

NYC Small Business COVID Recovery Grant Application Attestation

Please Read, Complete and Sign

Business Name: _____

Business Address: _____

Business EIN#/SSN#/ITIN#: _____

The New York City (“City”) Department of Small Business Services (“SBS”) is providing grants of \$10,000 in federal American Recovery Plan Act (“ARPA” 31 CFR Part 35) funding to eligible small businesses pursuant to the requirements set forth in 66 RCNY Section 17, et. al. (the “NYC Small Business COVID Recovery Grant Program” or “Program”).

In order to participate in the Program and receive a grant, the City requires that as part of the Business’s (as defined below) grant application (“Application”) the Business (“Recipient”) attests to the following:

- The undersigned owns or is authorized to represent the small business named above that is applying for the Program grant (“Business”);
- The Business is in operation as of the date of the Business’ application for the Program grant was submitted;
- The Business either (1) operates as a small business in which at least 50% of its revenue is generated from activities defined by a North American Industry Classification System (NAICS) code that begins with 71 (Arts, Entertainment, and Recreation) or 72 (Accommodation and Food Services), or (2) is located in a low-to-moderate income census tract (defined as a US Census Tract, as defined by the US Department of Housing and Urban Development (“HUD”), where the median family income is less than 80% of the Metro Area Median Family Income (as determined by HUD)), or (3) both
- The Business has experienced a revenue or gross receipts decrease of at least 25% following the impact of COVID-19, as determined by comparing comparable quarters in 2019 and 2020 or the 12-month calendar year 2019 and the 12-month calendar year 202;
- The Business did not receive a grant from either of the following programs: (1) U.S. Small Business Administration (“SBA”) Shuttered Venues Operator Grant Program or (2) SBA Restaurant Revitalization Fund
- Upon receipt of the grant funds, the Business will use the funds consistent with the permissible purposes of the Program and ARPA (31 CFR Part 35).

Notwithstanding any other rights of the City under other Sections of this Agreement, the Application or applicable law, if the Recipient violates any of the terms, covenants or provisions of the Agreement, or if any representation, warranty or statement made by the Recipient in this Agreement or the Application or in any document submitted in connection with this Agreement or the Program shall prove false or misleading, or if, in the sole judgment of the City, the conduct

of the Recipient is such that the interests of the City have been or are likely to be impaired or prejudiced or that the Program funds were not used for a permissible purpose or the Recipient is otherwise determined to be ineligible to receive a grant under the Program, the City or its designees shall thereupon have the right to:

Terminate any grant or withhold payments due under the Program and/or demand and obtain the return of payments already made which are equal to the damages the City may have already suffered due to a breach by the Recipient. Any such action by the City shall not give rise to any cause of action for damages against the City.

Notwithstanding anything to the contrary herein, Applicant agrees and understands that payment of any Grant funds pursuant to this Grant Application Attestation is not effective unless and until it has been notified that its application has been approved and accordingly, I, on behalf of myself and the Business, hereby waive the right to any claim against the City, its employees, officials, representatives, agents, and contractors (collectively the "City Representatives") from any and all claims of and liability with respect to such approval.

Applicant's Representations:

The Business agrees and/or certifies, as applicable to each of the below as a condition to such Business's participation in the Program and any receipt, if applicable, of grant funds under the Program:

- (1) I (name of business owner) _____ hereby certify to the City as of the date of this Attestation that: (i) I am an owner and duly authorized representative of the Business; (ii) the Business has been in operation as of the date of the submission of the Application and continues to be in operation as of the date of this Attestation; (iii) the Business employs _____ employees; and (iv) the Business either (1) operates as a small business in which at least 50% of its revenue is generated from activities defined by a North American Industry Classification System (NAICS) code that begins with 71 (Arts, Entertainment, and Recreation) or 72 (Accommodation and Food Services), or (2) is located in a low-to-moderate income census tract (defined as a US Census Tract, as defined by the US Department of Housing and Urban Development ("HUD"), where the median family income is less than 80% of the Metro Area Median Family Income (as determined by HUD)), or (3) both.
- (2) I certify that the Business meets all of the eligibility requirements for a Program grant award, including without limitation, by meeting the definition of "Small Business." "Small Business" means a business concern or other organization that: (i) has no more than 500 employees, or if applicable, the size standard in number of employees established by the federal Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and (ii) is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).
- (3) I certify that as a result of COVID-19, the Business experienced at least a 25% decrease in revenue or gross receipts either by comparing: (a) comparable quarters in 2019 and 2020; or (b) the 12-month calendar year 2019 and the 12-month calendar year 2020.

