

COMMERCIAL VACANCY ASSISTANCE GRANT PROGRAM



The Commercial Vacancy Assistance Grant Program is intended to provide financial assistance in the form of a Grant to new permanent or 'pop-up' commercial tenants of a presently vacant at- or below-grade commercial space to facilitate permanent, interior improvements to improve the attractiveness and usability of the space for the intended commercial use.

A. Program Overview/Description

1. For the purpose of this Program:
 - a. **“Eligible Costs”** means the costs identified in Section D;
 - b. **“Eligible Improvements”** means those improvements identified in Section D;
 - c. **“Grant”** means a grant under the Program;
 - d. **“Manager”** means the City’s Manager of Commercial Districts and Small Business;
 - e. **“Owner”** means the owner registered on title of the property that is the subject of a Program application;
 - f. **“Program”** means the Commercial Vacancy Assistance Grant Program;
 - g. **“RHCD CIP”** means the Revitalizing Hamilton’s Commercial Districts Community Improvement Plan;
 - h. **“RHCD CIPA”** means the Revitalizing Hamilton’s Commercial Districts Community Improvement Project Area; and,
 - i. **“Tenant”** means a commercial tenant of a property, who is authorized in writing by the owner of the property to make an application under the Program and who will be undertaking the Eligible Improvements that are the subject of the Program application to the portion of the property that they lease.
2. This Program applies to properties with commercial or mixed-use commercial zoning that are located within the following Community Improvement Project Areas: Ancaster, Barton Village, Binbrook, Concession Street, Downtown Hamilton,

Dundas, Locke Street, Ottawa Street, Stoney Creek, Waterdown and Westdale Commercial Districts, the Mount Hope/Airport Gateway and the Strategic Commercial Corridors as collectively defined through the RHCD CIPA By-law.

3. Grants provided under this Program shall be provided to the Applicant, who is the Tenant. The Tenant shall provide the City with written authorization from the Owner that the Tenant is permitted to undertake the Eligible Improvements identified in the Tenant's Program application.
4. The Program offers cost sharing Grants in which the City covers 50% of Eligible Costs for Eligible Improvements up to the following maximum Grant amounts:
 - a. \$5,000 where the Applicant has entered into a lease term of no less than three months and no longer than six months less a day for the space where improvements will be undertaken, and which is the subject of a Program application; or
 - b. \$10,000 where the Applicant has entered into a lease term of six months or longer for the space where improvements will be undertaken, and which is the subject of a Program application.
5. A Grant shall not exceed the lesser of:
 - a. the maximum grant amount provided for in Section A, Paragraph 4 of this Program;
 - b. the actual Eligible Costs excluding HST for the Eligible Improvements; or
 - c. the lowest cost estimate for the Eligible Costs for the Eligible Improvements provided by the Applicant pursuant to the Program.
6. A maximum Grant in accordance with Section A, Paragraph 4 herein may be provided per vacant commercial unit with its own municipal address. The maximum Grant may be achieved through more than one application and by subsequent tenants of the subject unit.
7. Notwithstanding Section A, Paragraph 6, the maximum cumulative Grant for the lifetime of the site is \$10,000, regardless of the number of tenants or Program applications.

B. Program Eligibility and Criteria

8. Applications to this Program must meet the goals of the RHCD CIP.
9. The intended commercial use shall only be eligible when located in a commercial space at- or below-grade and that will be accessible to the public/customers. This may include, but not be limited to, retail uses, artists studios/galleries containing a retail component, personal service businesses, microbreweries, commercial entertainment uses, commercial recreation uses and/or dine-in or take-out restaurants.
10. Notwithstanding Section A, Paragraph 2, this Program shall not apply to:
 - a. properties that are currently operating as or proposed adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, financial institutions, lodging house, medical clinics, office uses, residential care facility, any residential use, any vehicle-oriented commercial service use as defined in the in Zoning By-law No. 05-200;
 - b. to a property where a designated heritage building, or any designated part thereof, has been demolished in contravention of the *Ontario Heritage Act* or any applicable City by-law or Official Plan policy respecting designated heritage buildings, or parts thereof; or,
 - c. applications for improvements to a self-storage facility, payday loan establishment, or any other use deemed not to support the goals of the RHCD CIP, as determined at the discretion of the Manager.
11. A complete Program application shall be submitted to the Economic Development Division prior to:
 - a. the commencing of work for Eligible Improvements; and/or,
 - b. the issuance of a Building Permit for Eligible Improvements subject to the Program application, where applicable.
12. Eligible Improvements commenced after submitting a Program application but prior to approval of a Program application may be eligible for funding under the Program with eligibility determined by the Manager in their sole, absolute and unfettered discretion. An Applicant shall assume the risk of any costs incurred after a Program application has been submitted but prior to approval under this Program having been received.
13. Eligibility requirements for the Program relating to the work to be funded shall be specifically identified. Two separate cost estimates for the proposed improvement(s), which will be assessed to determine Eligible Costs for Eligible Improvements, are required to be submitted with the Program application. A Building Inspector will

