

**Downtown Façade Improvement Pilot Program
Policies and Procedures**

City of Gilroy

July 05, 2019

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Executive Summary

Generally, façade improvement programs provide property and business owners with financial assistance to construct mutually beneficial improvements. For property and business owners, the program provides financial incentives to make improvements to their building exterior, which in theory could increase their customer traffic. For local governments, the potential benefits include more appealing commercial districts which may lead to an increase in municipal revenue.

The aim of the Downtown Façade Improvement Pilot Program is to provide a mutually beneficial service to all economic stakeholders in the City of Gilroy. For one year from July 1, 2019 to June 30, 2020, the City is piloting a program to provide 1:1 matching grants of up to \$5,000 to property owners and tenants within a portion of Downtown to assist with exterior improvements to the façade, or face, of the building. These improvements include a new coat of paint, awnings, windows, doors, and other improvements that can help improve the exterior of a building.

The following policies and procedures provide the details about the program, the requirements to apply, and the application process. Please read this document thoroughly and when you are ready, fill and submit an application, which is attached to the end of this document, along with the required supplemental material.

We hope to see you apply and we look forward to working with you to improve your property, our downtown, and our City.

Downtown Façade Improvement Pilot Program

Section I: Program Components

Subject to the availability of program funds, commercial property owners and tenants located in a portion of Downtown within the City of Gilroy may qualify for funding through the program. Funds are offered on a 50/50 matching basis with those contributed by the property owner or tenant for a given project, with the City funding 50% of the cost up to \$5,000, and the grantee funding 50%. Should the cost of improvements exceed the maximum grant amount of \$5,000 plus the grantee's share of \$5,000, the grantee shall be responsible for any excess costs. Grant funding must be used for façade improvements, including signage; awnings; and paint.

Section II: Eligibility

A. Eligible Properties

Eligible properties are those that abut to that portion of Monterey Street beginning at the intersection of First Street and ending at the intersection of Tenth Street.

B. Eligible Applicants

- (1) Commercial Property Owners: Applications may be submitted by the property owner.
- (2) Lessees: With the written approval of the property owner, an authorized representative of a lessee may apply for funding under the Downtown Façade Improvement Pilot Program. Written consent may be either in the form of a lease indicating the lessee's responsibility for façade improvements or documentation of the property owner's agreement to the proposed improvements.
- (3) No member of the governing body, review committee, or any other official, employee, or agent of the City who exercises decision-making functions or responsibilities in connection with the implementation of this program is eligible for financial assistance under this program.
- (4) Applicants shall not be disqualified based on age, race, religion, color, handicap, sex, physical condition, development disability, sexual orientation or national origin.

C. Ineligible Businesses

The following businesses are ineligible to participate in the program: liquor stores, adult entertainment enterprises, massage establishments, pawn shops, cigarette stores, gambling establishments, and tattoo parlors.

D. Eligible Activities

The Downtown Façade Improvement Pilot Program is designed to improve and enhance the design and quality of small business facades that are highly visible along the City's Downtown Monterey Street. To achieve this goal, program grants shall be available for the following activities:

- (1) Grant proceeds may be used for qualifying façade improvements. These include:
 - a. Signage
 - b. Awnings
 - c. Exterior Paint
 - d. Windows
 - e. Anti-graffiti film coating on windows

- f. Front Entrance Doors
 - g. Exterior lighting
 - h. Planter boxes
 - i. Approximate barriers to define a dining space
- (2) Grant proceeds may be used to fund or offset the cost of architecture and design fees, as well as any building, review or permitting fees required by the City of Gilroy as part of the approved project.
 - (3) Activities must be in compliance with the City of Gilroy's Design Guidelines.
 - (4) Work must be in accordance with the City of Gilroy Zoning Ordinance, Downtown Specific Plan, City of Gilroy Architecture and Design Guidelines, and Uniform Building, Plumbing, Electrical and Mechanical Codes as applicable. All required permits must be obtained.

E. Ineligible Activities/Properties

Program grants shall not be available for the following:

- (1) Property acquisition
- (2) Working capital, advertising, training, start-up costs, cash for operating expenses, etc.
- (3) Work in progress or performed prior to project's approval
- (4) Tax-delinquent properties or businesses
- (5) Special-assessment-delinquent properties
- (6) Property subject to litigation
- (7) Property in condemnation or receivership
- (8) Property owned by nonprofit groups
- (9) Exclusively residential buildings
- (10) Property not in compliance with the City's Unreinforced Masonry Building (URM) Ordinance (Gilroy City Code Chapter 6, Article VI)

Section III: Application Procedures

A. Timeline

The Downtown Façade Improvement Pilot Program will launch on July 1, 2019 pending approval by the Gilroy City Council. The program will continue through June 30, 2020 or until funds allotted to the program are depleted; whichever occurs first. This program is a one-year pilot and future continuance of the program depends on the evaluation of whether the programs meets the goals, objectives, and criteria set forth.

