# REVITALIZING HAMILTON TAX INCREMENT GRANT PROGRAM

Hamilton

The Revitalizing Hamilton Tax Increment Grant Program is intended to provide a Grant to incentivize property owners within strategic commercial districts to develop, redevelop or otherwise improve properties and/or buildings (including designated heritage buildings and properties) in a manner that will support the broader revitalization of the commercial district as well as generate new municipal property tax revenue through increased property assessments.

## A. Program Overview/Description

1. For the purposes of this Program:

   a. **"AGI"** means Above Guideline Increase;

   b. **"Director"** means the City's Director of the Economic Development Division;

   c. **"Electric Vehicle Stall"** mean dedicated parking space reserved for an electric vehicle, equipped with an electric vehicle charging station that can support electric vehicle charging;

   d. **"Enhanced Revitalization Project"** means an improvement/development that meets the definition of a Revitalization Project and includes the undertaking of improvements/developments that meets one or more of the following requirements in support of City objectives:

      i. The improvement/development will receive certification for the achievement of environmental sustainability standards from an eligible organization/program and/or will be connected to (or be designed to allow for future connection to) a district energy system; and/or

      ii. The improvement/development has demonstrated commitment from a qualified lender for financial assistance under a federal or provincial program, or City program under the Housing for Hamilton Community Improvement Plan (Housing Accelerator Funds), for the purposes of creating residential rental housing that address housing affordability within the City.

   e. **"General Manager"** means the City's General Manager of the Planning and Economic Development Department;

f. **"Grant"** means a grant under the Program;

g. **"LTB"** means Landlord and Tenant Board;

h. **"Manager"** means the City's Manager of Commercial Districts and Small Business;

i. **"Owner"** means the owner registered on title of the property that is the subject of a Program application;

j. **"Program"** means the Revitalizing Hamilton Tax Increment Grant Program;

k. **"Revitalization Project"** means an improvement/development that generates an increase in municipal taxes;

l. **"Revitalization Project with Public Parking"** means an improvement/development that meets the definition of a Revitalization Project and provides Public Parking that is integrated into a new, non-condominium improvement/development project, where the Public Parking is located underground or in a parking podium;

m. **"Parking Operator"** means the Hamilton Municipal Parking System or a third-party operator that includes professional monitoring, maintenance, enforcement, and customer access systems for Public Parking, to the satisfaction of the Director of Transportation Planning and Parking;

n. **"Public Parking"** means parking spaces located within a privately owned development that are available for public use, subject to hours of operation, fees and management practices approved through the development review process and the Hamilton Municipal Parking System, to the satisfaction of the Director of Transportation Planning and Parking;

o. **"RHCD CIP"** means the Revitalizing Hamilton's Commercial Districts Community Improvement Plan;

p. **"RHCD CIPA"** means Revitalizing Hamilton's Commercial Districts Community Improvement Project Area; and

q. **"Site"** means all properties/parcels of land associated with the building subject to an application under this Program.

2. Grants provided under this Program shall be provided to the Applicant who is the Owner except where provided for, and in accordance with, Section E.

3. Grants are provided relative to the actual increase in municipal property taxes that

are generated as a result of an improvement/development undertaken on a Site over a maximum term of four annual payments.

4. Grants under the Program may be provided through one of three streams in response to how the project addresses specific City priorities. Projects will be identified as either a Revitalization Project, Revitalization Project with Public Parking or an Enhanced Revitalization Project.

