

Attachment A to Agenda Memo – Content for Potential Ordinance Establishing the “Art and Cultural Facility Capital Projects Grant Program

Section 1. A new chapter 4.45 is hereby added to the Bellevue City Code, to be titled “Art and Cultural Facility Capital Projects Grant Program” and to read as follows:

4.45.010 Purpose.

Investing in the creation of venues in Bellevue that will deliver excellent and varied performance and visual arts as well as education about dance, music, crafts, and rituals reflecting the cultural traditions of people who live in Bellevue for the benefit and enjoyment of Bellevue’s residents and visitors is a priority for the City of Bellevue.

The City of Bellevue wishes to establish a grant program to encourage both private and public investment in additional facilities and improvements to existing buildings owned or leased and operated by nonprofit organizations dedicated to the mission of delivering arts and culture for the benefit and enjoyment of Bellevue’s residents and visitors.

4.45.020 Establishment of grant program.

There is hereby created and established a competitive grant program to assist nonprofit organizations in:

(a) acquiring or constructing arts facilities, art museums, and cultural facilities that focus on performance, display, or presentation of art, dance, or music, or education about dance, music, crafts, and rituals reflecting cultural traditions for the benefit and enjoyment of the general public; and

(b) constructing or installing permanent improvements to existing buildings for the purpose of delivering visual or performing arts to the general public.

This grant program will award grants of City funds to nonprofit organizations for their capital projects for arts and cultural facilities and for installation of permanent improvements to existing buildings that will be owned or long-term leased by such nonprofit organizations, only for the public purpose as described in Section 4.45.010 and subject to the scope, conditions, eligibility standards and other parameters described in this chapter 4.45.

4.45.030 Definitions.

“Nonprofit organization” shall mean a legal entity organized for a nonprofit purpose and exempt from federal income tax under section 501(c)(3) of Title 26 of the United States Code.

“Art facility” shall mean a building or demised premises within a building dedicated to public performance, display, or presentation of art, dance, or music, or general public education about art, dance, or music.

“Cultural facility” shall mean a building or demised premises within a building dedicated to public performance, display, presentation of art, dance, music, crafts or rituals reflecting cultural traditions, or general public education about art, dance, music, crafts, or rituals reflecting cultural traditions of groups of people who share different cultural identities residing in or having a

meaningful connection to Bellevue. Cultural facility does not mean any building or demised premises whose purposes include the practice or advancement of any particular religion or political ideology.

4.45.040 Requirements for Presenting Recommendations to Council.

Beginning with the XXXXXX biennium and thereafter, the City Manager or designee will submit a list of recommended capital projects eligible for City funding under this grant program. The list of recommended projects shall be in priority order and shall be accompanied by a recommendation summarizing information relevant for Council to make a decision including at a minimum:

- a. Confirmation that grant applicant and recommended project meets the public purpose of the grant program and all eligibility standards as set forth in BCC 4.45.050.
- b. Project summary, including the project’s public benefit, estimated cost to complete, amount of funding from other identified sources already raised or secured by grant applicant, and proof of applicant’s site control for the site where the project will be located;
- c. Project’s scope of work;
- d. Estimated timeline for completion and delivery;
- e. Original proposed funding amount and recommended funding amount;
- f. Applicable and proposed conditions for disbursement of funding. Rationale for any proposed deviation from established minimum conditions.

4.45.050 Eligibility Standards.

To be eligible to apply for this grant program, the applicant must meet the following eligibility standards:

- a. Applicant must be a nonprofit organization in good standing that has operated an art facility or cultural facility or art museum for at least two years. “Good standing” means the nonprofit is financially solvent, current on its filings with the State of Washington and the IRS, has not filed for bankruptcy, and none of its members, directors, or officers have been criminally convicted or debarred from participating in federal contracts.
- b. Applicant must attest to having a sustainable long-term financial model that is not dependent on any City funding to sustain its own staffing of operations, as well as pay the cost of maintaining and repairing the facilities it currently owns and intends to own.
- c. The proposed project must be acquisition or construction of an art facility or cultural facility or art museum located in Bellevue, Washington, or construction or installation of permanent improvements to an existing building in Bellevue, Washington.
- d. If the application is for City funds to be used to acquire an art facility or cultural facility or art museum, Applicant must attest in the application that Applicant will take title to the facility and operate such facility or museum for a minimum of X years.

e. If the application is for City funds to be used to construct an art facility or cultural facility, Applicant must attest in the application that Applicant has applied for funding from other sources to cover at least 67 percent of the estimated total capital project cost, and must submit evidence of site control. Evidence of site control, can include an executed purchase and sale agreement with the owner of the site with a closing date that is not more than 2 years from the date of Applicant's application for City funding, or a long-term lease with an initial term of at least 10 years.