- (4) I certify that the Business did not receive a grant under either (a) SBA Shuttered Venues Operator Grant Program or the (b) SBA Restaurant Revitalization Fund.
- (5) I understand that the Business must be in substantial compliance with applicable Federal, State and local laws, rules and other legal requirements, including without limitation all laws and rules applicable to the Program. This Agreement shall be deemed executed in the City and State of New York and shall be governed by, and construed in accordance with, the laws of the State of New York and the laws of the United States.
- (6) I certify that the Business is current or in repayment on all Federal, State or City taxes, including any delinquency repayment, prior to December 31, 2019.
- (7) I agree that the Business will use all Program grant funds consistent with the permissible purposes of the Program and ARPA (31 CFR Part 35) and will retain all books and records related to the use of the Program grant funds for a period of at least three (3) years from the date of the Application and to provide such records upon request by the City. I further agree that no portion of the Program grant funds will be used for any other purpose except to mitigate economic hardships that occurred as a result of the COVID-19 pandemic by offsetting operational expenses for the Business.
- (8) I understand, acknowledge and agree that the Program and the Business is subject to audit or investigation by City, New York State and federal agencies with jurisdiction thereof in connection with the Application and this Grant Application Attestation, or the documents submitted in connection with the Program and the use of the Program grant funds. I acknowledge and agree that the Business will cooperate with and provide such information as is reasonably requested by the City, New York State or such federal agencies, or their respective designees in accordance with the Program terms and this Attestation, including, without limitation, for the purposes of conducting a Program compliance review of the grant award. I further acknowledge that such request may include, without limitation, such documentation and other information regarding the Business's business activities and/or financial information.
- (9) I certify that the Business is not one or more of the following businesses determined to be ineligible to receive a grant under the Program: (i) a non-profit organization; (ii) a church or other religious institution; (iii) a business or enterprise that is engaged in any activity that is illegal under federal, state or local law; or (iv) a government entity (other than an entity owned and/or operated by a Native American tribe) or elected official office.
- (10) No owner of greater than 10% of the equity or ownership interest in the Business: (a) has within the prior three (3) years been convicted of or had a civil judgment rendered against such owner, or has had commenced any form of parole or probation (including probation before judgment), for (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, (ii) violation of federal or state anti-trust or procurement statutes, or (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or (b) is presently indicted for or otherwise criminally or civilly charged by a government entity, (federal, state or local) with commission of any of the offenses enumerated in subparagraph (a) above.

(11) I certify that neither the Business, nor any owner thereof, has at any time been declared ineligible to receive a federal contract, federal subcontract, or federal financial or non-financial assistance or benefit.

(12) I certify that I am duly authorized to complete and submit the Application and this Attestation on behalf of the Business. I verify that the statements contained herein are true and correct and that I have not misrepresented the eligibility of the Business for the Program.

(13) I acknowledge that the City and its designee will determine the Business' eligibility for the Program and a Program grant award based, in part, on the tax and other documents and information provided by the Business, and that the City and its designees have relied on such determination and tax and other documents in making any Program grant award to the Business. I further affirm that the tax return information provided in connection with the Program is identical to the tax return information submitted to the Internal Revenue Service. I understand, acknowledge, and agree that the City and its designees and authorized representatives may share such tax and other information with local, state and federal authorized representatives, including without limitation for the purpose of compliance with federal, state, or local laws and regulations.

(14) I understand that willful or fraudulent submission of a materially false statement in connection with this Attestation, the Application or the Program may result in the Business or any other business in which I am a principal owner or officer being ineligible for the Program funding and may subject the Business or the person making false statements to criminal charges or other administrative sanctions.

(15) The acceptance by the Recipient or its assignees of the final payment of grant funds under this Program, whether by check, wire transfer, or other means, and whether pursuant to invoice, voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a release of the City, its employees, officials, representatives, agents, and contractors (collectively the "City Representatives") from any and all claims of and liability to the Recipient, of which the Recipient was aware or should reasonably have been aware, arising out of its participation in this Program based on actions of the City or City Representatives prior to such acceptance of final payment, excepting any disputes that have been specifically made and adequate notice provided to the City.

(16) I understand that the information in this Attestation and any non-proprietary, non-confidential information about my business as it pertains to the Program may be made public pursuant to New York State and New York City disclosure laws or requests from government entities or shared with other governmental agencies and their contractors or service providers and partners in connection with services provided to the City. Accordingly, I, on behalf of myself and the Business, hereby waive the right to any claim against the City, including claims for fees or control of the documentation submitted in connection with this Attestation now or in the future, with respect to the release or disclosure of any non-proprietary or non-confidential information I have submitted. I agree that prior to accepting any Program funds I will identify any information that I feel is proprietary or confidential. I understand that any determinations with respect to the proprietary nature or confidentiality of any such information shall be made by the City in its sole discretion and in accordance with New York State or New York City laws, rules and policies, including without limitation the New York State Public Officers Law.

By signing below, I attest that the above statements are true and correct to the best of my knowledge.

(Business Owner Signature)

(Date)

(Business Owner Name)

(Business Owner Title)