

CITY OF ENNIS, TEXAS

DOWNTOWN INCENTIVES HISTORIC PRESERVATION GRANTS

- Policy and Procedures -

I. GENERAL PURPOSE AND OBJECTIVES

- A. The purpose is to establish policies and procedures for historic preservation grants for major historic preservation projects having a documented value which exceeds \$15,000.00 and which are located in the National Register Historic Downtown District. All provisions of this policy will be implemented in accordance with Article III, Sec. 52-a of the Texas Constitution and Chapter 380 of the Texas Local government Code and the City of Ennis Code of Ordinances in accordance with Chapter 8.5 - Historic Districts and Landmarks.
- B. The objective is to promote the economic, cultural and general welfare and protect and preserve places and areas of historical, cultural, or architectural importance and significance in the City of Ennis. The historical resources of the National Register Historic Downtown District represent the unique confluence of time and place that have shaped the identity of generations of citizens, collectively and individually, and these resources constitute the heritage of the citizens of Ennis, Texas. The historic preservation grant program for the National Register Historic Downtown District intends to:
 1. Perpetuate, protect, enhance and preserve the National Register Historic Downtown District.
 2. To safeguard the city's historic, cultural, and architectural heritage through the use of incentives that induce private investment in the National Register Historic Downtown District.
 3. To strengthen the economy within the National Register Historic Downtown District and to create a sustainable and thriving economy within the District while protecting and enhancing attractions to tourists and visitors within the District.
 4. To provide assistance to property owners in the preservation of individual properties within the National Register Historic Downtown District.

II. ELIGIBILITY REQUIREMENTS

- A. To be eligible to apply for an historic preservation grant, the applicant shall demonstrate Major Historic Preservation Project (construction, reconstruction or restoration) within the National Register Historic Downtown District with a documented expenditure in an amount of no less than \$15,000.00 in eligible

expenses.

- B. The maximum amount of the Historic Preservation Grant is 22% of the eligible improvement expenditure for construction, reconstruction, or restoration contingent upon availability of funds.
 - i. By way of example, if a \$500,000.00 Historic Preservation Project meets all Historic Preservation Grant approval requirements and the project is approved by the City Commission, a Historic Preservation Grant would be provided in the amount of \$110,000.00.
 - ii. By way of example, if a \$1,000,000.00 Historic Preservation Project meets all Historic Preservation Grant approval requirements and the project is approved by the City Commission, a Historic Preservation Grant would be provided in the amount of \$220,000.00.

III. PROJECT COSTS

- A. Project Costs include the costs directly related to construction, reconstruction and restoration of real property. Examples include, electrical, construction, plumbing, HVAC, masonry, roofing, structural, fire system, façade improvement, streetscape and landscaping and include the associated materials, supplies and labor.
- B. Project Costs must be certified by a Registered Professional Engineer, Architect or General Contractor licensed in the State of Texas.
- C. Project cost overruns will not be considered. Once a project is approved by the City Commission, the certified cost estimate used to determine the grant award will not be adjusted or amended as a means to increase the amount of funds disbursed
 - i. By way of example, if a \$100,000.00 Historic Preservation Project meets all Historic Preservation Grant approval requirements and the project is approved by the City Commission, a Historic Preservation Grant would be provided in the amount of \$22,000.00.
 - 1. If the reconciliation process validates less than the original \$100,000 of eligible costs, the grant award will be adjusted down to 22% of the “actual cost”.
 - 2. If the reconciliation process validates more than the original \$100,000 of eligible costs, the grant award will remain 22% of the original cost estimate or \$22,000.00.

