THE CITY OF WINNIPEG

DOWNTOWN RESIDENTIAL DEVELOPMENT GRANT PROGRAM BY-LAW NO. 77/2010

A By-law of THE CITY OF WINNIPEG to implement the Downtown Residential Development Grant Program.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1 This By-law may be cited as the **Downtown Residential Development Grant Program By-law**.

Definitions

2 In this By-law

"apartment building" means a multiple family residential building which is not a condominium building;

"applicant" means the owner of property who personally or through an agent applies for a conditional approval pursuant to section 6 of this By-law;

"assessed value" has the meaning attributed to it in *The Municipal Assessment Act*;

"base year" means the calendar year in which conditional approval was granted by the Director in respect of the project;

"building permit" means a permit issued pursuant to the Winnipeg Building By-law authorizing construction in respect of a new, redeveloped or converted building or an addition to a building;

"CentreVenture" means CentreVenture Development Corporation, a corporation without share capital, incorporated July 9, 1999 pursuant to *The Corporations Act* for the purposes of promoting and fostering economic, residential and cultural growth and development in the Downtown;

"City" means the City of Winnipeg;

"community revitalization levy" shall be calculated in the same way as is calculated the community revitalization levy pursuant to *The Community Revitalization Tax Increment Financing Act*;

"condominium" means a property which constitutes a dwelling unit in a condominium building;

"condominium building" means a multiple family residential building in which the dwelling units are subject to a condominium plan and declaration pursuant to *The Condominium Act*;

"conversion" means

(a) a change in the assessment classification of a property to Residential 2 or Residential 3 from an assessment classification other than Residential 2 or Residential 3;

(b) a change in the zoning of a property from one for which the use as a multiple family residential building or mixed use building was not permitted, approved or allowed as a non-protected conformity or otherwise by the City to one for which the use as a multiple family residential building or mixed use building is permitted, approved or allowed as a non-protected conformity or otherwise by the City; or

(c) a change in the actual use of a property from other than as a multiple family residential building or mixed use building to one as a multiple family residential building or mixed use building;

"Director" means the Director of Planning, Property and Development for the City or designate;

"discount rate" means an annual rate set by Council for each calendar year used in the formula of "net present value" for the purposes of calculating the grant in subsection 4(2);

"Downtown" means the geographic area of the City of Winnipeg to which the Downtown Zoning By-law No. 100/2004 applies;

"dwelling unit" means a self-contained dwelling unit that has facilities for living, sleeping, personal hygiene and grooming and the preparation and consumption of food and includes a condominium;

"eligible project" means a project that meets the conditions set out in section 5;

"eligible property" means property on which an eligible project is located;

"incremental assessed value" shall have the same meaning as that set out in *The Community Revitalization Tax Increment Financing Act*;

"incremental municipal taxes" means the municipal portion of real property taxes imposed on a property, less any tax credits applied by the City pursuant to a by-law, on which an eligible project is located during the complete calendar year immediately following the year in which the project is complete as set out in section 8, less the municipal portion of real property taxes imposed on the property, before the calculation

of any tax credits applied by the City pursuant to a by-law, during the base year, as if the project had not proceeded;

"mixed use building" means a building

(a) that contains four or more dwelling units; and

(b) a part of which is classified for assessment purposes as either Residential 2 or Residential 3 and a part of which is otherwise classified;

"multiple family residential building" means a building that contains four or more dwelling units and includes a mixed- -use building and the residential portion of which is classified for assessment purposes as Residential 2 or Residential 3;

"net present value" means the present value of a future estimated income stream and will be calculated as being discounted at the discount rate;

"occupancy permit" means a building occupancy permit issued pursuant to the Winnipeg Building By-law;

"owner" means a person who is the owner of a freehold estate in real property and includes

(a) a person who is an owner with another person as joint tenant or tenant in common, of a freehold estate in property;

(b) a real owner as defined in subsection 1(1) of *The Municipal Assessment Act* of property; or

(c) a person who will become the owner of the property before the project meets all of the eligibility requirements set out in section 5;

"pre-designation assessed value" shall have the same meaning as that set out in *The Community Revitalization Tax Increment Financing Act*;

