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**Title:** Adopt a Resolution to Authorize the City Manager to Reallocate Funds for a Business Facilities Grant Program, and to Terminate the Declaration of the Director of Emergency Services that Suspended Enforcement of Certain Provisions Related to Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San Leandro Municipal Code related to the COVID-19 Relief Temporary Outdoor Facilities Program

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**Attachments:** 1. Att A - Resolution, 2. Presentation - Biz Facility Grant & Outdoor Facilities Phase Out

Date	Ver.	Action By	Action	Result
10/17/2022	1	City Council	Approved	Pass

Adopt a Resolution to Authorize the City Manager to Reallocate Funds for a Business Facilities Grant Program, and to Terminate the Declaration of the Director of Emergency Services that Suspended Enforcement of Certain Provisions Related to Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San Leandro Municipal Code related to the COVID-19 Relief Temporary Outdoor Facilities Program

**COUNCIL PRIORITY**

- COVID Recovery (ARPA Spending Plan)
- Community & Business Development

**SUMMARY**

Staff proposes the creation of a Business Facilities Grant Program, and the transition of temporary outdoor facilities to permanent facilities, in order to assist businesses in their ongoing response and recovery from the COVID-19 pandemic.

**RECOMMENDATIONS**

Staff recommends that available ARPA funds originally approved for the Commercial Relief Grants be reallocated for the use in the new Business Facilities Grant Program. This program will assist businesses with a variety of facilities needs related to operations, aesthetics, and security improvements, such as bringing their outdoor facilities into compliance with applicable laws, fixing damaged property or making accessibility upgrades.

Staff also recommends that the COVID-19 Relief Temporary Outdoor Facilities Program be phased out and that support be given to businesses to transition their existing temporary facilities to

permanent facilities. In order to do this, the emergency declaration that suspended enforcement of certain provisions in the Zoning and Municipal Codes related to land use and encroachment permits is recommended to be terminated, which would end the Temporary Outdoor Facilities Program for outdoor dining and provide businesses 6 months to make necessary upgrades and obtain long term approval for outdoor facilities.

## BACKGROUND

In 2020, following the onset of the COVID-19 Pandemic and the initiation of a State of Emergency and Shelter-in-Place Order, City staff began work to assist the community and businesses to mitigate for the impacts of such measures. From 2020 through 2022, the Economic Development Division enacted a number of programs to support businesses and the challenges they have faced during the COVID-19 Pandemic.

Assistance included the establishment of various programs, including residential and commercial eviction moratoriums, a delivery fee cap, a *Keeping it Local San Leandro* shop local program and gift cards, and ongoing information sharing and technical assistance. Over 2020 and 2021, approximately \$1.68 million in City, County and Federally-funded grants were distributed to over 335 businesses.

The COVID-19 Relief Temporary Outdoor Facilities Program ("Temporary Facilities Program") was created to allow for restaurants and other businesses to have expanded operations outdoors in ways that may not otherwise be permitted on a permanent basis. The Temporary Facilities Program was created by a Declaration of the City Manager as the Director of Emergency Services suspending enforcement of certain permit, approval and zoning and encroachment requirements. The Temporary Facilities Program created a streamlined, no-cost outdoor facilities process to assist impacted businesses operate outdoors and in conformance with safety regulations. To participate in the program, businesses were required to agree to program terms and operational practices, but no site plans or materials details were required.

By summer of 2021, over 35 businesses had begun outdoor operations under this program. Many businesses reported that being able to conduct services outdoors was crucial to their survival. As businesses have been allowed to return to normal operations and more customers are comfortable eating indoors, a number of businesses have removed their temporary facilities over time. Today, approximately 7 businesses continue to operate outdoor facilities under the program.

In November 2021, the City Council approved the allocation of \$750,000 for Commercial Relief Grants, which included Rent Relief Grants. The Economic Development Division performed extensive outreach and training for the Rent Relief Grants and were able to distribute approximately \$372,140 in grants to 32 businesses to provide up to \$15,000 for unpaid back rent. In order to support businesses in their recovery and growth, the City Economic Development staff provided businesses 5 hours of business training in multiple languages and resource information going forward.

The program achieved high participation among San Leandro's disadvantaged communities. Among the highlights are:

- 32% of grantees indicated that they spoke a language other than English at home. An additional 23% were from bilingual households.
- 84% of grantees indicated that they were from a non-White race/ ethnic group.
- Women grantees represented 66% of those who provided their gender information in their

application.

## **Analysis**

At this time, staff proposes to utilize the remaining ARPA funds allocated for Commercial Relief Grants, which is approximately \$377,860, for the establishment of a Business Facilities Grant program. Staff also proposes to phase out the Temporary Outdoor Facilities Program and assist businesses to make their outdoor facilities permanent.

### **Business Facilities Grant Program**

The goal of the Business Facilities Grant program is to assist businesses to recover from the COVID-19 pandemic by making investments in their properties that improve or adapt their operations, implement safety and security measures and/or make aesthetic repairs and improvements. Many businesses experienced significant restrictions on their operations and reductions in revenues throughout 2020 and 2021. While most businesses were able to remain afloat thanks to the assistance from Federal, State and local grant and loan programs, they often also depleted their financial reserves and took on debt to continue their operations.