5. The maximum Grant amount prescribed for Revitalization Projects, Revitalization Projects with Public Parking, and Enhanced Revitalization Projects are identified in the following Table 1:

**Table 1 – Prescribed Maximum Grant as a Percentage of Actual Municipal Tax Increment**

| Year of Grant | Maximum annual Grant amount as a percentage of actual municipal tax increment generated from an improvement / development | | |
|---|---|---|---|
| | **Revitalization Projects** | **Revitalization Projects with Public Parking** | **Enhanced Revitalization Projects** |
| **1** | 100% | 100% | 100% |
| **2** | 75% | 75% | 100% |
| **3** | 50% | 75% | 100% |
| **4** | 25% | 50% | 100% |

6. For projects under this Program that qualify as a Revitalization Project or an Enhanced Revitalization Project, the Site shall be located in one of the following Community Improvement Project Areas as collectively defined through the RHCD CIPA By-law:

   a. Ancaster, Barton Village, Binbrook, Concession Street, Downtown Hamilton, Dundas, Locke Street, Ottawa Street, Stoney Creek, Waterdown and Westdale Commercial Districts;

   b. the Mount Hope/Airport Gateway Commercial District; or

   c. be designated under Part IV or Part V of the Ontario Heritage Act.

7. Projects that qualify as a Revitalization Project with Public Parking shall be located within Sub-Area 1: Central Business District of the Downtown Hamilton Commercial District Community Improvement Project Area, as defined through the RHCD CIPA By-law.

8. The pre-development municipal property taxes used for determining the actual municipal property tax increment are those from either the year in which the building permit that initiated the improvement/development was issued or, for projects that do not require a building permit, the year in which the Program application was approved. Each annual payment is to be provided based on the municipal property tax increment generated in each year of the Grant.

9. All costs associated with the improvement/development and the requirements of this Program are to be borne by the Applicant including construction, design, development charges, administration fees, appraisals, inspections, Municipal Property Assessment Corporation (MPAC) post development assessment estimates, legal and registration fees, where applicable.

## B. Program Eligibility and Criteria

10. Program applications must meet the goals of the RHCD CIP.

11. Notwithstanding Section A, Paragraph 6, this Program shall not apply to:

    a. a Site 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;

    b. a use operating as, or proposed, adult entertainment parlour, body rub establishment, correctional facility, corrections residence, emergency shelter, lodging house or residential care facility as defined in the applicable Zoning By-law; or

    c. a development where the primary use will consist of a storage facility or payday loan establishment as defined in the applicable Zoning By-law.

12. A complete Program application shall be submitted to the Economic Development Division prior to:

    a. the commencing of above grade improvements/development; and,

    b. the issuance of Building Permit for above-grade construction on the Site, where applicable.

    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. The Applicant will be required to provide an estimate of the annual property assessment valuation for the portion of the property subject to the Program application from the MPAC for each year in which a Grant payment is to be provided

for calculation purposes. Developments which are the subject of this requirement will be identified in the Program's application form. If an Applicant is redeveloping a portion of the Site only, the Grant will be based on that portion of the property.

## Sites with Existing Residential Rental Units

14. Any demolition, conversion or renovation impacting existing residential rental units located on the Site must comply with applicable law, including but not limited to the Renovation Licence and Relocation By-law No. 24-055, as amended, the Rental Housing Protection By-law No. 24-109, and the Residential Tenancies Act, 2006.

    Where such by-laws do not apply, including in cases involving fewer than 6 residential rental units, Section B, Paragraphs 15, 16 and 17 shall apply.

15. Any portion of a Project involving renovations to rental residential units shall be ineligible for a Loan under this Program unless at least one of the following conditions is satisfied:

    a. No residential rental tenants have been displaced as a result of the Project, as demonstrated through documentation satisfactory to the Director;

    b. The Project has been approved for financial assistance under a Canada Mortgage and Housing Corporation (CMHC), Federal, Provincial or City program for the purpose of creating residential rental housing that addresses housing affordability;

    c. The building has been entirely vacant for a minimum period of 2 years prior to the submission of a Program application, excluding periods of vacancy resulting from renovations;

    d. The Owner is a registered not-for-profit organization;

    e. The renovations are limited to improvements to commercial space, or to the repair or replacement of shared building systems that serve both commercial and residential units, and do not include renovations within individual residential rental units; or

    f. The renovations are required are solely in response to the Owner being ordered to make repairs under any act or law or where the renovations are intended to support the legalization and/or recognition of an existing residential rental unit, without which, the unit would no longer be permitted to be occupied.