"program" means the program established by the City in which the City makes grants pursuant to *The City of Winnipeg Charter* and in support of which the Province of Manitoba intends to make grants to the City pursuant to *The Community Revitalization Tax Increment Financing Act* for the encouragement of the development of housing in the Downtown on certain terms and conditions as set out in an agreement to be entered into between the City and the Province of Manitoba;

"project" means the construction, conversion or redevelopment of an eligible property by an applicant as set out in subsection 5(d);

"property" means real property identified by a single roll number on the tax roll;

"real property taxes" means taxes imposed by the City of Winnipeg for its own purposes on real property pursuant to clauses 334(1)(a) and 341(1) of *The City of Winnipeg Charter* and, for greater certainty, does not include:

(a) business taxes;
(b) personal property taxes;
(c) local improvement taxes;
(d) frontage levies;
(e) arrears of taxes;
(f) penalties;
(g) any amounts added to taxes for the recovery of a debt pursuant to a statutory authority;

"reference date" has the meaning attributed to it in *The Municipal Assessment Act*;

"rent" has the meaning attributed to it in *The Residential Tenancies Act*;

"Residential 2" and "**Residential 3"**, when referring to assessment classifications, have the same meaning as in the Classification of Property and Portioned Values Regulation, Manitoba Regulation 184/98; and

"vacant" in relation to a building means a building that is not being used or occupied.

City contribution established
3 By this By-law, the City establishes the program and its contribution to the program.

Program payment payable to developers of eligible projects
4(1) Subject to section 470 of *The City of Winnipeg Charter*, a grant may be paid by CentreVenture acting as the disbursing agent for the City to an applicant whose project meets all of the eligibility requirements set out in section 5.

Grants for apartment buildings
4(2) Subject to subsections (4), (6) and (10), the total amount of the grant for apartment buildings shall be calculated as:

(a) (i) the net present value of fifteen (15) times the sum of the incremental municipal taxes and the community revitalization levy of the project in the first full calendar year following the year in which the project is complete as set out in section 8;

(ii) provided however, that if a portion of the project that is classified for assessment purposes as other than Residential is less than fully leased and in the second or third year following the year in which the project is complete as set out in section 8, the community revitalization levy and incremental municipal taxes increase as a result only of additional leasing of the area of the portion of the project which is classified for assessment purposes as other than Residential, then the applicant shall be entitled to a further grant or grants which shall be calculated as the net present

value of the number of remaining full years of the fifteen (15) years times the sum of the additional incremental municipal taxes and the additional community revitalization levy;

or

(b) (i) an annual amount equal to the sum of the incremental municipal taxes and the community revitalization levy of the project in the first full calendar year following the year in which the project is complete as set out in section 8, for a maximum of 15 years, beginning in the year in which the project is complete as set out in section 8 and in which any applications for revision of the realty assessment involving the property (whether of the pre-designation assessed value or the incremental assessed value or both) or appeals therefrom are finally disposed of, whichever year is later, less a one-time administrative fee to be deducted in the first year, of 2.5% of the total grant;

(ii) provided however, that if a portion of the project that is classified for assessment purposes as other than Residential is less than fully leased and in the second or third year following the year in which the project is complete as set out in section 8, the community revitalization levy and incremental municipal taxes increase as a result only of additional leasing of the area of the portion of the project which is classified for assessment purposes as other than Residential, then the applicant shall be entitled to further annual grants which shall be calculated as the sum of the additional incremental municipal taxes and the additional community revitalization levy for each of the remaining full years of the fifteen (15) years;

at the choice of the applicant, which choice shall be made by the applicant no later than June 15 of the first full calendar year following the year in which the project is complete as set out in section 8, failing which the choice shall be made by the Director.

