-P-29; and

**WHEREAS**, in furtherance of General Plan Policies LU-P-28 and LU-P-29, the City desires to improve certain properties in the City to support business activity; and

**WHEREAS**, on [date], 2017 the City Council approved Resolution [reso number] establishing the Façade Improvement Grant Program (the "Façade Program"); and

**WHEREAS**, the City administers the Facade Program, which provides matching assistance to property owners to renovate their commercial building facades within certain areas; and

**WHEREAS**, the City intends to use Economic Development funds to rebate costs of improvements to the owner of the property located at [property address] ("Business Name"); Parcel Number [parcel number] (hereinafter called "Property"); and

**WHEREAS**, the Applicant has agreed to perform or cause the performance of the work to improve the facade of the above described Property; and

**WHEREAS**, the Applicant warrants it is the Owner of the Property and/or authorized to perform the proposed improvements, which are attached as Exhibit A to this Contract; and

**WHEREAS**, the Applicant has prepared and presented to City a project budget and warrants, to the best of his/her knowledge, that the total cost of the facade improvement is [total cost of project (\$numerically)] and has requested a façade grant of [grant request amount (\$numerically)] through the Façade Program and the City has consented to such a grant.

**NOW, THEREFORE**, the parties do mutually agree as follows:

I. Amount of Grant. The amount of money to be granted is not to exceed [AMOUNT OF GRANT (\$numerically)] ("GRANT"). The amount of grant is 75% of the total cost of the facade improvement, including soft costs, up to a maximum dollar amount of [\$grant amount].

II. Payment Process.

1. Payment shall be made to APPLICANT by the CITY for seventy-five percent (75%) of the actual amount up to the GRANT amount, as work is completed, after the APPLICANT has provided the CITY with written proof of expenditure of the APPLICANT'S share of the project costs. Prior to the release of any disbursement, the CITY must receive from the APPLICANT copies of invoices and proof of payment for the amount to be reimbursed. Of the total GRANT amount, ten percent (10%) shall be withheld until the property is in compliance with relevant Emeryville Municipal Code provisions and other applicable laws and the improvements have been approved by CITY staff.
2. This CONTRACT shall not be construed or deemed to be a Contract for the benefit of any third party or parties, and no third party shall have any claim or right of action hereunder for any cause whatsoever.

III. Contract with Contractor. APPLICANT will provide CITY with a copy of APPLICANT'S contract with each Contractor performing work approved for this program. Contractor shall have a valid State of California Contractor's License. All work performed under this Contract will be carried out in a workmanlike and professional manner. Permits must be obtained from the City of Emeryville, including, but not limited to, the Building Department, Planning Department and/or Public Works Department for all work requiring permits.

IV Labor Code/Prevailing Wage. APPLICANT acknowledges and agrees that the APPLICANT'S improvements to be constructed with the proceeds of the GRANT constitute construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds under California Labor Code Section 1720(b)(4) or 1720(b)(5). APPLICANT shall comply with all requirements of the Department of Industrial Relations in accordance with the California Labor Code, and all other applicable federal, state and local laws and regulations pertaining to labor standards and payment of prevailing wages (collectively, "Prevailing Wage Laws"). APPLICANT shall (i) require its contractors and subcontractors to submit certified copies of payroll records to APPLICANT; (ii) maintain complete copies of such certified payroll records; and (iii) make such records available to CITY and its designees for inspection and copying during regular business hours at 1333 Park Avenue, Emeryville, California, or at another location within Alameda County, as mutually agreed. The appropriate wage determinations can be obtained from the California Department of Industrial Relations (<http://www.dir.ca.gov>).

APPLICANT shall defend, indemnify and hold harmless the CITY and its officers, employees, volunteers, agents and representatives from and against any and all present and future claims, arising out of or in any way connected with APPLICANT 's obligation to comply with all Prevailing Wage Laws, including all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781, as amended and added by Senate Bill 966. This obligation to indemnify the City of Emeryville and its officers, employees, volunteers, agents and representatives shall survive termination of this CONTRACT.

APPLICANT hereby waives, releases and discharges forever the CITY and its employees, officers, volunteers, agents and representatives, from any and all present and future claims arising out of or in any way connected with APPLICANT 's obligation to comply with all Prevailing Wage Laws in connection with the work of APPLICANT Improvements.

APPLICANT is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

As such relates to this Section IV, APPLICANT hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

- V. Plans. Plans and Specifications are hereby incorporated into this CONTRACT as Exhibit A. Work eligible for the reimbursement is limited to the work described in Plans and Specifications which have been approved by CITY. APPLICANT agrees to notify CITY of any changes or revisions of the Plans and Specifications. Changes include but are not limited to changes in design, color(s), materials, and scope of work. The APPLICANT shall provide CITY with such notice immediately and shall allow CITY seven (7) working days to review such revisions. Within seven working days the CITY will notify the APPLICANT if the CITY accepts the proposed changes. Upon acceptance by all parties, such changes shall be approved in writing.
- VI. APPLICANT's Failure to Comply with CONTRACT. The CONTRACT may be canceled or a breach may be found to exist if APPLICANT does not comply with the provisions of this CONTRACT, with all Emeryville Municipal Code provisions, or with the other applicable rules and regulations. CITY may withhold payment until compliance is obtained. In the event of a cancellation, the CITY shall not be responsible for any reimbursement or payment to APPLICANT, Contractor or Sub-Contractor.
- VII. Hold Harmless and Indemnification. APPLICANT shall take all responsibility for the work, and shall bear all losses and damages directly or indirectly resulting to him/her, to CITY and its officials, officers, agents, and employees, or to third parties resulting from the performance or character of the work described in this CONTRACT. APPLICANT shall assume the defense of and shall indemnify and hold harmless CITY and its officials, officers, employees, and agents from and against any or all loss, liability, expenses, claims, costs, suits, and damages of every kind, nature and description, including attorneys' fees and costs, directly or indirectly arising from the performance of the work. This obligation to indemnify the CITY and its officers, employees, volunteers, agents and representatives shall survive termination of this CONTRACT.
- VIII. Schedule. APPLICANT agrees to complete work described in attached Plans and Specifications within ONE HUNDRED EIGHTY (180) days from the effective date of this CONTRACT.
- IX. Nondiscrimination. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry or disability in the performance of this CONTRACT or use of the Property.
- X. Amendments. Any amendments to this CONTRACT shall be made in writing and signed by both parties to this CONTRACT.
- XI. Applicable Law and Attorney's Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this CONTRACT, the rules, regulations, statutes and laws of the State of California will control. The prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which said party may be entitled.



XII. Severability. The caption or headnote on articles or sections of this CONTRACT are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this CONTRACT nor in any way affect this CONTRACT. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this CONTRACT shall remain in full force and effect to the extent possible.

XIII. Communications Relating to Daily Activities. All communications relating to the day to day activities of the work shall be exchanged between Emi Theriault (510-596-4357) for the CITY and [Applicant name (phone number)] for the APPLICANT.

IN WITNESS WHEREOF the CITY and APPLICANT have executed this CONTRACT, which shall become effective as of the date the City Manager executes this CONTRACT on behalf of CITY.

APPROVED AS TO FORM:

By: \_\_\_\_\_

Michael Guina, City Attorney

CITY:

APPLICANT:

\_\_\_\_\_

Carolyn Lehr, City Manager

\_\_\_\_\_

[Applicant name]

\_\_\_\_\_

Date

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**EXHIBIT A**

**[PLANS AND SPECIFICATIONS]**