B. Application Materials

Application materials will be maintained and available in hard copy at 7351 Rosanna Street or on the City's website at www.cityofgilroy.org.

C. Pre-Application Conference

Prior to submitting an application, the applicant may meet with staff to discuss the program features and terms.

D. Application Submittal

Prospective program participants must submit a complete application (Attachment A). As a limited amount of funding is available, applications are accepted on a competitive basis. Applications may be submitted at any time during the effectiveness of the program.

Applications will be reviewed for completeness and to verify that the proposed project meets the minimum requirements for eligibility. If the application is not complete, the applicant will be informed of the deficiencies. All financial information will be kept in a secured place with limited access by authorized personnel only.

The application must include the following information.

- (1) Project Description. A full scope of work for each of the project components.
- (2) Project Budget. A preliminary budget is required at the time of the initial application.
- (3) Financial Capacity. Evidence of applicant's ability to make progress payments as required by the project budget and construction contract.
- (4) Site Control. Evidence of property ownership or leasehold interest of 2 years or greater.
- (5) Existing Conditions. Photographs illustrating current conditions of building(s) and property. Photos of adjoining properties shall be included.
- (6) Additional Information. Additional information as may be requested.

Note: False or misleading information shall be considered a default of the grant agreement, and may cause the City to seek remedies as stated in the Grant Agreement.

Section IV: Project Approval Procedures

A. Grant Committee Review and Approval

Applications will be evaluated by a Grant Committee composed of representatives of the City Administrator's Office and Community Development Department. Based on input from the Grant Committee, the City Administrator or designee will have the authority to execute the agreement.

The committee shall meet monthly as needed to review and act on grant applications. If the Committee deems that additional information is required before acting on an application, it may postpone action until all necessary information is available to the committee.

The applicant will be notified in writing of all Committee and City Administrator or designee determinations.

B. Evaluation Criteria

As limited funding is available, grants are offered on a competitive basis. The following criteria will be used to evaluate rank and select project applications for program grants. Priority will be given to those projects which best meet the following evaluation criteria.

- (1) Small Business Concerns. Is the business a small, locally-owned, entrepreneurial business?
- (2) Strategic Location. Would a façade improvement for this business enhance the shopping center or area in which it is located?
- (3) Tax Base Expansion. Does/will the business contribute to the expansion of the City's tax base and the synergy of the surrounding commercial area?
- (4) Downtown Specific Plan. Does the façade improvement align with the Downtown Specific Plan?

Section V: Grant Terms

A. Type of Grant

The Downtown Façade Improvement Pilot Program provides grant funding on a matching basis with funds contributed by the property owner or tenant. The maximum grant amount for each individual business is \$5,000.

B. Indemnity

The recipient shall commit to defend, indemnify and hold the City, including its elected officials, officers, employees and agents, free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure of the grant recipient or its contractors or consultants to comply with applicable laws.

C. Payment of Prevailing Wages

Work funded through the Downtown Façade Improvement Pilot Program may be considered a “Public Work” and may be subject to the payment of prevailing wages (California Labor Code Sections 1720 et seq and 1770 et seq, as well as California Code of Regulations, Title 8, Section 16000 et seq). The recipient must ensure that all bids solicited and all contracts for work funded through a grant made by the City comply fully with Prevailing Wage Laws.

D. Covenants

Within the agreement, the applicant must agree to the following covenants.

- (1) Operating Covenant. The business shall be required to continue operating in the same location for a specified period of time after having received grant funding. The time period may vary for different projects and shall be mutually agreed upon between the City and the business owner or tenant.
- (2) Maintenance Covenant. Included in the Operating Covenant shall be a Maintenance Agreement which will provide for ongoing maintenance of the property and program improvement, including, but not limited to, keeping the property free from litter, graffiti, peeling paint, unkempt landscape, and other unsightly features as determined by the City of Gilroy. Business owners are required to ensure that the business is legal and compliant with the requirements of the zone applicable to the property. Tenants should be aware that property owners will be required to acknowledge the terms of the Maintenance Agreement.
- (3) Nondiscrimination Covenants. The Participant shall not discriminate against person or group of persons on account of race, color, creed, religion, sex, marital status, handicap, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Participant or any person claiming under or through it or them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site.