16. Applicants shall disclose if any residential units are occupied at the time a

Program application has been submitted to the City and, if so, identify the specific units occupied. For additional clarity, the City will not request or require the disclosure of tenant names or any other personal contact information.

17. Where this Program will provide a financial incentive to facilitate the undertaking of external and/or internal project improvements which are not for the sole benefit of a non-residential use, and where the Site contains occupied unit(s) at the time of application to the City, the occupied unit(s) shall not be the subject of an approved Above Guideline Increase (AGI) request (also referred to as an L5 request) to the Landlord and Tenant Board (LTB) for a period beginning from the date the application is received by the City and ending upon completion of the prescribed term of the incentive to be provided, or five years from the date of the initial financial disbursement, whichever is greater. This condition will continue to apply whether or not the tenancy of the unit(s) changes during this period. Exceptions to this condition may be provided where it can be demonstrated, to the City's satisfaction, that:

    a. The affected tenant(s) have consented to the proposed AGI. Where there is more than one occupied unit in the building at the time of application to the City, this exception only applies where all affected tenants have consented to the proposed AGI request;

    b. That the requested AGI is a result of improvements or other matters not related to the improvements as facilitated by the City's Grant; and

    c. Notwithstanding the provision of the Grant, an AGI request would be required to facilitate the Site improvements due to site or building specific circumstances.

    In the event an AGI request is approved by the LTB and determined to be in contravention of the City's condition, and this approval occurs after the City's approval under this incentive program but prior to the entering into any agreement required by this Program, the Program application approval will be deemed to be rescinded, no incentive will be provided, and no agreement will be entered into by the City. Where the AGI approval occurs after the City's approval and after the execution of any agreement required by this Program, any remaining incentive yet to be provided over the remaining term of the Program will be cancelled, the loan amounts advance shall be repayable by the applicant and where necessary enforcement action will be initiated to recoup the financial incentives to-date.

    This condition shall not apply to units registered as a condominium.

18. In the event that the Applicant fails to comply with the requirements of

Section B, Paragraphs 14-17:

a. Any approval under the Program may be rescinded prior to execution of any agreement;

b. Any financial assistance not yet advanced may be cancelled; and,

c. Where financial assistance has been advanced, the City may require repayment in whole or in part and may take such enforcement action as it deems appropriate.

## Revitalization Project with Public Parking Eligibility

19. Section B, Paragraphs 19 to 28 shall apply to a Program application for development/improvement proposed to be approved for a Grant for a Revitalization Project with Public Parking.

20. The purpose of a Grant for a Revitalization Project with Public Parking is to support the overall urbanization and modernization of Downtown's public parking supply by incentivizing property Owners to construct new Public Parking spaces incorporated into developments.

21. For a development/improvement to qualify as a Revitalization Project with Public Parking, the proposed development/improvement must be located within Sub Area 1: Central Business District of the Downtown Hamilton Commercial District Community Improvement Project Area.

22. The Public Parking shall be integrated into a new, non-condominium improvement/development project in the form of underground or above grade structured car park forming part of the podium of a mixed-use building. Surface parking and/or standalone structured parking are not eligible.

23. Public Parking provided for the purposes of this Program must be managed by a Parking Operator to the satisfaction of the City's Director of Transportation Planning and Parking.

24. The Public Parking component of the proposed development/improvement must be identified at the site plan control stage, including the locations of the parking stalls and the proposed management plan for the Public Parking stalls which must be approved by the City's Director of Transportation Planning and Parking. At the sole discretion of the General Manager a Revitalization Project with Public Parking shall be the subject of site plan agreement registered on title which shall include the requirement for the provision of Public Parking for a minimum period of twenty years starting from the completion of the Revitalization Project with Public Parking.

25. A minimum of 10% of the Public Parking stalls provided for the purposes of this

Program must be equipped for Electric Vehicle Stalls. For greater clarity, this requirement is above and beyond any City requirement which may already be applicable to the Revitalization Project with Public Parking.