review all cost estimates to ensure competitiveness. Grants will be calculated based upon the lowest cost estimate; however, the Applicant will not be required to use the contractor associated with the lowest quote.

A contractor licensed with the City of Hamilton may be required to undertake the work as determined by the City's Building Division. For more information on work that requires a licensed contractor, please refer to the Application Form or contact the Building Division at 905-546-2424 Ext. 2720 or building@hamilton.ca.

14. In the case where the Applicant is the owner of a contracting company and wishes to utilize their company to undertake the improvements, one cost estimate from an arms-length contractor will also be required. The owner may present an estimate based on material only.
15. Notwithstanding the requirement in Section B, Paragraph 13 for two cost estimates, the Manager may, in their sole discretion, accept one cost estimate if the Applicant submits a written request acceptable to the Manager demonstrating hardship in obtaining a second cost estimate.
16. A City Building Inspector will review all cost estimates submitted as part of an Application to ensure that the proposed work is competitively priced.

Prior to the commencement of any improvements that are the subject of a Program application, a City Building Inspector will conduct an inspection of the portion of the Property where the improvements are proposed. The purpose of this inspection is to assess the existing conditions and to confirm that the proposed improvements appear capable of meeting the requirements of applicable Acts, Regulations, and City By-laws, including but not limited to the Ontario Building Code, the Property Standards By-law, the Trade Licensing By-law, and the Sign By-law.

Following completion of the Eligible Improvements, a City Building Inspector will perform a final inspection to verify that the completed work complies with all applicable Acts, Regulations, and City By-laws, including the Ontario Building Code, the Property Standards By-law, the Trade Licensing By-law, and the Sign By-law.

17. Grants are only payable to the Applicant for an approved Program application and cannot be assigned or directed to any other payee including but not limited to, any Owner of the site or contractor hired to carry out the Eligible Improvements.
18. Work completed must be consistent with the estimate, and work proposed and identified within the Program application unless previously discussed and approved by the Manager in their sole discretion.
19. Applications and approvals under this Program shall be processed on a first-come, first-served basis, subject to the availability of funding.

20. Applicants shall provide to the City Manager's satisfaction a copy of their signed executed lease agreement for the commercial space/building that is the subject of a Program application.
21. A successful Applicant will enter into an agreement with the City containing (but not limited to) the terms and conditions set out in this Program.
22. Prior to any Program application approval being provided, the following requirements must be met to the satisfaction of the Manager:
 - a. A complete Program application has been submitted prior to the commence of any Eligible Improvements and prior to the issuance of any required Building Permits;
 - b. All municipal property taxes on the subject site are paid and current at the time of Program application review;
 - c. The subject site is in full compliance with applicable Zoning By-law regulations, including permitted uses and any applicable Site Plan approvals;
 - d. There are no outstanding Property Standards orders, Building Code orders, Fire Code orders, or any other orders or directive issued by a judicial, governmental, or regulatory authority relating to the subject site;
 - e. The Applicant and Owner are not involved in litigation with the City;
 - f. The Applicant and Owner are in good standing with respect to all other agreements entered into with the City and with respect to any other amounts owed to the City;
 - g. The Applicant has submitted all required cost estimates for the proposed Eligible Improvements, and such estimates have been reviewed for competitiveness by a City Building Inspector;
 - h. The Applicant has provided a signed and executed lease agreement for the commercial space that is the subject of the Program application; and
 - i. Any additional requirements as may be determined by the Manager in their sole discretion have been satisfied.
23. Prior to any Grant payment being provided, the following requirements must be met to the satisfaction of the Manager:
 - a. Eligible Improvements shall be completed one (1) year from the date of the

