

CITY OF AUSTIN

CREATIVE INDUSTRIES LOAN (CIL) GUARANTEE PROGRAM

I. PROGRAM GOAL

The Creative Industries Loan (CIL) Guarantee Program is designed to encourage private lenders to provide financing for creative industries in Austin, non-profits related to those creative industries, and individuals involved in those creative industries in Austin. The individuals, non-profits and businesses involved in these creative industries are a vital component of Austin's job creation and retention. The purpose of this program is to enhance that job creation and retention.

II. ELIGIBLE PERSONS

The City of Austin CIL Guarantee Program will be available to persons who are citizens or lawful permanent residents of the United States, and residents of Austin, Texas.

III. ELIGIBLE FOR-PROFIT AND NON-PROFIT BORROWERS

For-profit and non-profit concerns located within the City limits of Austin that will create or retain employment in the City of Austin as a result of the assistance provided through the CIL Program shall be eligible. Preference shall be given to for-profit concerns that have been established for a three- (3) year period and operated at a profit for two of the last three years or in the most recent year and to non-profit concerns that have been established for a similar period and have the financials necessary to meet the underwriting criteria of the lender. A business established for a minimum of two (2) years that has shown a profit in the most recent year shall also be eligible. Similarly, a non-profit that has been established for a minimum of two (2) years and has the financials necessary to meet the underwriting criteria of the lender shall also be eligible. Other applications may be considered in special situations where the principals have demonstrated a recent history of that meets the underwriting criteria of the lender. Eligible borrowers include individuals, businesses and non-profits whose work is primarily related to music, film, art, and technology industries such as the digital and video game industries.

IV. INELIGIBLE APPLICANT

"Ineligible Applicant" means a religious or governmental institution, a business/individual solely operating as a lending or investment entity, or a business/individual engaged in an illegal activity as defined under federal, state, or local law/regulation.

V. DEFINITIONS

- A. "City" means the City of Austin
- B. "Department" means the City of Austin Economic Growth and Redevelopment Services Office.
- C. "Full-time Employee" means a salaried position of not less than thirty (30) hours per week, or its contractual equivalent based on no less than the federal minimum wage. Two or more part-time employees whose hours total more than thirty (30) hours per week may be substituted for one full-time employee.
- D. "Job Creation" means new, permanent full-time employees (or their contractual equivalent) that will be hired in addition to all current employees on the date of application. It also means

contractual arrangements between the applicant and other individuals or firms in the City of Austin.

- E. "Job Retention" means permanent full-time employees (or their contractual equivalent) that would be terminated, or lost to the City if CIL Program assistance is not provided.

VI. ELIGIBLE PROJECT COSTS

In general, the CIL Loan Guarantee proceeds may be used for the following purposes:

A. Real Estate Improvements, and Related Fees

1. Proceeds may be used for necessary improvements to existing buildings or leasehold improvements, and related professional fees. All projects in this category must comply with all City zoning, parking, permit, and license requirements.
2. Term: Consistent with lending practices of the participating financial institution, not to exceed five (5) years.

B. Business Personal Property

1. Example of business personal property include furniture, fixtures, machinery and equipment purchased or leased.
2. Term: Consistent with the lending practices of the financial institution, not to exceed five (5) years or the average, normal life of the asset, whichever is less.

C. Working Capital

1. Proceeds may be used for current operating expenses and inventory and must be Collateralized by personal assets such as CD's, stocks, bonds, savings, personal real estate, or other approved personal tangible assets.
2. Term: Not to exceed two (2) years.
3. For the purpose of this Program's regulations, intangibles are deemed to be working Capital.

VII. INELIGIBLE PROJECT COSTS

A. Acquisition of Real Estate

The purchase of land or real estate, construction of new buildings, or acquisition of existing buildings are ineligible activities under the CIL Program.

B. Residential Development

CIL Program funds may not be used for residential development. In a proposal combining both residential and commercial use, the residential portion of the building may not be included as an eligible cost for the City's participation in the loan.

C. Intangible Property Unless Covered by the 1976 Copyright Act.

Examples of intangible property include, but are not limited to, Patents, Franchises, Goodwill, Fees, Trademarks or Trade names.

- D. Refinancing.
- E. Purchase or lease of vehicles under any circumstances.
- F. Relocation costs.
- G. Business acquisition costs and/or stock purchase.
- H. Projects whose usage is incompatible with the CIL Loan Guarantee Program goal.