26. Prior to the payment of the first Grant Payment, the Applicant shall provide documentation, satisfactory to the General Manager, that the provision of Public Parking has been secured for a minimum of 20 years starting from the completion of the Revitalization Project with Public Parking that is subject of a Grant. The documents shall include but may not be limited to:

    a. A lease agreement between the Applicant and a Parking Operator for a minimum of 20 years that sets out, among other things, the long-term management and operation of the Public Parking within the Revitalization Project with Public Parking; and

    b. Any other requirements that, in the opinion of the General Manager, are necessary to secure the commitment of Public Parking for the required 20-year period.

27. Where an Applicant has received a Grant for a Revitalization Project with Public Parking and fails to provide or maintain the required Public Parking for the full duration specified in the Program, such failure shall constitute a breach of the terms and conditions of receiving a Grant under the Program and an event of default under any applicable agreement with the City. In such circumstances, the City may:

    a. require payment, in whole or in part, of any Grant previously provided; and

    b. deem the Applicant ineligible to apply for or receive funding under this Program for any other project undertaken in the City for the remainder of the period during which the Public Parking was required to be provided for.

28. For the purpose of subparagraph (b) of Section B, Paragraph 27, “Applicant” includes any person or entity that directly or indirectly controls the Applicant, is controlled by the Applicant, or is under common control with the Applicant. Without limiting the foregoing, this includes shareholders, directors, officers, and related entities, as determined by the City in its sole discretion. Notwithstanding Section B, Paragraphs 19 to 27, the General Manager, in consultation with the Director of Transportation Planning and Parking, may determine that a proposed development/improvement is not eligible for a Grant as a Revitalization Project with Public Parking if any of the proposed public parking spaces are deemed inconsistent with Council-approved policies, plans, or by-laws, and/or if the provision of such parking would result in an oversupply that is contrary to the goals and objectives of the RHCD CIP.

### Enhanced Revitalization Project Eligibility

29. Environmental sustainability certifications eligible under this Program for consideration of an improvement/development as an Enhanced Revitalization Project include:
    a. Canadian Home Builders Association (CHBA) Net Zero Home Labelling where Net Zero or Net Zero Ready levels of efficiency are achieved;

    b. Passive House Canada; Natural Resources Canada (NRCAN) R2000;

    c. Built Green to a Gold or higher standard in the Energy and Envelope category; or

    d. Leadership in Energy and Environmental Design (LEED) to a Gold or higher standard subject to the inclusion of any further certifications authorized at the sole discretion of the General Manager.

30. Building standards with respect to enabling current or future district energy connections for consideration of an improvement/development as an Enhanced Revitalization Project require:

    a. Providing space for the sole purpose of future equipment and thermal piping;

    b. Securing an easement between the mechanical room and the property line to allow for thermal piping; and,

    c. Including two-way pipes in the building to carry the thermal energy from the district energy network to the section in the building where the future energy transfer station will be located.

    The inclusion of such building standards shall be subject to confirmation by a Building Inspector or other means at the discretion, and to the satisfaction of the Director.

31. Notwithstanding Section B, Paragraph 30, the Director may, in consultation with the applicable utility provider, waive any requirement listed in Paragraph 30 where one or more such requirements is determined to be unnecessary.

## C. Grant Structure

32. The total Grant provided over the maximum four-year term of this Program shall not exceed the total cost of the Site’s improvement/development.

33. The Applicant will be required to enter into a Grant Payment Agreement with the City of Hamilton that sets out the conditions of the annual Grant. Before any

Grant is provided, the Applicant and subject property(s) shall be in compliance with the Program's requirements and conditions as set out in the Grant Payment Agreement. Conditions in the Agreement include, but are not limited to, the following:

a. The total value of the eligible Grant provided under the Program will be reduced by:

    i. the amount by which property taxes have been cancelled or reduced for the subject property pursuant to any other City programs and/or tax appeals under Sections 357 and 358 of the *Municipal Act*;

    ii. the amount by which property taxes have been cancelled or reduced for the subject property pursuant to a Request for Reconsideration; and

    iii. the amount by which property taxes have been reduced or cancelled for the property pursuant to any relief or reduction permitted under any legislation or order of any court or the Assessment Review Board; and,

b. If the Applicant, third party or the municipality has appealed the change in the property assessment, the Grant will not be advanced until the appeal has been finally determined through the Assessment Review Board or Courts and revised property taxes have been calculated and adjusted.

