

RESOLUTION NO. 2023-190

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ESTABLISHING THE BREWERY, RESTAURANT, AND WINERY (BRew) INCENTIVE PROGRAM; ADOPTING THE BREWERY, RESTAURANT, AND WINERY INCENTIVE PROGRAM POLICIES, GUIDELINES, AND PROCEDURES; AND AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS REASONABLY NECESSARY TO IMPLEMENT AND ADMINISTER THE PROGRAM

WHEREAS, the City Council of the City of Elk Grove (City) has established goals to ensure a “vibrant community and sustainable economy with diverse businesses and amenities,” to “ensure public and private development that is high-quality and attractive, contributing to a sense of place,” and to “facilitate development of enhanced retail, dining, arts and entertainment, and hospitality projects and experiences that serve residents and visitors”; and

WHEREAS, attracting and expanding enhanced quality of life amenities to and in the City such as local and regional breweries, restaurants, and wineries is a key economic development strategy and will make the City more competitive in attracting businesses and their employees, attracting visitors, and will make the City more livable for residents; and

WHEREAS, a formal incentive program providing financial assistance to breweries, restaurants, and wineries will enhance the City’s ability to attract and expand breweries, restaurants, and wineries; and

WHEREAS, attracting and expanding breweries, restaurants, and wineries to the City will further the City Council’s goals respecting vibrancy, a sense of place, and enhanced retail, dining, and hospitality amenities.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby establishes the Brewery, Restaurant, and Winery (BRew) Incentive Program; adopts the Brewery, Restaurant, and Winery Incentive Program Policies, Guidelines, and Procedures attached hereto as Exhibit A and incorporated herein by reference; and authorizes the City Manager to take all steps reasonably necessary to implement and administer the Program, all subject to limitations as to budgeted funding.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 9th day of August 2023



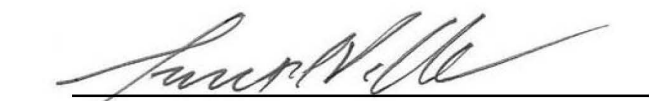
BOBBIE SINGH-ALLEN, MAYOR of the CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

EXHIBIT A

BREWERY, RESTAURANT, AND WINERY (BReW) INCENTIVE PROGRAM POLICIES, GUIDELINES, AND PROCEDURES

Program Overview

The Brewery, Restaurant, and Winery Incentive Program, or BReW (“Program”), provides financial support to target industry businesses in Elk Grove to cover expenses and costs associated with the development, improvement, or expansion of breweries, restaurants, and wineries. The overriding goal of the Program is to enhance Elk Grove’s competitiveness in attracting or expanding breweries, restaurants, and wineries to the city that contribute to commercial area vibrancy, create a sense of place, and increase quality of life for residents, workers, and visitors by providing high quality lifestyle amenities.

Program Components

Financial Assistance:

- For an eligible and approved project, the City will provide a matching grant to the Applicant up to \$50,000 or 50% of eligible reimbursable project costs, whichever is less. (Example: If the eligible cost is \$40,000, the maximum grant would be \$20,000.)

For purposes of the Program, target industry businesses categories are defined as:

- Breweries – includes local and regional taprooms and brewpubs with a publicly accessible tasting room.
- Restaurants – includes local and regional elevated chef-driven restaurants and cafes.
- Wineries – includes local and regional winery and distillery facilities with a publicly accessible tasting room.

Program Guidelines

Applicants must meet **ALL THE FOLLOWING CRITERIA:**

- The business must meet at least one of the target industry business categories, all as determined by the City of Elk Grove.
- At the time an Economic Incentive Agreement is entered into for Program funding the business must own or lease the commercial space necessary for the project.
- At the time an Economic Incentive Agreement is entered into for Program funding the business must have a pending planning or building application with the City for construction, rehabilitation, or expansion of commercial space necessary for the project.
- The business must be properly registered with the California Secretary of State should the business type be subject to registration. Sole proprietorships are not required to be registered with the California Secretary of State.
- The business must be properly licensed with the City of Elk Grove.
- The business must be in good standing with the City (e.g., have no open enforcement actions or delinquencies).

The following are **ELIGIBLE IMPROVEMENTS AND COSTS:**

- Restaurant, brewery, or winery equipment (such as hood exhaust systems, fire suppression systems, grease interceptors, sinks and dishwashing equipment; brewing, cellar, and distillery manufacturing and/or tasting room equipment).
- Tenant improvements (such as counter systems, seating, furniture, fixtures, drywall, paint, flooring, and lighting).
- Electrical, plumbing, or HVAC.
- Addition or expansion of outdoor seating or gathering areas.
- Applicable government approval and permit fees.
- Development impact fees.
- Applicant's design and project management expenses.
- Design and project management services utilizing one of the City's on-call architects, if requested by Applicant or required by City. Up to 50% of the design and management costs of the City's on-call architects are an eligible cost, which cost would be attributable to the total financial assistance provided to an Applicant.
- Any other improvements or costs approved by the City.

