

ODESSA DEVELOPMENT CORPORATION
ODESSA BUILDING IMPROVEMENT DISTRICT
INFRASTRUCTURE AND FACADE GRANTS PROGRAM

Article I
Mission

A. The Odessa Building Improvement District Infrastructure and Façade Grants Program (the “Program”) is designed to encourage businesses to promote or develop new or expanded business enterprises in the Odessa Downtown and South Grant Corridor areas pursuant to 501.103 of the Texas Local Government Code to better attract other businesses to the area and to demonstrate the economic vitality of the area for economic development purposes by

1. encouraging business owners to rehab buildings located within these boundaries and make them suitable for businesses to flourish while adhering to current city building code guidelines, and
2. making exterior improvements to enhance the appearance of their buildings.

B. The stated public purpose is to revitalize and to improve economically distressed structures within the stated area.

Article II
Infrastructure Program

A. Guidelines.

1. Incentives. The Odessa Development Corporation (the “ODC”) will reimburse up to 50%, but not more than \$200,000.00, toward the total project cost for a qualifying infrastructure project as described herein. Grant amounts shall be determined on a case-by-case basis for infrastructure improvement.
2. Boundaries. The downtown boundaries are 1st Street, Adams Avenue, 10th Street and Bernice Avenue and the South Grant Corridor boundaries are S. Grant Avenue from 1st Street to IH20 including the southeast and southwest corners of S. Grant Avenue and IH20. Grants are available only for property within these boundaries. The amount of grant funds available shall be determined based on location of the property in accordance with the following tiered system:
 - a. Tier 1. 100% of 50% of grant funds shall be available for properties located within the boundaries of 1st Street, N. Tom Green Ave., 9th Street, N. Washington Ave., and the South Grant Corridor.
 - b. Tier 2. 75% of the 50% of grant funds shall be available for properties located outside the boundaries of Tier 1 but still within the downtown boundaries as described above.
3. Eligible improvements.
 - a. Planned improvements, repairs, or remediations that are necessary to meet city code requirements in order to promote or expand business enterprises, including but not limited to the following:
 - i. Environmental remediation;
 - ii. Water-sewer-electric or gas utilities;
 - iii. Building fire suppression systems; or
 - iv. Other approved site improvements necessary to satisfy code requirements.

- v. Infrastructure subject to reimbursement includes approved infrastructure projects that are specifically designed to bring the buildings up to city code requirements;
 - vi. Infrastructure subject to reimbursement includes interior ADA requirements, fire codes, building codes; and
 - vii. Fire code required sprinkler systems shall always qualify as a reimbursable infrastructure cost.
- 4. Ineligible activities.
 - a. Business specific improvements, including but not limited to improvements such as kitchen equipment, will not be eligible. Each project shall be reviewed for qualification on an individual basis;
 - b. Improvements to buildings to be used as churches or non-profits; and
 - c. Housing and projects for the general infrastructure needs of the city and not for the promotion and development of new or expanded business are not eligible.
- 5. Regulations. The following regulations are applicable to the infrastructure improvement program:
 - a. Improvements must be made in conformance with all applicable building codes, laws, and zoning requirements;
 - b. Improvements for buildings which are located on properties with outstanding property taxes or city-related liens are not eligible for incentive funding;
 - c. Applicant shall invest at least 50% of their own funds in the qualifying improvements. The ODC will reimburse up to 50%, but not more than \$200,000.00, toward the total project cost for a qualifying infrastructure project;
 - d. Applicants for infrastructure grants may be either the property owner, or a lessee with a valid leasehold interest in the subject property;
 - e. Funds are subject to Section 501.103 of the Texas Local Government Code and are limited to those uses that have the purpose of developing new and/or expanded business enterprises consistent with section 501.103 of the Texas Local Government Code, and not for other uses such as housing;
 - f. Any applicant, whether lessee or owner, that is intending to use only a portion of a building or structure may apply for the portion that they intend to use without being required to improve infrastructure for the entire property. However, applicant, whether lessee or owner, that is intending to make use of a portion of the building or the entire building or structure, shall be limited to 1 (one) infrastructure improvement application for all eligible infrastructure improvements in that building or structure;
 - g. ODC reserves the right to create any additional requirements the ODC board, in its discretion, deems appropriate.
 - h. Eligible infrastructure costs shall be reimbursed upon completion of the project and the submission of required documentation for a compliance review. Only qualifying infrastructure costs incurred after receipt of an application by ODC are eligible for reimbursement.