34. The pre-development municipal property taxes used for determining the actual municipal increment shall be those from either the year in which the building permit that initiated the improvement/development was issued or, for projects that do not require a building permit, the year in which the General Manager approved the Program application.

35. The annual Grant payment shall be adjusted to reflect changes in the municipal property taxes levied for each year that a Grant payment is to be provided.

36. The annual Grant will be calculated by taking the difference between the sum of the post- project municipal taxes (for each year the Grant is payable) and the pre-project municipal taxes in accordance with Section C, Paragraph 30 herein and applying the percentage based on the applicable stream and year of the Grant as described in Section A, Table 1.

37. The eligible amount of the increase in municipal property taxes shall exclude special charges, including BIA levies, from the calculation.

38. The first year of the Grant is payable in accordance with the following:

    a. At the end of the calendar year in the first full year of reassessment, post completion of the improvement/development (subject to property taxes being paid in full and no pending appeal or confirmation that the assessment will not be appealed). An Applicant has the option of receiving the Grant at the end of the first year of reassessment, however they will forfeit the Grant for the months of the year the reassessment does not apply i.e. if reassessment occurs on the 1st of March of a year, the first year of the Grant will be based on March-December (ten months) of the year only. (Calculation is based on actual taxes, therefore the post development taxes in year one would include the first part of the year at a lower assessment and the remaining part of the year at the higher assessment – which would result in minimal to no Grant for the period January 1 to the reassessment date);

    b. For commercial projects, the first year of the Grant is payable at the end of the first full year of reassessment, post completion, of the improvement/development regardless of the number of commercial units occupied;

    c. For condominium projects, the first year of the Grant is payable by the end of the calendar year in which 75% of the condominium units within the project are fully assessed. In years previous to 75% of the condominium units being fully assessed within the project, taxes are to be paid as billed and no Grants will be payable;

    d. For mixed-use projects (including commercial, residential or industrial condominiums), the first year of the Grant is payable by the end of the calendar year in which 75% of the condominium units within the project are fully assessed. In years previous to 75% of the condominium units being fully assessed within the project, taxes are to be paid as billed and no Grants will be payable; and,

    e. For residential rental or mixed-use rental residential projects the first year of the Grant is payable at the end of the first full year of reassessment, post completion, of the improvement/development regardless of the number of residential units occupied.

    For the purposes of this Program, the completion of a development shall be when a building/space is capable of being occupied, subject to tenant improvements and, in the case of a condominium development, the Plan of Condominium having been registered.

39. For residential condominium projects, the units must be assessed as residential condominiums. If the development is assessed as multi-residential or new-multi-residential, no Grant will be payable.

40. For condominium and mixed-use condominium projects, the Grant will not be calculated on a per unit basis.

41. If the one year period following the date of registration of the Plan of Condominium for the project expires <u>after</u> December 31 of the year in which 75% of the condominium units within the project are fully assessed, the Grant will be payable to the Applicant by the end of the first quarter of the year following the year in which 75% of the condominium units within the project are fully assessed.

42. Work on the portion of the improvement/development that is at or above grade shall commence no longer than two years from the date an application under this Program was approved by the General Manager and the improvement/development shall be completed and capable of being fully occupied, and, in the case of a condominium development also have a Plan of Condominium registered, within five years from the date an application under this Program was approved by the General Manager. Extensions may be granted for phased/ comprehensive developments or due to development specific extenuating circumstances outlined in a formal request submitted by the Applicant to the Commercial District and Small Business staff and considered at the discretion of the General Manager.