E. Construction Schedule

Recipients shall initiate the improvement project within 30 days following the award of the grant and complete the project within 90 days following the award. The City Administrator or designee is authorized to extend these time limits by up to 30 days. Failure to comply with the project schedule will constitute a condition of default.

F. Other Obligations of the Recipient

In addition to the preceding terms and conditions of the grant, all recipients shall acknowledge and comply with the following:

- (1) Grant proceeds shall be used only to pay for the cost of approved improvements and according to the approved budget.
- (2) All improvements must be in accordance with the City of Gilroy Zoning Ordinance and all required permits must be obtained.
- (3) The recipient shall be responsible for payment of all costs in excess of the approved budget.
- (4) Recipient shall attend meetings with staff and decision makers as requested during the course of application review and approval.
- (5) All improvements to be done on the project shall be the sole responsibility of the property owner or tenant. The City of Gilroy administers the grant program and is not responsible for any work undertaken under the program.
- (6) The recipient must obtain lien releases from the contractor upon progress payment and project completion. Copies shall be provided to the City with each request for reimbursement.
- (7) Photographs of the completed project must be provided to the City upon completion of the project file.

Section VI: Awarding of the Grant

A. Award Schedule and Conditions

If the grant application is approved by the City Administrator or designee, a date for awarding the grant will be set by the City. Prior to releasing funds, the following documentation must be in the project file:

- (1) Notice of Award issued by the City.
- (2) Executed Downtown Façade Improvement Pilot Program Agreement.
- (3) Casualty Insurance binder.
- (4) Evidence of Permits, Licenses, and any other required registrations.
- (5) Design drawings and material specifications.
- (6) Approved project budget.

Section VII: Post-Award Procedures

A. Grant Servicing

A grant servicing file shall be established and maintained for each grant recipient that includes all written correspondence; a record of important telephone conversations; a list of applicable grant covenants; certificates of insurance for builders risk; property-casualty, and life, as applicable. The recipient will regularly deliver to the City those materials deemed necessary to monitor compliance with the grant terms and conditions, and advise to City promptly of any changes in terms and coverage.

Grant servicing files will be maintained in a secure place with access limited to authorized personnel. The City's legal counsel shall be consulted in regard to compliance with state and municipal open records laws.

B. Distribution of Grant Proceeds

The recipient is responsible for viewing and approving contractor requests for payment. The recipient is further responsible to make timely payments for approved work. The City will reimburse recipient according to the terms of the grant.

When submitting a request for disbursement of grant proceeds, recipient shall provide evidence of program expenditures consistent with the approved project budget. Documentation shall include bills and invoices of receipts for materials, final bills of sale, canceled checks and lien waivers. All documentation shall be reviewed and approved by City staff prior to disbursement of grant proceeds.

Requests for reimbursement shall be submitted by the tenth day of the month. Requests received after the tenth day of the month shall be processed for payment during the following month. The request for reimbursement shall (1) identify each item of reimbursable project costs by line item category in the project budget separately, (2) aggregate all costs by line item category as set forth in the Project budget, and (3) include a report setting forth the total amount, by line item category from the project budget, of all reimbursable project costs set forth in the then-current request for reimbursement and all prior requests for reimbursement approved by the City, or for which approval is pending.

C. Default

Any default in any term or condition of a Program Grant or a Maintenance Agreement shall be a default entitling the City to issue a Notice of Default to the grant recipient which shall specify the following:

- (a) The specific nature of the default.
- (b) The action required to cure the default.
- (c) A date, not less than thirty (30) days from the date of notice, by which the default must be cured to avoid action by the City to recover the grant funds invested in the project.
- (d) Any penalties incurred as a result of the default.

In the event the default is not cured by the date specified in the Notice of Default, the City may take action to recover the funds granted to the business through the program, plus any penalties. The City Administrator or designee may, in his sole discretion, offer to negotiate a repayment schedule with the grant recipient, pursuant to which monthly grant payments will be calculated to amortize the unforgiven remainder of the original grant amount.

D. Program Report

A separate accounting record for each grant shall be kept to account for all funds granted. The Downtown Façade Improvement Program Fund account shall be reviewed following the end of the program on June 30, 2020 and a report will be presented to the City regarding the use of program funds.