Article III **Facade Program**

A. Guidelines.

1. **Incentives.** The Odessa Development Corporation (the “ODC”) will reimburse up to 80%, but not more than \$25,000.00, toward the total project cost of qualifying building facade improvements as described herein. Grant amounts shall be determined on a case-by-case basis for facade improvement.
2. **Boundaries.** The downtown boundaries are 1st Street, Adams Avenue, 10th Street and Bernice Avenue and the South Grant Corridor boundaries are S. Grant Avenue from 1st Street to IH20 including the southeast southwest corners of S. Grant Avenue and IH20. Grants are available only for property within these boundaries. The amount of grant funds available shall be determined based on location of the property in accordance with the following tiered system:
 - a. **Tier 1.** 100% of the 80% of grant funds shall be available for properties located within the boundaries of 1st Street, N. Tom Green Ave., 9th Street, N. Washington Ave., and the South Grant Corridor.
 - b. **Tier 2.** 75% of the 80% of grant funds shall be available for properties located outside the boundaries of Tier 1 but still within the downtown boundaries as described above.
3. **Eligible improvements.** Eligible improvements are limited to the exterior building facade, including:
 - a. Exterior treatment systems, such as painting, murals, siding, stucco or simulated stucco, brick/stonework, or other approved treatments;
 - b. Structural improvements to the building facade;
 - c. Masonry or tile cleaning/repair;
 - d. Restoration of details in historical buildings;
 - e. Removal of elements that cover architecturally significant areas; and
 - f. Repair or replacement of exterior doors, windows, and trim work (in public view) which are necessary for aesthetic purposes.
4. **Ineligible activities.** The following are ineligible uses of grant funds:
 - a. New construction;
 - b. Interior improvements;
 - c. Routine maintenance;
 - d. Parking lot improvements;
 - e. Landscaping; and
 - f. Improvements to buildings to be used as churches or nonprofits.
5. **Regulations.** The following regulations are applicable to the facade improvement program:

- a. Improvements shall be made in conformance with all applicable building codes, laws, and zoning requirements;
- b. All grant recipient improvements must be in compliance with the design standards set forth in the downtown master plan for the overlay zone;
- c. No more than 25% of the total cost of improvements can be related to the exterior painting of the building;
- d. Building owner or lessee is responsible for at least 20% of total project cost;
- e. Funds are subject to Section 501.103 of the Texas Local Government Code and are limited to those uses that have the purpose of developing new and/or expanded business enterprises consistent with section 501.103 of the Texas Local Government Code, and not for other uses such as housing;
- f. Applicant, whether lessee or owner, that is intending to make use of the entire building or structure shall be limited to one building facade Improvement application for all eligible facade improvements on that building or structure;
- g. ODC Reserves the right to create any additional requirements the ODC board, in its discretion, deems appropriate.
- h. Eligible facade costs shall be reimbursed upon completion of the project and the submission of required documentation for a compliance review. Only facade costs incurred after receipt of an application by ODC are eligible for reimbursement.

Article IV **Grant Procedure**

A. Grant application review procedure.

1. Applications shall be handled and distributed by the Economic Development Department of the Chamber of Commerce (“EDD”);
2. Upon receipt of a fully completed application, the EDD shall schedule a meeting of the ODC Compliance Committee which shall review and make a recommendation for approval or denial that will be sent to the ODC board of directors;
3. Upon receipt of a recommendation from the Compliance Committee, the ODC board will review the grant application and make a recommendation to the city council; and
4. Upon receipt of a recommendation from the ODC board, the City Council shall either finally approve or deny the request, which shall then be returned to EDD for handling and funding as appropriate.

B. Contract procedure. The procedures set forth in the ODC Development Finance Program Administrative Policy shall be followed. No contract shall be effective until the City Council has approved the contract and it has been signed by all parties.

C. Funding procedure. Upon completion of the improvements, the business shall submit the appropriate documentation as listed in the contract to the EDD for reimbursement. The EDD shall submit the reimbursement documents to the ODC Treasurer who will oversee the review of compliance and the issuance of funds.