Grants for condominiums

4(3) Subject to subsections (4), (7) and (10), the total amount of the grant for condominiums shall be calculated as:

(a) (i) the net present value of ten (10) times the sum of the incremental municipal taxes and the community revitalization levy of the portion of the project which is classified for assessment purposes as Residential in the first full calendar year following the year in which the project is complete as set out in section 8;

(ii) provided however, that if a portion of the project that is classified for assessment purposes as other than Residential is less than fully leased and in the second or third year following the year in which the project is complete as set out in section 8, the community revitalization levy and incremental municipal taxes increase as a result only of additional leasing

of the area of the portion of the project which is classified for assessment purposes as other than Residential, then the applicant shall be entitled to a further grant or grants which shall be calculated as the net present value of the number of remaining full years of the ten (10) years times the sum of the additional incremental municipal taxes and the additional community revitalization levy;

or

(b) (i) an annual amount equal to the sum of the incremental municipal taxes and the community revitalization levy of the project in the first full calendar year following the year in which the project is complete as set out in section 8, for a maximum of ten (10) years, beginning in the year in which the project is complete as set out in section 8 and in which any applications for revision of the realty assessment involving the property (whether of the pre-designation assessed value or the incremental assessed value or both) or appeals therefrom are finally disposed of, whichever year is later, less a one-time administrative fee to be deducted in the first year, of 2.5% of the total grant;

(ii) provided however, that if a portion of the project that is classified for assessment purposes as other than Residential is less than fully leased and in the second or third year following the year in which the project is complete as set out in section 8, the community revitalization levy and incremental municipal taxes increase as a result only of additional leasing of the area of the portion of the project which is classified for assessment purposes as other than Residential, then the applicant shall be entitled to a further grant or grants which shall be calculated as the sum of the additional incremental municipal taxes and the additional community revitalization levy for the remaining full years of the ten (10) years;

at the choice of the applicant, which choice shall be made by the applicant no later than June 15 of the first full calendar year following the year in which the project meets all of the eligibility requirements set out in section 5, failing which the choice shall be made by the Director.

Maximums

4(4) Notwithstanding subsections (2) and (3), the total amount on which the grant shall be calculated shall not exceed the following maximums:

for condominiums:

Amount per dwelling unit (in thousands of dollars)	CONDOMINIUMS			
	$40	**$35**	**$30**	**$25**
	Maximum Assessed Value per dwelling unit (in thousands of dollars)			
Bachelor or Studio less than 650 square feet	**$0-$150**	$0-$185	$0-$220	$0-$255
Bachelor or Studio of 650 square feet or more or 1 bedroom	**$151-$175**	$186-$215	$221-$255	$256-$300
2 bedroom	**$176-$215**	$216-$265	$256-$305	$301-$350
3 bedroom	**$216-$250**	$266-$300	$306-$350	$351-$400

on the basis of the maximum amount for the project being the amount per dwelling unit times the number of dwelling units within the project; and

for apartment buildings:

Amount per dwelling unit (in thousands of dollars)	APARTMENT BUILDINGS			
	$40	**$35**	**$30**	**$25**
	Maximum Rent per month per dwelling unit			
Bachelor or Studio less than 650 square feet	**$0-$500**	$0-$550	$0-$625	$0-$750
Bachelor or Studio of 650 square feet or more or 1 bedroom	**$501-$650**	$551-$725	$626-$825	$751-$950
2 bedroom	**$651-$825**	$726-$900	$826-$1,025	$951-$1,150
3 bedroom	**$826-$975**	$901-$1,100	$1,026-$1,225	$1,151-$1,350

on the basis of the maximum amount for the project being the amount per dwelling unit times the number of dwelling units within the project;

where “maximum assessed value” is at the reference date for the year in which the project is complete as set out in section 8 and “maximum rent” is as at the year in which the project is complete as set out in section 8.

4(5) Grants payable pursuant to clauses (2)(a) and (3)(a) shall be paid no earlier than September 1 of the year following the year in which the project is complete as set out in section 8 or the year in which any applications for revision of the assessment involving the property

(whether of the pre-designation assessed value or the incremental assessed value or both) or appeals therefrom are finally heard and disposed of, whichever year is later.

4(6) A grant payable pursuant to clause (2)(a) shall be treated as a loan, one-fifteenth of which shall be forgiven in each of the first year beginning the year it is paid and the fourteen (14) following years, in which the applicant continues to meet the following conditions:

(a) any increases in the rent do not exceed the amount of the maximum rent increases permitted by *The Residential Rent Regulation*; and

(b) the property is not converted to a condominium building.

In the event the applicant does not continue to meet the conditions set out in clauses (a) and (b), the unforgiven portion of such grant treated as a loan shall at the option of the City immediately become due and payable in full and such amount shall constitute a debt due and owing to the City.