43. A Grant provided with respect to an Enhanced Revitalization Project which achieves the housing affordability objective described in Section A shall:
    a. Be based on the entire development's tax-increment notwithstanding if the development contains residential units with mixed rent levels and/or is a mixed-use development containing non-residential uses; and

    b. In the event that the terms under which financial assistance being provided under a Canada Mortgage and Housing Corporation, federal, provincial or City program have been broken or are not provided for any reason the following shall apply:
        i. If Grant payments have already commenced or reached the maximum term under this Program, the difference in the Grant amount provided relative to that which would have been provided for a Revitalization Project as prescribed in Section A, Table 1 shall become repayable and any remaining Grant payments, if applicable, shall be provided in the amount prescribed for a Revitalization Project; or
        ii. If Grant payments under this Program have not yet commenced, the Grant will be provided in the amount prescribed for a Revitalization Project as prescribed in Section A, Table 1.

44. For condominium developments, the annual Grant to the Applicant will be reduced

by 25% if an appeal has been filed with MPAC by any of the condominium unit owners, whether such owner is the initial purchaser or a subsequent purchaser. The 25% holdback will not be released until the appeals are finally determined through the Assessment Review Board or Courts, and the revised property taxes have been calculated. The first year of the Grant is payable during the calendar year in which 75% of the condominium units within the project are fully assessed. The Grant is calculated by taking the difference between the post and pre-project municipal taxes. The post-project municipal taxes are calculated by taking the sum of the municipal taxes of each of the condominium units within the project. The Grant is calculated as a whole, and not calculated on a per condominium unit basis.

45. Grant payments under this Program shall be assigned to the City where, at the time of an eligible Grant payment, the Applicant has an outstanding loan under the Commercial Districts Housing Opportunities Program or Downtown, Barton/Kenilworth Housing Opportunities Program with the City applying the Grant amount towards remaining outstanding principle, with any excess grant monies being provided directly to the Applicant.

46. 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 subsequent owner of the Site, unless provided for in Section E herein.

47. Prior to any Program application approval being provided, the following requirements must be met to the satisfaction of the General Manager:

    a. A complete Program application has been submitted prior to the commencement of any above grade work;

    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, as required;

    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 is not involved in litigation with the City;

    f. The Applicant has submitted an MPAC assessment estimate;

g. The Applicant is 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; and,

h. Any additional requirements as may be determined by the General Manager in their sole discretion have been satisfied.

48. Prior to any Grant payment being provided, the following requirements must be met to the satisfaction of the Manager:

a. All municipal property taxes on the subject Site remain paid and current at the time of the Grant payment;

b. The Applicant is in good standing in respect to all other agreements entered into with the City, and is in good standing in respect of any other amounts owed to the City;

c. The development is complete. Completion of a development shall be when a Site is capable of being occupied, subject to tenant improvements and, in the case of a condominium development, the Plan of Condominium having been registered;

d. The Building Permit has been issued and, where applicable, has been confirmed to be capable of being occupied, to the satisfaction of the Director;

e. For residential condominium projects, the units must be assessed as residential condominiums (if the development is assessed as multi-residential or new-multi-residential, no Grant will be payable);

f. The Applicant has demonstrated satisfactory compliance with all Program terms contained herein; and,

g. The required legal agreement has been executed, as determined by the General Manager in their sole discretion.

49. Approval and the receiving of Grants under this Program shall not preclude eligibility, approval and the receiving of Grants/Loans for the same Site under any other available municipal program with the exception of any other tax increment-based program which shall not be permitted to be combined with assistance under this Program.

# D. Approval Authority

50. All Program applications submitted under this Program are subject to the availability of funding and to the General Manager's approval and denial, contingent upon compliance with the applicable Program terms set out herein.

51. Without limiting the discretion as set out in Section D, Paragraph 50 herein, the General Manager, whether or not an Applicant satisfies the requirements of the Program, may, in its sole discretion, reject any application received from an Applicant where, in the opinion of General 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:

    a. the Applicant identified on the application form;

    b. 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 General Manager in their sole, absolute, and unfettered discretion;

    c. 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 General Manager in their sole, absolute, and unfettered discretion.