4.45.060 Grant Program Parameters.

The parameters for this capital projects grant program include the following limitations and requirements:

- a. This grant program will award grants only on a reimbursable basis for costs incurred.
- b. This grant program will not be used to pay for any cost to operate a nonprofit or the nonprofit's programs or activities.
- c. This grant program will not be used to pay for any fundraising whatsoever.
- d. This grant program will not be used for maintenance or repair of facilities.
- e. City funding assistance cannot exceed 33 percent of estimated total cost of the project if the project includes land acquisition, existing facility acquisition, or construction of a facility.
- f. Land acquisition can't be funded by this grant program without appropriate assurance of delivery of a facility consistent with the purpose and requirements of this grant program, and effective legal remedies if the facility is not delivered.
- g. To qualify as an improvement to an existing building that falls within the scope of this grant program, the improvement must involve the construction or installation of building features that directly improve the general public's physical, auditory, or visual access to the performance, display, or presentation of the arts, or education about the arts, crafts, or rituals reflecting cultural traditions. Examples include: Additions and upgrades to buildings to improve ADA access, lighting, acoustics, or other building features specific to the general public's experience of performance, display, presentation, or education about the arts or dance, music, crafts and rituals reflecting cultural traditions of Bellevue's residents.

4.45.070 Competitive Process.

The City Manager or designee shall establish a competitive process to prioritize applications for City funding assistance as follows:

- a. The City shall conduct at minimum a citywide solicitation for capital project grant applications from nonprofit organizations.
- b. The City shall evaluate and rank applications in consultation with an evaluation committee whose duties and responsibilities will be as established by City Council. Evaluations shall use objective criteria consistent with this program's purpose, eligibility standards and parameters.
- c. The evaluation and ranking process shall at a minimum consider local community support for projects, the applicant's experience managing and delivering capital projects, applicant's

experience operating an art facility, cultural facility or art museum, applicant's financial strength and record of success raising funds to finance capital projects, as well as any commitments of funding applicant has secured from non-City sources of funding at the time of application.

d. Recommendations based on evaluation of applications shall be presented to the Council for consideration and action.

4.45.080 Grant Amounts; Match Requirements.

The City Manager or designee shall establish the amount of City grant assistance for individual project applications; provided that the amount of City grant is subject to the limitations in BCC 4.45.060. The remaining portions of the project capital cost shall be a match from non-City sources. The non-City match may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The City Manager or designee is authorized to set matching requirements for individual projects. City funding assistance may be used to fund separate definable phases of a project if the project demonstrates adequate progress and has secured the necessary match funding.

4.45.090 Minimum contract requirements.

Grant contracts must require that any facility constructed, acquired or improved with funding from this grant program be held by the grantee for a specified period of time appropriate to the amount of the grant and must ensure that facilities are used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the contract must provide the City the potential to take legal action to collect repayment of the principal amount of the grant plus interest or other appropriate legal remedy carrying significant consequence for grantee.

4.45.100 Additional Guidelines.

The City Manager or designee is authorized to promulgate additional guidelines to clarify the scope, eligibility standards, parameters, and competitive process for selection consistent with Chapter 4.45 BCC. The City Manager or designee shall include in additional guidelines categories of ineligible and eligible expenses and publish such guidelines prior to commencement of any competitive process. At a minimum, the guidelines must identify the following categories of expenses as ineligible to be funded by the City: any expense relating to staffing or operation of grantee, any expense relating to operation or maintenance of a facility, any project management costs (from any sources), any administrative activities, any fundraising activities, and any planning activities or feasibility studies.

4.45.110 Grant monies.

Monies may be disbursed on a reimbursable basis for eligible expenses and only if all of the following minimum conditions have been met:

a. The City Council has approved a sufficiently clear and specific scope of project, and approved the minimum funding conditions for the individual project and applicant;

- b. Unless changes were disclosed and approved by City Council when Council approved funding for the project, the selected and approved grant applicant (grantee) will be held to the scope and representations made by applicant in the applicant's grant application;
- b. The City Attorney has reviewed and approved terms and conditions appropriate to ensure the delivery of a public benefit consistent with the purpose and parameters of BCC 4.45, avoid fraud, gift, and waste public funds, and provide appropriate legal remedies for breach of contract;
- c. The grantee and the City have executed a grant contract;
- d. No disbursement of City funds shall be authorized to start until grantee shows proof of having secured all funds necessary to complete the project, including all funds not covered by the City's grant;
- e. The City has authenticated that an eligible expense was incurred and the expense supports progress toward delivery of what was agreed in the grant contract. No advance payment may be made that was not specifically addressed in the grant contract.