Article V
Variance Procedure

A. Purpose. The ODC board may only hear and determine requests for variances from the Regulations set forth under Article II, Section 5 and Article III, Section 5.

B. Limitations. The ODC board may hear and render a decision on a request for a variance under this Article only when it is alleged and shown to the satisfaction of the ODC board that there is an unnecessary hardship or loss imposed upon an applicant under this Program if the Regulations set forth under Article II or Article III are strictly enforced and only when the spirit and purpose of the regulations are otherwise being achieved or accomplished or served.

C. General provisions applicable to requests for a variance.

1. An applicant affected by a regulation set forth under Article II, Section 5 and Article III, Section 5 may apply for a variance to be heard and considered by the ODC board in a public meeting.
2. Variances may be issued only to permit a variance of the application of a Regulation set forth under Article II, Section 5 and Article III, Section 5.
3. The ODC board shall keep or cause a record to be maintained of all variance requests submitted to the ODC board and the decisions of the ODC board on all such variance requests.

D. Variance application requirements.

1. A request for a variance under this Article must be in writing and submitted to the Director of Economic Development or designee. A verbal request for a variance made to the ODC board in an open meeting does not comply with this Article and shall not be considered by the ODC board.
2. A request for a variance under this Article must include the following information:
 - a. A clear and concise description of the requested variance and the grounds or reasons for the variance; and
 - b. A statement why the applicant believes the variance should be granted; and
 - c. A statement that the requested variance will not undermine or negate the intent and purpose of the regulations as a whole; and
 - d. A statement that failure to grant the variance would result in exceptional and unnecessary hardship and financial loss to the applicant which is or was not caused by the applicant or due in any part to the applicant's own negligence or lack of diligence; and,
 - e. Documentation and records to support applicant's statements and request for a variance.

E. Hearing on an application for a variance.

1. Variances requests shall be heard and considered by the ODC board at a regularly

scheduled meeting of the ODC board in accordance with the Texas Open Meetings Act.

2. The applicant or applicant's duly authorized representative must appear at the hearing.
3. In addition to having the authority to reject or deny a request for a variance for failing to satisfy F.2.a-e below, the ODC board reserves the right to reject and deny a variance for any of the following additional reasons without considering or specifying the grounds set forth under Section F:
 - a. Applicant or applicant's duly authorized representative fails to appear at the hearing when the ODC board will hear and consider the request for a variance, in which case, the applicant is entitled to resubmit the application for the variance, or the ODC board may permit the hearing to be rescheduled; or
 - b. The application for the variance is found by the ODC board to be incomplete in which case, the applicant is entitled to resubmit the application for the variance; or the ODC board may permit the hearing to be rescheduled; or
 - c. If the ODC board finds that the variance request is repetitive and has been previously denied or rejected by the ODC board, in which case the applicant shall not be entitled to resubmit the application for the variance.

F. Prerequisites for granting variances. An applicant for a variance has the burden of proof to demonstrate to the ODC board why the variance request should be granted. Upon consideration of the factors set forth in this Article, the ODC board may consider a request for a variance under this section by considering the following criteria:

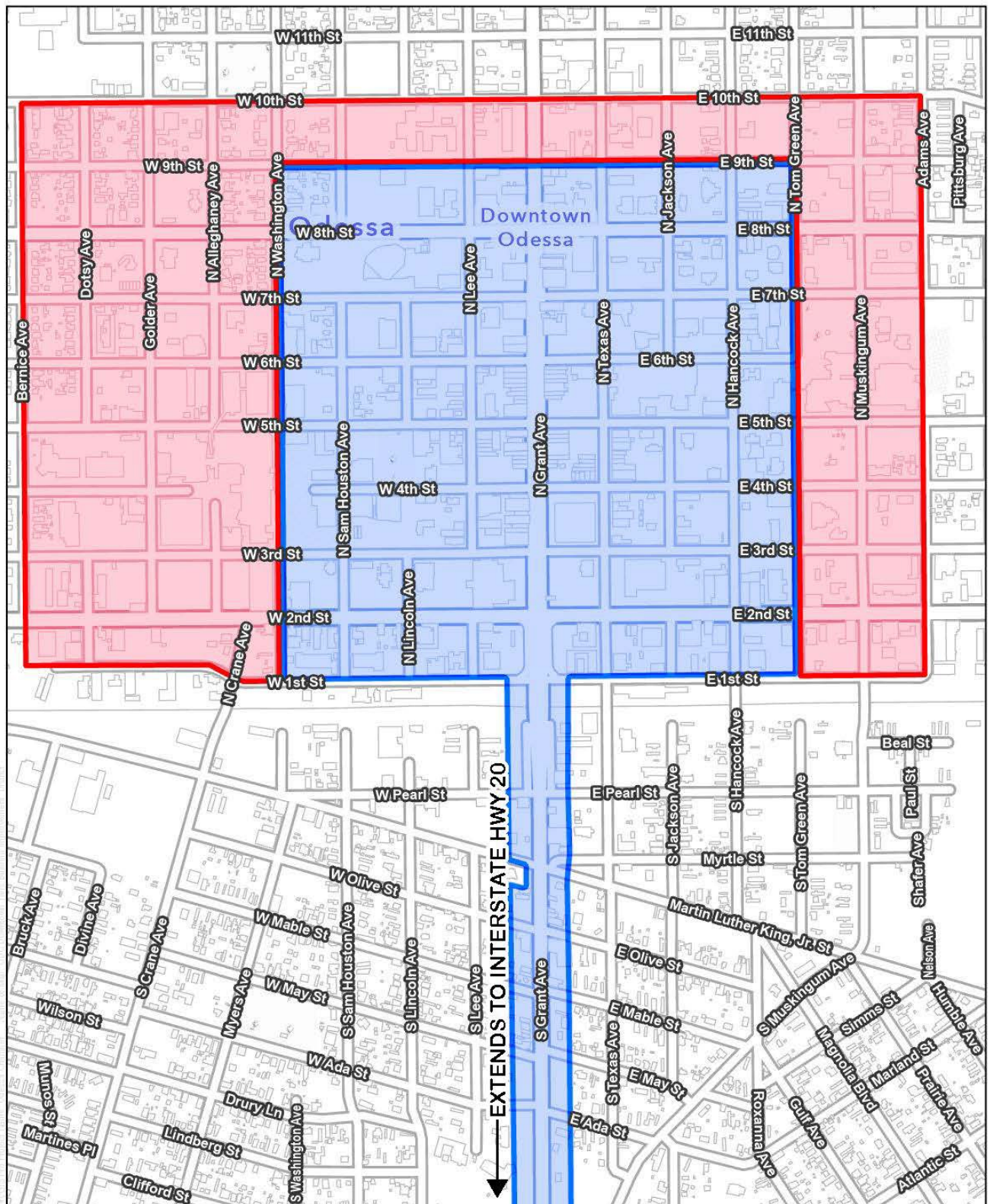
1. A variance shall only be approved only to the minimum extent necessary and so that the variance does not substantially undermine or substantially negate the intent and purpose of the Regulations as a whole.
2. A variance shall only be approved and authorized upon:
3. A showing a good and sufficient cause;
4. A determination that failure to grant the variance would result in exceptional and unnecessary hardship and financial loss to the applicant; and
5. A determination that any claimed exceptional and unnecessary hardship and financial loss is or was not caused by the applicant or the applicant's own negligence or lack of diligence;
6. A determination that the variance, if granted, will not substantially undermine or substantially negate the intent and purpose of the Regulations as a whole; and
7. A determination that the granting of the variance will not create or result in any harm or threat of harm to public safety, result in or cause additional public expense to the City of Odessa or to the ODC, will not create a nuisance, will not cause or result in fraud upon or victimization of the public, nor will not conflict with any local laws or ordinances.

8. The ODC board may deny or reject a request for a variance for an applicant's failure to prove or demonstrate the basis or reason for the requested variance under F.2.a-e above.

G. Resolution on application. The decision of the ODC board shall be set forth in a resolution that sets forth the grounds for denying or granting the requested variance. The ODC board may place conditions and limitations on a granted variance as deemed and as found necessary by the ODC board.

H. Decision of ODC board is final. The decision of the ODC board on an applicant's request for a variance is final and is not subject to appeal. The decision of the ODC board is not subject to review by the submission of a new application that substantially repeats the request for a variance that has been denied or rejected by the ODC board.

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Tiers

- 1 - 100%
- 2 - 75%