D. Eligible and ineligible costs and expenses are listed in Exhibit C.

IV. APPLICATION REQUIREMENTS

- A. Applicants must submit documentation supporting the cost of the eligible Historic Preservation Project, complete the Historic Preservation Project within the agreed time frame and if façade (exterior) restoration is contemplated the project must comply with the United States Secretary of the Interior's Standards for Treatment of Historic Properties. All proposed Historic Preservation Projects must be approved by the City Commission of the City of Ennis and facade (exterior) construction, reconstruction or restoration projects must also be approved by the Ennis Historic Landmark Commission through a Certificate of Appropriateness prior to the commencement of the project. The applicant must secure all city permits and must also secure periodic City inspection of the project to ensure proper completion of the project.
- B. The applicant shall complete an application on a form provided by the City of Ennis. The application shall contain (but not be limited to) the following information:
- i. Legal name, address and contact information for Applicant
 - ii. List of owners, investors and corporate officers, as appropriate
 - iii. Survey of property with address and legal description
 - iv. Conceptual plan of improvements with all intended uses identified
 - v. Architectural drawings of all building elevations
 - vi. Five (5) year business plan (pro forma) detailing annual revenues and expenditures for building redevelopment and commercial use. The business plan should identify known or potential building users/tenants by type and intended land uses.
 - vii. Detailed cost estimates for improvements. Estimates shall be prepared by a Registered Professional Engineer, Architect or General Contractor licensed in the State of Texas.
- C. Each application will be reviewed individually by the Ennis Economic Development Corporation (EEDC) Board and an approval and recommendation to the City Commission or a denial decision shall be made. If approved and recommended by the EEDC Board, the City Commission will consider the project at the next available regular meeting. Both the EEDC Board of Directors and City Commission will consider each project based upon, but not limited to the following:

- i. The amount of tax revenues the City expects to be generated by the operation of the commercial enterprise.
- ii. The extent of economic enhancement and stimulation that the City will derive from location and/or operation of the commercial enterprise's business.
- iii. The number and quality of new employment opportunities which the City expects will result, directly and indirectly, from the operation of the commercial enterprise.
- iv. The availability and priority of funding and resources the City currently has to participate in an incentive program, including EEDC Type B sales tax.
- v. The viability of the five (5) year business plan for the redevelopment and subsequent commercial operation of the project along with the cost benefit ratio of the investment and induced economic benefits compared to the amount of the requested grant.
- vi. The decision to approve or deny any Historic Preservation Grant will be based upon the merits of the individual project. In determining what, if any, incentives to provide, the EEDC and City Commission will consider to what extent such incentives are necessary to attract or assist such commercial enterprise, what amount of incentive would provide the City with the most benefit for the cost and meet the needs of the commercial enterprise, the economic benefit that the City will derive from operation of the commercial enterprise's business in the City, the City's budgetary limitations, and the amount of financial participation by the commercial enterprise.
- vii. Nothing within these procedures shall imply or suggest that the City of Ennis is under any obligation to provide any incentive to an applicant as it reserves the right to decline to participate in the Historic Preservation Grant program with any commercial enterprise.

V. PERFORMANCE REQUIREMENTS

- A. Certificate of Appropriateness: Each Historic Preservation Project which receives a Historic Preservation Grant must be completed in accordance with a Certificate of Appropriateness issued by the Ennis Historic Landmark Commission, if required.
- B. Performance Agreement: The City and the Historic Preservation Grant Recipient shall enter into a Performance Agreement which specifies the Historic

Preservation Grant Recipient's performance requirements to receive and maintain the Historic Preservation Grant.

- C. Default: The Performance Agreement shall also set out provisions of Historic Preservation Grant Recipient's default and grant recapture by the City.
- D. Initiation and Completion: Recipient shall commence the project, (as defined as acquisition of all required City permits and commencement of construction activities) within 12 months (365 days) and complete construction within 24 months (730 days) of the date of execution of Historic Preservation Grant Performance Agreement.
- E. Lease requirements: Grant recipients shall lease a minimum of 50% of available space for the purposes of retail, restaurant, entertainment, and/or housing/lodging. If the recipient fails to lease 50% to any combination of the above "target businesses," then 1% of grant proceeds will be withheld for each 1% of leased space below the 50% minimum. The grant shall not decrease to lower than 15% regardless of tenancy type. In addition, the recipient shall obtain a minimum of a 50% occupancy rate for usable building space within two years of receiving the Certificate of Occupancy for any development receiving a Historic Preservation Grant and must maintain such occupancy for the remaining term of any performance agreement. Failure to continuously maintain a fifty (50) percent occupancy rate for a period of ninety (90) days shall constitute a breach of performance agreement and must be remedied within sixty (60) days following written notice of breach by the City.
- F. Letter of Completion Within thirty (30) days of the Recipient's compliance with the Historic Preservation Grant Performance Agreement, a Letter of Completion will be issued to the recipient from the City and will formally state that the property owner's performance requirements for the Historic Preservation Grant are satisfied and the letter of credit or other instrument will be released.
- G. Events of Default: In the event the Recipient does not complete the Project, in accordance with the plans, renderings, and certificate of appropriateness as approved by the EEDC and the City Commission and as represented in the original application documentation the Recipient will be considered in default. Upon receipt of City notification of said default, the recipient will have 90 days to cure said default in order to avoid repayment of any funds granted to recipient and / or future funds to be paid towards grants.