In 2022, many businesses continue to experience the lingering impacts of the pandemic, including reduced customers, changing shopping habits, marked inflation, deferred maintenance, and increasing demand for security and cleaning of their facilities. However, limited resources are restricting many businesses from making vital improvements at their locations to respond to these impacts. Using City grants, Staff envisions that businesses will be able to install permanent outdoor facilities; replace broken windows; create safer locations for their business, employees, and customers; undertake deferred maintenance to restore the appearance of buildings; improve building accessibility; update physical operations based on customer demands; and initiate other business improvements.

### **Outdoor Facilities Permits**

The COVID-19 Temporary Outdoor Facilities Program was implemented with the understanding that it would provide temporary flexibility to businesses and would expire with the end of the local state of emergency. Through the program, certain procedures and requirements under the Zoning and Municipal Codes related to Land Use Permits and Encroachment Permits were waived. However, for the safety and liability mitigation of businesses and their patrons, such requirements cannot and should not be waived permanently.

Following the success of the Temporary Outdoor Facilities Program, many restaurants have found that their outdoor dining spaces are an important addition to their business. While more business patrons are returning to public spaces, many restaurants continue to underperform per seat. In addition, out-door seating is increasingly popular and the extra out-door space offers opportunities for additional revenue especially for those businesses that have incurred additional debt or are behind on their rent payments.

In order to support restaurants that would like to continue their outdoor seating permanently, staff recommends that the Temporary Outdoor Facilities Program be phased out and assistance be

provided to the businesses to make their outdoor areas permanent. Under the proposed Resolution, the Emergency Declaration waiving certain requirements and creating the Temporary Outdoor Facilities Program will be terminated and businesses will be provided a transition period of six months (to April 30, 2023) to modify their facilities and operations as needed to meet permanent requirements and submit a complete application for the standard Outdoor Facilities Permit for their outdoor dining.

The Outdoor Facilities Permit is an existing mechanism for responsibly establishing outdoor operations for San Leandro businesses. Any business may apply for this permit at any time, but the availability of grants will help significantly since, due to reduced reserves, many local businesses may be unable to afford the high costs to develop plans, apply for the permanent Outdoor Facilities Permit, and undertake construction. Through the Business Facilities Grant Program, funds and staff technical assistance would be available to help businesses prepare plans, apply for permits, and install improvements for safe, accessible and aesthetically pleasing outdoor facilities.

### **Current Agency Policies**

Zoning Code Section 4.04.324 - Outdoor Facilities and Storage/Loading Facilities

### **Previous Actions**

- Resolution No. 2020-068 - Ratification of the Proclamation of Local Emergency and State of Emergency by the City's Director of Emergency Services - June 15, 2020
- Resolution No. 2020-080 - Emergency Declaration Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San Leandro Municipal and Zoning Codes for the COVID-19 Temporary Outdoor Facilities Program - July 6, 2020
- Resolution No. 2020-099 - Amendment No. 1 to the Emergency Declaration, suspending enforcement of certain requirements in an effort to streamline the Temporary Outdoor Facilities Program - July 23, 2020
- Resolution No. 2021-003 - Amendment No. 2 to the Emergency Declaration, removing reference to the December 31, 2020 end date as it pertains to the Temporary Outdoor Facilities Program - January 4, 2021
- Resolution No. 2021-150 - Adoption of ARPA Budget for Fiscal Years 21-22 and 22-23 and Authorizing the City Manager to Approve Carryovers/Unspent ARPA Funds to Future Fiscal Years' Budgets - November 1, 2021

### **Committee Review and Actions**

- October 4, 2022 - Finance Committee - Staff Presentation on Economic Development Programs, including recommendation to establish Business Facilities Grant Program and phase out the COVID-19 Temporary Outdoor Facilities program.

### **Applicable General Plan Policies**

- Policy ED-2.4 Business Assistance. Maintain programs that provide a supportive environment

for local businesses, including expedited permitting, incentives for renovating and improving buildings, site location assistance, land assembly, loans, and other business development incentives.

- Policy ED-2.7 Small Businesses. Create a supportive environment for small businesses, particularly locally-owned retail and service businesses Downtown and in the city's neighborhood centers.
- Policy ED-4.4 Business District Improvements. Encourage upgrades to the appearance of businesses and the condition of properties in the city's business districts.

### **Legal Analysis**

These recommendations are being presented per the guidance of, review and approval by the City Attorney.

### **Financial Impacts**

On November 1, 2021, the City Council Adopted the American Rescue Plan Act (ARPA) Budget for Fiscal Years 2021-2022 and 2022-2023 and Authorized the City Manager to Approve Carryovers/Unspent ARPA Funds to Future Fiscal Years' Budgets. The ARPA Budget included the allocation of \$750,000 for Commercial Relief Grants, which included Rent Relief Grants. The Economic Development Division was able to provide \$372,140 in grants to 32 businesses through the Rent Relief Grant program. Approximately \$377,860 of the original Commercial Relief Grant allocation is available for additional grants.

Sufficient funds are included in the Fiscal Year 2022-2023 budget for ARPA-funded programs and services:

- Commercial Relief Grants 190-41-830-8507: \$377,859.98

This Council action will not impact fund balance because there are funds available in the FY2022-2023 adopted budget.

### **ATTACHMENT**

Attachment A: Resolution Authorizing the City Manager to Reallocate Funds for a Business Facilities Grant Program and Terminate the Declaration of the of the Director of Emergency Services Related to the COVID-19 Relief Temporary Outdoor Facilities Program,

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