52. Without limiting the discretion as set out in Section D, Paragraph 50 herein, the General Manager, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in is sole discretion, reject any Program 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.

53. Without limiting the discretion as set out in Section D, Paragraph 50 herein, the General Manager, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application where the General 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.

54. Without limiting the discretion as set out in Section D, Paragraph 50, herein, the General Manager, whether or not an Applicant satisfies the requirements of the Program, may in its 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 honestly 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 D, Paragraph 54, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this Section D, Paragraph 54 shall apply jointly and severally to each of them.

55. A Program application may be denied by the General 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, and that City Council's decision on the Program application will not fetter its discretion on Planning Act applications.

56. Approval of a Program application by the General Manager may provide for a reduced Grant amount such that no Grant is provided in respect of any portion of the development/improvement 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 Minster 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 General Manager's approval/direction, including but not limited to, all MPAC post development assessment estimates required by the City.

## E. Ownership Change

57. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property, any future Grants will be terminated except in extenuating circumstances where the current Applicant has submitted a written request to the City with accompanying rationale subject to acceptance at the sole discretion of the General Manager. The future owner who has been requested to become the Program Applicant and receive future grant payment shall be subject to appropriate due diligence for the purposes of Section D. An assignment or transfer may require the assignee or transferee to submit an application, assignment or transfer agreement and/or such other documents as determined by the in their sole, absolute and unfettered discretion. The

assignment of a Program application submitted but not yet approved may be permitted at the sole, absolute and unfettered discretion of the General Manager. The assignment of an approved application will be at the discretion of the General Manager.

58. Section E, Paragraph 57 shall not apply to a disposition related to any of the following:

    a. registration of a condominium plan, declaration and description in accordance with the Condominium Act;

    b. conveyance of legal title to the Property is conveyed to the Condominium Corporation in connection with the condominium registration; and

    c. the sale or transfer of individual condominium elements including, but not limited condominium dwelling units, parking spaces, and storage locker units.

59. In the event of a Change of Corporate Control where the Owner is a corporation, the Owner covenants and agrees that in the event that:

    a. the Owner fails to supply the City, in a form satisfactory to the General Manager such information relating to the ownership of its shares as the City may from time to time require or;

    b. without the written consent of the General Manager first had and obtained:

        i. the Owner issues or redeems any of its shares or transfers any of its shares;

        ii. there is a sale or sale of the shares of the Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or

        iii. the Owner amalgamates, merges or consolidates with any other corporation; and

    The result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Owner, or the requested information is not provided, then future Grant payments under the Program shall cease at the absolute discretion of the General Manager.

60. Where a Program application has been submitted but not yet approved by the General Manager and the subject Site is sold/transferred to a new owner, the City may permit the transfer or assignment of the application to the new owner at the sole, absolute and unfettered discretion of the General Manager. An assignment or transfer may require the assignee or transferee to submit an

application, assignment or transfer agreement and/or such other documents as determined by the General Manager in their sole, absolute and unfettered discretion. The new owner shall be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches and financial risk, to the satisfaction of the General Manager prior to assignment being considered by the General Manager.

61. In cases where the Applicant is a corporation, the Applicant covenants and agrees that in the event that there is a change in the effective control of the majority of the voting shares of the corporation, the City shall have absolute discretion to request the repayment of any of the Grant paid and cancel any remaining Grant payments.

## F. Program Administration

62. A Grant will not be made unless a written request for the Grant payment has been made by the Applicant in the year in which the Grant becomes payable. If a written request has not be made for Grant payment in the year in which it is payable, but all other conditions for its payment have been satisfied, the Grant payment shall accrue and be payable together with any other Grant payments for which a written request has not been made until such time as a written request has been made and upon such written request the Grant payment shall equal the sum of the accrued and previously unrequested Grant payments. If a request for the initial Grant payment is not made within three (3) years of the year in which the first-years' Grant is payable the agreement shall terminate and without limiting the generality of the foregoing the City shall not be obligated to make any Grant payments.