The following are **INELIGIBLE IMPROVEMENTS AND COSTS:**

- Debt service payments.
- General business operation expenses (payroll, taxes, utilities, etc.).
- Business owner's time and expenses.
- Any other improvements or costs deemed ineligible by the City.

The following are **INELIGIBLE APPLICANTS:**

- National corporations or franchisees of national corporations.
- Businesses in recently constructed large format shopping centers.
- Home-based businesses.
- Online-only businesses.
- Mobile vendors.
- Political, government, or religious organizations.
- Any other businesses or entities deemed ineligible by the City.

The City Manager or authorized designee will make all final determinations on eligibility and has discretion to deviate from the above criteria by utilizing different, additional, or fewer criteria to make funding decisions on a case-by-case basis where it is determined that the provision of a grant to a particular Applicant who would not otherwise be eligible is in the best interest of the

City. The City Manager or authorized designee may also determine that providing a grant to an eligible Applicant is not in the best interest of the City and deny the Program application.

Funding Allocation Levels

Program funding is appropriated by the City Council annually or as needed. If funds are not available applications will not be accepted.

Grant Amount:

Not to exceed \$50,000 regardless of total project cost.

Disbursement of grant funds to approved Applicants will be in the form of a reimbursement payment for completed work issued after the City has received a Payment Request from the Applicant and has deemed the project complete. The payment request will include proof of eligible project costs and expenses acceptable to the City.

Approval Process

1. The Applicant and City staff engage in discussions and establish mutual interest in partnering on project.
2. City staff conducts a pre-application meeting with the Applicant to discuss Program Guidelines and establish the scope of the project.
3. If the City determines the project complies with the Program and is in the best interests of the City, the Applicant is invited to apply and submit an application.
4. If submitted, the application is reviewed by City staff to determine if the application is accepted. The application will, among other things, contain a general description of the project and an initial cost estimate.
5. If accepted, the Applicant and City enter into an Economic Incentive Agreement which defines the scope of work, timeline, and amount of and terms upon which the grant funds will be provided.
6. The Applicant is contractually responsible for bidding, contracting for, obtaining permits for, paying for (subject to the provision by the City of matching grant funds at the conclusion of work), and overseeing all project work.
7. Upon completion, the City and Applicant jointly inspect the project and deem it complete and accepted.
8. Within 30 days of project completion, the Applicant submits a Payment Request to the City including proof of payment of eligible project improvements and costs. If the Payment Request is denied in whole or in part due to lack of adherence to Program Guidelines or insufficient evidence of eligible project costs and expenses, the City will reduce the reimbursement payment accordingly.
9. The City provides reimbursement of the agreed upon amount in accordance with the Economic Incentive Agreement within 30 days.

Repayment Requirements

- The grantee must complete the project, obtain a certificate of occupancy, and commence business operations in the project commercial space within 24 months of entering into an Economic Incentive Agreement for Program funding, or the grantee must repay the grant funds with interest at the rate and within the time stipulated in the Incentive Agreement.
- The grantee must operate its business in the project commercial space for at least 12 consecutive months from the commencement of business operations, or the grantee must repay the grant funds with interest at the rate and within the time stipulated in the Incentive Agreement.

General Conditions

City staff will prepare application forms and materials, identify required submittals, and define necessary processes needed to receive and evaluate funding requests under this Program. All application materials and processes are subject to change from time to time. All application materials are public records subject to public disclosure as required/submitted by State law or City policy.

The estimated time from completed application to a funding decision, evidenced by an Economic Incentive Agreement, will vary depending on the quality and completeness of the application, the responsiveness of the applicant, and the workload of City staff, among other factors.

All applications for funding under the Program shall be considered on a case-by-case basis. Funding is not guaranteed, and the City has complete discretion to approve or deny any application for funding, and to provide full or partial funding, or none at all. All funding decisions shall be final and the applicant shall have no right of appeal from any decision on any funding application, nor the decision to accept or not accept a funding application, nor the decision to process or not process any funding application. All funding decisions shall be documented by a written Economic Incentive Agreement executed by the grantee and the City setting forth the terms and conditions of any funding under the Program. Applicant shall have no rights in any funding, or otherwise under the Program, absent a fully executed Economic Incentive Agreement.

Applicants shall comply with all laws with respect to the receipt and use of any funding under the Program. The City makes no representation as to whether any applicant's receipt or use of such funding would be subject to the state prevailing wage laws, as set forth at Labor Code sections 1720, et seq. To the extent applicable, applicants shall cause all work performed with such funding to be performed in compliance with all applicable laws including, without limitation, state prevailing wage laws pursuant to Labor Code sections 1720, et seq. In the event an applicant fails to comply with any applicable law, including, without limitation, prevailing wage laws, the applicant shall be liable for the payment of all penalties, wages and/or damages resulting therefrom, and shall defend, indemnify, and hold the City harmless for any violations or alleged violations of law. These provisions will be included in any Economic Incentive Agreement. Applicant is encouraged to seek legal advice through legal counsel of their choosing for further guidance.

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2023-190

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 9, 2023 by the following vote:

AYES: COUNCILMEMBERS: Singh-Allen, Spease, Brewer, Robles, Suen

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



Jason Lindgren, City Clerk
City of Elk Grove, California