VI. PERFORMANCE GUARANTY

- A. The Historic Preservation Grant Recipient shall provide the City one of the following project completion guarantees prior to disbursement of Historic Grant Proceeds. The performance guarantee requirement occurs in two phases.

- i. Phase 1 is the construction phase that begins with the issuance of the required building permit and terminates with the issuance of a Certificate of Occupancy. During this phase, the performance guarantee requirement is for 50% of the grant award or an amount equal to the first disbursement.
 - ii. Phase 2 is the occupancy phase that begins with the issuance of a Certificate of Occupancy and ends once the occupancy requirement per section V- D has been initially met according to the performance agreement. During this phase, the performance guaranty requirement is for either 50% of the grant award or an amount equal to the final disbursement for a period of two years
- B. The Historic Preservation Grant Recipient shall provide a performance bond in the amount equal to the disbursed portion of the Historic Preservation Grant that has not been fully closed out. The performance bond shall be issued by a Texas licensed surety in a form acceptable to the City of Ennis. The City of Ennis shall be the named beneficiary of the performance bond which shall insure the completion of the Historic Preservation Project. The form of the performance bond shall be approved by the City Attorney . -OR-
- C. The Historic Preservation Grant Recipient shall provide an irrevocable letter of credit in the amount equal to the disbursed portion of the Historic Preservation Grant that has not been fully closed out . The irrevocable letter of credit shall be provided by a financial institution chartered within the State of Texas and shall be in a form acceptable to the City of Ennis. The City of Ennis shall be the named beneficiary of the letter of credit which shall be authorized by separate agreement and shall ensure the completion of the Historic Preservation Project. The form of the letter of credit shall be approved by the City Attorney -OR-
- D. The Historic Preservation Grant Recipient shall provide another type of legal instrument which provides financial recourse sufficient to allow recovery of the amount of the disbursed Historic Preservation Grant should the Historic Preservation Grant Recipient fail to complete the project. This legal instrument may be in the form of a collateral agreement, lien or other legal instrument acceptable to the City of Ennis. The form of this legal instrument shall be approved by the City Attorney.
- E. Property Insurance: Until issuance of a Certificate of Occupancy, the Historic Preservation Grant Recipient shall maintain in force and shall provide evidence of a Builder's Risk Insurance Policy in the amount of the sum of the building value at the time of project commencement and all improvements being made to redevelop, restore and/or reconstruct the building. Existing building value shall be insured at actual cash value and improvement value shall be insured at replacement value. The City of Ennis shall be a named additional insured on the

Builder's Risk Insurance Policy. The Builder's Risk Insurance Policy shall be issued by a surety acceptable to the City of Ennis.

VII. CITY TAXES

- A. Grant recipients will keep all taxes due the City of Ennis current, and if not paid after fifteen (15) days' notice of delinquent taxes, and if the Recipient is in default under the performance agreement, Historic Preservation Grant disbursements shall cease until taxes are current, and the recipient shall be in default of any agreement issued as a part of the Historic Preservation Grant Program. In the alternative, the City, may at its option, offset any amounts due and payable against any taxes lawfully due to the City from the Recipient