Program application approval by the Manager or before the conclusion of the applicable lease term for the commercial space subject to the Program application, whichever comes first;

- b. The Applicant has demonstrated that the work completed is consistent with the estimate, and work proposed and identified within the Program application, unless otherwise approved by the Manager;
 - c. All municipal property taxes on the subject site remain paid and current at the time of the Grant payment;
 - d. There are no outstanding Property Standards orders, Building Code orders, Fire Code orders, or any other orders or directive issued by a judicial, governmental, or regulatory authority relating to the subject site;
 - e. A City Building Inspector has conducted a final inspection confirming that the completed work complies with all applicable Acts, Regulations, and City By-laws, including the Ontario Building Code, the Property Standards By-law, the Trade Licensing By-law, and the Sign By-law;
 - f. All Building Permits required for the Eligible Improvements have been issued and closed, to the satisfaction of the Manager in their sole discretion;
 - g. The Applicant has provided, to the Manager, copies of paid invoices and proof of payment of Eligible Cost to the satisfaction of the Manager for all Eligible Improvements undertaken for which the Grant(s) is applicable;
 - h. The Applicant has demonstrated satisfactory compliance with all Program terms contained herein; and,
 - i. The required Letter of Understanding/Commitment has been executed, as determined by the Manager in their sole discretion.
24. Approval and the receiving of the Grant under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the same subject site under any other available municipal program.

However, where the same Eligible Improvements are subject to the provision of a Grant under this Program and any assistance from the City including any other program, the total Grant for the Eligible Costs for the Eligible Improvements under this Program shall be calculated based on the net Eligible Costs, defined as the total Eligible Costs for the Eligible Improvements less any other financial assistance received or to be received from the City for those same Eligible Improvements.

In no instance shall the combined total of all Grants and financial assistance provided by the City for the same Eligible Improvements exceed 50% of the total Eligible Costs of the specific Eligible Improvements.

C. Approval Authority

25. Applications under this Program are subject to approval and denial of the Manager, or its delegate, and the availability of funds.

26. Without limiting the discretion as set out in Section C, Paragraph 25 herein, the Manager, whether or not an Applicant satisfies the requirements of the Program, may, in their sole discretion, reject any application received from an Applicant where, in the opinion of Manager, the commercial relationship between the City and the Applicant has been impaired by, but not limited to, the Applicant being involved in litigation with the City.

For the purposes of this section “Applicants” shall include, but not be limited to, the following, jointly and severally:

- i. the Applicant identified on the application form;
- ii. if the Applicant is a corporation, any person or entity with an interest in the corporation, any shareholder of the corporation, or any officer or director of the corporation, as determined by the Approval Authority in their sole, absolute, and unfettered discretion;
- iii. if the Applicant is a partnership or limited partnership, any partner or limited partner, and if any such partner or limited partner is a corporation, any person or entity with an interest in the corporation, any shareholder of that corporation, or any officer or director of that corporation, as determined by the Approval Authority in their sole, absolute, and unfettered discretion.

27. Without limiting the discretion as set out in Section C, Paragraph 25 herein, the Manager, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in their sole discretion, reject any application without further consideration where due diligence undertaken by the City identifies municipal property tax arrears owed on the subject site, non-compliance with respect to Zoning By-law regulations or there exist outstanding property standards, Building Code or Fire Code orders in respect of the subject site or any other judicial, regulatory or governmental order in respect of the subject site.

28. Without limiting the discretion as set out in Section C, Paragraph 25 herein, the Manager, whether or not an Applicant satisfies the requirements of the Program, may in their sole discretion, reject any application where the Manager determines in their sole discretion that there is a financial risk to the City in terms of the financial capabilities of the Applicant to complete the development subject to the Program

application.