VI. JOB CREATION AND RETENTION REQUIREMENTS

- A. A minimum of one (1) permanent, full-time job (or its contractual equivalent) must be created or an equivalent of two (2) permanent full-time jobs retained for every \$15,000 of City CIL Loan Guarantee, and are to be maintained until maturity of the loan.
- B. Due to the nature of creative industries, jobs created as a result of contractual arrangements between the applicant and other individuals or firms in the City will be recognized as job creation by the applicant.
- C. New jobs must be created within six (6) months of loan closing.
- D. While participants may hire for new jobs from the open market, they are encouraged to affirmatively seek disadvantaged and unemployed City residents, especially those eligible for local job training programs.
- E. Documentation of proposed job creation and/or retention shall be provided by the applicant in such form as determined by the Department.

VII. PROGRAM OVERVIEW

Persons or firms seeking assistance through the City of Austin CIL Loan Guarantee Program must submit an application to Jim Butler at the City of Austin Economic Growth and Redevelopment Services Office. The applicant's loan request will be reviewed to determine if the request meets the basic intent of the program, is an eligible project, has an opportunity for success and other information. If the applicant's request is approved, the applicant shall have ninety (90) days to secure a bank loan for the project. The City of Austin will establish a guarantee for a specific amount not to exceed fifty percent (50%) of the loan or \$75,000 whichever is less.

The minimum loan guarantee amount for any purpose under the Program is \$10,000. The maximum guarantee amount shall be 50% of the loan or \$75,000, whichever is less.

IX. MINIMUM APPLICATION REQUIREMENTS

- A. Business or non-profit financial statements (last two/three years, if applicable).
- B. Business/Corporate or non-profit tax returns from the most recent year or the last two/three years, if applicable.
- C. Proof of business ownership, i.e. partnership agreement, articles of incorporation, or other documentation and similar documentation for non-profits.

- D. Personal resumes of key management personnel.
- E. Personal financial statements (within sixty (60) days).
- F. Financial projections (3 years) indicating how bank loan will be repaid and including cash flow projections.
- G. Project cost estimates and list of collateral.
- H. Estimates of jobs to be created/retained.

X. UNDERWRITING CRITERIA

- A. Applicants will be required to provide a minimum equity injection of at least ten percent (10%) of the project cost from their personal or business resources. The lending bank may have its own requirements for equity, which can be substituted as requirements by the City.
- B. Participating lenders will determine the maximum feasible loan to a qualified borrower, using normal underwriting practices.
- C. A participating lender shall determine the type of loan documentation (e.g. notes, deeds Of trust) necessary to execute the transaction.
- D. The interest rate that participating lenders charge for their portion of the loan may float at A rate not to exceed three- (3) percentage points (three hundred basic points) above the bank base rate as quoted daily in the Wall Street Journal. Comparable rates based upon an institutional lender's base rate, or other indices may also be used.
- E. The participating lender shall have the primary responsibility for determining the applicant's credit risk.
- F. The City prefers to share equally in the collateralization of the loan with the lending institution in pursuing personal assets or guarantees to satisfy a default judgment. However, in some cases the City may assume a second lien position on these assets.
- G. The City of Austin guarantee of fifty percent (50%) or \$75,000 whichever is less, is applicable to the outstanding amount financed by a private lender.

XI. THE CITY'S LOAN AGREEMENT WITH THE APPLICANT

Upon receipt of a loan approval from the participating lending institution, the City of Austin will provide the bank and applicant with a commitment letter that will specify the terms and conditions of its guarantee.

The City of Austin will reserve the right to take a lien position on the assets being financed subordinate only to that of the participating lender. In situations where real estate is not being financed, the City of Austin will secure sufficient collateral coverage via liens against real property unrelated to the project, equipment or personal property.

If at any time during the term of the City's guarantee it is determined that the business or non-profit entity or individual being assisted is not making a "good faith" effort to meet the requirements of the program, the City of Austin reserves the right to call the guarantee and/or prohibit the business concern or non-profit entity or individual from participating in any other City-sponsored economic development financing programs.

XII. THE CITY'S AGREEMENT WITH THE LENDING INSTITUTION

The City of Austin will enter into a letter of commitment with the lending institution for the guarantee for a specific project. The letter of commitment will give the lending institution the right to recover the guarantee fund in the event of default. The letter of commitment contract will require the lender to notify the City immediately if, at any time, payments by the business concern to the lending institution are more than 30 days delinquent. Furthermore, should the original loan be paid off, the lending institution must notify the City within 15 days. The lending bank and City will execute a guarantee agreement.