VIII. SALES TAX MAXIMIZATION

- A. Historic Preservation Grant Recipients will make reasonable efforts to maximize sales tax payable to the City on equipment and construction materials by employing or requesting that its contractors employ the following measures; provided, however, it is acknowledged that the improvements may require highly specialized materials that may not be available in the City of Ennis and that the recipient has pre-existing relationships with preferred vendors:
 - i. For materials that can be obtained at comparable pricing, quality, quantity and timing from a vendor having a place of business within the City, the recipient and its contractors shall have such materials shipped from, or delivered to, such vendor's Ennis location, and shall take possession of such materials within the City of Ennis.
 - ii. For materials that cannot be obtained at comparable pricing, quality, quantity and timing from a vendor with a place of business within the City, and cannot be ordered directly from a vendor's supplier, the recipient and its contractors shall have such materials shipped freight on board to, and take possession of such materials at, a location within the City of Ennis.
 - iii. For materials obtained from vendors with no place of business within Texas, or materials ordered directly with a vendor's supplier and shipped directly to the recipient's location or its contractor's location, the recipient and its contractors shall have such materials shipped or delivered to, and shall take possession of such materials at, a location within the City of Ennis.
 - iv. Recipient shall require the contractors with whom it directly contracts for the construction of the improvements to use separated contracts for the purchase of construction materials in which the Sales and Use Tax is sourced to the Improvements and to prohibit such contractors from using

lump sum billing in such instances.

IX. STATE OR FEDERAL TAX CREDITS

- A. Rehabilitation Credit: Upon approval of the project and award of a grant, in accordance with the provisions of this policy, grant funds can be allocated by the recipient to costs and line item expenditures which do not constitute “qualified rehabilitation expenditures” under Section 47 of the Internal Revenue Code. The recipient must expend funds from other sources in an amount equal to the grant award on capital improvements specified in the “Project Cost.” The recipient acknowledges funds expended for Streetscape/Landscaping are eligible for the Historic Preservation Grant but are not eligible for Historic Preservation Tax Credits.
- B. Grant Disbursements. The Grant will be funded directly to the recipient’s Managing Member . Funding of the Grant to the Managing Member shall not otherwise alter or excuse any obligation of the Recipient to expend funds from other sources in an amount equal to the grant award on capital improvements specified in the “Project Cost.”
- C. Non-Shareholder Contributions. The City acknowledges that the recipient intends to treat all grant disbursements to the Managing Member as non-shareholder contributions to capital, in accordance with the provisions of Section 118 of the Internal Revenue Code of 1986 (the "Code"), and the City agrees not to take any actions inconsistent with such treatment. The recipient further understands that the City expresses no opinion with respect to the appropriate federal income tax treatment of such payments. The recipient acknowledges th
- D. at the City has not made any representations or covenants other than in this section with respect to such federal income tax treatment of the grant payments. The City cannot provide legal or tax advice to the recipient.
- E. Assignment to Affiliates. An assignment of the obligations of an Historic Preservation Grant Performance Agreement, in whole or in part, to an Affiliate of the General Partner, Managing Member and/or Developer shall require the written approval of the City Commission. The recipient’s “Affiliates,” as used in this Agreement, includes any parent, sister, or majority-owned subsidiary entity of General Partner or the recipient, and any entity under common control with General Partner or the recipient.

X. COMPLIANCE REQUIREMENTS AND MONITORING

- A. Construction Monitoring: Following the issuance of all necessary construction permits by the City of Ennis, the City of Ennis Building Inspection Department shall monitor the construction activity associated with any Historic Preservation Project.

- B. Compliance Reporting and Expenditure Documentation: The recipient shall provide periodic reports and when requested by City Staff of construction activities. To prevent default or loan recapture, a recipient must maintain and provide to the City of Ennis documentary evidence of all real property expenditures required to receive a Historic Preservation Grant. Should a recipient fail to complete the agreed project, the full Historic Preservation Grant shall be repaid as a default of grant conditions.
- C. Compliance Inspection: The recipient shall agree to periodic (unannounced) compliance inspection(s) of construction work and the documentation of agreed materials used and their purchase, installation and finished costs.
- D. Auditing and Compliance Documentation: The recipient shall agree to maintain and make available to the City of Ennis (upon request) record documents that allow the complete audit of construction, reconstruction or restoration expenditures and materials used.

XI. RECAPTURE IN THE EVENT OF DEFAULT

- A. Historic Preservation Grant Recapture in the Event of Performance Default or Partial Non-compliance: Should a recipient of a Historic Preservation Grant fail to complete the agreed project, the full grant amount shall be repaid as a default of grant conditions. Should a recipient of a Historic Preservation Grant complete the agreed project but fail to make expenditures in the agreed amount, the recipient shall refund to the City of Ennis (as appropriate) the agreed expenditures that were not spent.