29. Without limiting the discretion as set out in Section C, Paragraph 25, herein, the Manager, whether or not an Applicant satisfies the requirements of the Program, may in their sole discretion, reject any application received from an Applicant where there is credible information that the Applicant has been involved recently or repeatedly in illegal activity supporting the conclusion that they will not conduct themselves with honesty and integrity in undertaking the activity, operation or business for which a Grant under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this Section C, Paragraph 29, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this Section C, Paragraph 29 shall apply jointly and severally to each of them.
30. A Program application may be denied by the Manager if the development is not supported by City Council, notwithstanding any approval of Planning Act applications by any other authority, including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing.
31. Approval, part approval, or denial of a Program application shall not fetter City Council's discretion regarding any Planning Act applications regarding the subject property, or any other decisions by City Council regarding the subject property.
32. Approval of a Program application by the Manager may provide for a reduced Grant amount such that no Grant is provided in respect of any portion of the development which City Council does not support notwithstanding any approval of Planning Act applications by any other authority including but not limited to the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing, and that the Approval Authority's decision on the application will not fetter City Council's discretion on Planning Act applications. In such cases, the Applicant shall be required to provide additional supporting documentation, at the Applicant's own expense, to support the providing of financial assistance in accordance with the Approval Authority's approval/direction of the Program application.

D. Eligible/Ineligible Improvements and Costs

33. Eligible Improvements include those that are permanent and physical works to the leased space. The following are Eligible Improvements:
- Interior drywall, painting and wallpaper;
 - Interior permanent flooring replacement or refurbishment;
 - Construction or alteration of stairs, guardrails, handrails;
 - Improvements or installation to electrical, ventilation, heating, cooling and plumbing supply systems;

- Installation or alteration of required window openings;
- Fixed lighting;
- Installation or alteration of interior fire protection systems; fire separations; fire doors, fire shutters and other fire protection devices;
- Interior improvements for barrier-free accessibility including elevators; and
- Other permanent improvements deemed health, safety, and accessible issues eligible at the sole discretion of the Manager.

34. Ineligible Improvements include:

- Any temporary or non-permanently affixed improvement such as, but not limited to:
 - i. outdoor patio furniture, interior furniture, plexiglass partitions or display case equipment;
 - ii. Outdoor patios/decks;
 - iii. Non-permanent interior decorations;
 - iv. Exterior improvements;
 - v. Outdoor heating and cooling (e.g. patio heaters); and,
- Any other improvements deemed not to meet the intent of this Program at the sole discretion of the Manager.

35. Eligible Costs are the labour and material costs, excluding HST, to complete Eligible Improvements. Eligible Costs shall not include any of the Ineligible Costs described in Section D, Paragraph 36, herein.

36. Ineligible Costs include:

- City permit and program application fees;
- Professional fees;
- Tools;
- Business interruption expenses;
- Business equipment; and,
- Any other cost deemed not to meet the intent of this Program at the sole discretion of the Manager.

E. Program Administration

37. Required documents and information forming a complete application shall be identified within the Program's application form. The application date for the

purposes of the Program will be the date on which the Manager has deemed the application complete in their sole discretion.

38. A Program application fee is payable upon submission of a Program application and forms part of a complete Program application. The fee will be authorized through a user-fee by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council and will be identified on the Program's application form.
39. Economic Development Division staff will review Program applications for eligibility in accordance with the RHCD CIP, RHCD CIPA, the Program terms contained herein and in collaboration with other City departments as required. Acceptance of the application by the City in no way implies Program application approval.
40. The site and Applicant will be the subject of due diligence undertaken by the City to confirm compliance with the Program requirements prior to approval and prior to payment.

Failure to comply with any of the above will result in an application not being recommended for approval or, if the Program application has been approved, non-payment of a Grant under this Program.
41. If a Program application is approved, the Applicant will be provided an approval letter that outlines the terms and conditions of the Grant. If a Program application is denied, the Applicant will be notified in writing with rationale for the decision.
42. The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the Manager to ensure the goals and purpose of this Program and the RHCD CIP are met.
43. Applications to this Program not yet approved shall be subject to any changes to the terms of this Program approved by City Council prior to the Program application being approved.
44. The Economic Development Division will periodically review the terms and availability of this Program and as a result the Program may be updated from time-to-time.
45. Where this Program refers to a City staff title, such reference shall be deemed to include any new, amended, replaced, substituted or successor title assigned to the position from time to time.
46. City Council may discontinue this Program at any time. However, Applicants with approved Program applications will still continue to receive the Grant subject to

meeting the Program terms contained herein.

47. The City is not responsible for any costs incurred by the Applicant in any way relating to the Program, including without limitation, costs incurred in anticipation of an application approval or Grant being provided.