63. 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.

64. 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.

65. 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 staff as required. Acceptance of the application by the City in no way implies Program application approval.

66. Applicants may be required to obtain a post-development assessment estimate from the MPAC as part of submitting a Program application. Developments which are the subject of this requirement will be identified in the Program's application form.

67. 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 a Program application not being recommended for approval or, if the Program application has been approved, non-payment of a Grant under this Program.

68. Program applications will not be accepted if there is an outstanding Request for Reconsideration through the MPAC, outstanding Assessment Review Board appeal, outstanding divisional court appeal or an outstanding Municipal Act appeal, relating to the assessment of the Property or in respect of taxes related to the Property. The Grant application will only be accepted once the above has been settled and the revised (if applicable) property taxes have been calculated.

69. Where the improvements/development requires approval of a Site Plan, a conditional Site Plan approval shall have been obtained from the City prior to General Manager consideration of an application under this Program. Where a conditional Site Plan approval contains conditions which, until satisfied, may impact a post-development assessment of the project including but not limited, requirements to obtain Minor Variances through the Committee of Adjustment, the Commercial District and Small Business staff may require these conditions to be satisfied prior to consideration of the application for approval. Where no Site Plan is required for the improvement/development, consideration of a Program application will occur after such time as the General Manager is satisfied that all necessary information has been provided to inform an estimate of the resulting post-development assessment and municipal property taxes.

70. Improvements/developments identified as an Enhanced Revitalization Projects shall be required to provide documentation to the Manager in support of this determination prior to Grant payments commencing. Supporting documentation may include, but is not limited to, certificates/accreditations issued by a recognized environmental sustainability organization, a signed declaration of a financial commitment issued for the subject improvement/development from the CMHC, Province of Ontario or associated agency and/or City of Hamilton. Applicants who do not submit required documentation prior to the initial Grant payment being provided, the timing of which is described in Section C, may continue to be provided a Grant over the same four-year term with a value equal to that afforded a Revitalization Project, in accordance with Section A, Table 1, and subject to all the same applicable requirements associated with that classification. If required documentation necessary to confirm the status of a

development as an Enhanced Revitalization Project for the purposes of this Program is obtained after the Grant payments have commenced, the corresponding increase to Grant payments shall commence with the next annual Grant payment and shall not be retroactive.

71. 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.

72. The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the General Manager to ensure the goals and purpose of this Program and the RHCD CIP are met.

73. 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.

74. 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.

75. 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.

76. 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.

## Property Tax Arrears provisions

77. Notwithstanding any other content in this Program Description, for Grant payments made no later than August 31, 2027, and notwithstanding the date the application was approved under this Program, Grant payments may be issued where the approved Applicant is in municipal property tax arrears provided that:

    a. The subject development and Applicant are in compliance with all other terms of the program and applicable Grant Payment Agreement;

    b. The Applicant consents and directs that the Grant payments be applied directly, by the City, to the outstanding municipal property tax arrears on the subject site until all municipal property tax arrears are paid or the maximum grant amount is paid with any remaining grant amount to be paid directly to the Applicant in accordance with the applicable Grant Payment Agreement;

c. Where the Grant is insufficient to resolve the arrears, the Applicant be required to enter into a tax payment plan satisfactory to the General Manager of Finance and Corporate Services, to ensure all arrears are fully paid within two years and no further arrears are accrued from the date of the first grant payment being issued and that, where that payment plan is not adhered to or further arrears are accrued from the date of the first grant payment, the Applicant agrees, as of the first date of non-payment in accordance with the payment schedule or the first date of additional tax arrears accrual, to forfeit any remaining grant yet to be paid and no further grant payments will be made; and

d. Penalty and interest on the municipal property tax arrears will continue to incur in adherence to City by-law and the Municipal Act with the application of the grant payment treated similar to any other payment, being that it is first applied to the oldest penalty and interest and then to the oldest property taxes and other charges.