XII. DISBURSEMENTS

- A. Historic Preservation Grant Disbursement: Historic Grant Proceeds “may” be disbursed in two (2) installments:
 - i. Fifty percent (50%) of the total grant amount may be disbursed to the grant recipient when the building permit is issued for an approved Historic Preservation (construction, reconstruction or restoration) Project.
 - ii. The final disbursement of the grant shall be disbursed to the grant recipient following the verification of documentary evidence of actual expenditures in an amount equal to cost estimate used to determine the grant amount. The City’s issuance of the Certificate(s) of Occupancy for all agreed improvements subject to the Historic Preservation Grant.
 - 1. By way of an example (overrun scenario): Original project cost estimate is \$250,000.00. Grant recipient provides documentary

evidence for actual qualified expenditures of \$300,000.00. Final disbursement is based on \$250,000.00. The additional \$50,000.00 is not considered.

2. By way of an example (underrun scenario): Original project cost estimate is \$250,000.00. Grant recipient provides documentary evidence for actual qualified expenditures of \$200,000.00. Final disbursement is based on \$200,000.00.

iii. Within thirty (30) days of the grant recipient's compliance with the Historic Preservation Grant Performance Agreement, a Letter of Completion will be issued to the recipient from the City stating the recipient's performance requirements are satisfied and that the letter of credit or other instrument of guarantee is released.

XIII. PROGRAM REVIEW

A. The Historic Preservation Grant Program should be reviewed periodically by the EEDC and City Commission to determine if the program is achieving its goals and objectives in a cost effective manner. Should the City Commission determine that the program is not achieving its goals and objectives in a cost effective manner, the program may be terminated immediately. Grants approved prior to the termination will remain in full force and effect throughout the duration of the performance agreement and tax reimbursement period.

XIV. GRANT AWARD CESSATION:

A. The award of new Historic Preservation Grants shall cease on March 19, 2026. All other Historic Preservation Grant requirements including all Grant Recipient performance requirements contained in this policy shall remain in full force and effect before and after cessation of Historic Preservation Grant awards.

XV. ASSIGNMENT

A. Successors and Assigns. Historic Preservation Grants and the associated agreement are binding and legal contracts whose terms are enforceable in a court of law. They are intended to be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. The City of Ennis and the EEDC acknowledge and agree that recipients may, with the City's and EEDC's consent, assign this agreement to: (i) an affiliate, parent, subsidiary, or to a partnership or joint venture in which recipient or its parent is a partner or member, or (ii) any person or entity acquiring substantially all of the stock or assets of recipient or which is merged or consolidated with recipient or to which recipient is being merged or consolidated so long as the terms and conditions in the agreements remain fully binding for the period of the agreements. That such assignment must be in writing, accepted by both parties to include the City and

EEDC.

EXHIBIT B

NATIONAL REGISTER HISTORIC DISTRICT



EXHIBIT C

ELIGIBLE AND INELIGIBLE COSTS AND EXPENSES

Eligible expenses:

1. Electrical systems and equipment
2. Construction framing, drywall, painting, etc.
3. Plumbing systems and equipment
4. HVAC systems and equipment
5. Masonry repair, replacement, new
6. Roofing repair, replacement, new
7. Structural repair, replacement, new
8. Fire systems, alarm systems, sprinkler systems and equipment
9. ADA improvements (Not counted toward another grant)
10. Façade improvements (Not counted toward another grant)
11. Streetscape improvements (Not counted toward another grant)
12. Landscaping improvements (Not counted toward another grant t)
13. Contingency (Not to exceed 10% of the certified project cost)
14. Contractor Fees / General Conditions (Not to exceed 8% of the certified project cost)
15. Letter of Credit Fees

Ineligible expenses.

1. Finance charges
2. Engineering / Architectural design fees
3. Consulting expenses
4. Insurance
5. Demolition
6. Asbestos abatement
7. Expenses covered in any other City Grant i.e. façade grant, Small Business Catalyst Grant
8. Sales and Use taxes
9. City Fees (permitting, inspection, tap, meter etc. fees)
10. Shipping / Freight Charges