4(7) A grant payable pursuant to clause (3)(a) shall be treated as a loan, one-tenth of which shall be forgiven in each of the first year commencing the year it is paid and the nine (9) following years, in which the applicant continues to meet the following conditions:

(a) the properties are not converted to an apartment building; and

(b) the properties are not sold by the applicant without the consent of the Director, which consent shall not be unreasonably withheld.

In the event the applicant does not continue to meet the conditions set out in clauses (a) and (b), the unforgiven portion of such grant treated as a loan shall at the option of the City immediately become due and payable in full and such amount shall constitute a debt due and owing to the City.

4(8) Where the grant is treated as a loan pursuant to subsections (6) or (7), a portion of which has not been forgiven, the City and the Province shall each be entitled to the return of their pro-rata share.

4(9) CentreVenture shall pay all grants as disbursing agent for the City pursuant to this By-law in accordance with the terms of an agreement entered into between the City and CentreVenture for that purpose.

4(10) Where the applicant chooses a grant under clause (2)(b) or (3)(b), the grants shall cease to be payable if:

(a) any increases in the rent of dwelling units in an apartment building exceed the amount of the maximum rent increases permitted by *The Residential Rent Regulation*;

(b) an apartment building is converted to a condominium building;

(c) a condominium building is converted to an apartment building; or

(d) in the case of condominiums, the properties are sold by the applicant without the consent of the Director, which consent shall not be unreasonably withheld.

Eligibility requirements

5 In order to be eligible for a grant pursuant to this By-law, all of the following conditions must be met:

(a) the owner or agent of the owner of the property or properties on which the project is proposed to be located has been issued a conditional approval under section 7 which has not expired;

(b) the property or properties on which the project is situated is located Downtown;

(c) the property or properties on which the project is situated fronts on a street in which water and sanitary and storm sewer mains have been placed or, where water and storm sewer mains have not been so placed or are inadequate for the proposed project, the applicant has paid or has made arrangements satisfactory to the Director of Water and Waste to pay the costs of installing or upgrading them;

(d) the project consists of one of the following:

(i) construction of a new multiple family residential or mixed-use building;

(ii) redevelopment of an existing multiple family residential or mixed use building the residential portion of which

(A) has been vacant for 12 months prior to the date of the first application for a building permit pursuant to the Winnipeg Building By-law; or

(B) is vacant at the time of the first application for a building permit and in respect of which a health hazard order has been issued under *The Public Health Act* or a compliance order has been issued pursuant to Schedule A of the Vacant and Derelict Buildings By-law, section 1 of the Building By-law or Parts 1 or 2 of the Neighbourhood Liveability By-law, which order has not yet been complied with and compliance with which reasonably requires that the property or properties be vacant;

(iii) conversion of a building that is neither a multiple family residential building nor a mixed-use building to either a multiple family residential or mixed-use building; or

(iv) the addition of developed living space to an existing building which either results in the addition of one or more dwelling units in an existing multiple family residential or mixed use building or which creates a new multiple family residential or mixed use building;

(e) the property or properties on which the project is situated has been designated as a community revitalization project by the Lieutenant-Governor-in-Council pursuant to *The Community Revitalization Tax Increment Financing Act*;

(f) no building permits for the project have been issued prior to January 1, 2010;

(g) the project results in a multiple family residential or mixed use building which has been issued one or more occupancy permits authorizing the use of the entire building for residential occupancies or, in the case of a mixed use property, for both residential occupancies and common areas but excluding commercial occupancy;

(h) the property or properties are compliant with a zoning memorandum after substantial completion of the project;

(i) the completed project complies with all applicable building and other by-laws;

(j) the completed project complies with all federal and provincial laws and regulations;

(k) the property or properties are not owned or partially owned by The Manitoba Housing and Renewal Corporation or any other provincial or federal agency;

(l) there are no outstanding tax arrears in respect of the property or properties;

(m) the Director is satisfied that payment of the grant will not cause the City to exceed the sum authorized by Council for the program; and

(n) the applicant has signed a contract and any other documentation required by the City, in form and content satisfactory to the City Solicitor.

Application

6(1) An owner or the agent of an owner of property may, prior to three years after the date this By-law comes into force, apply to the Director or his agent for conditional approval of a grant that will be payable pursuant to this By-law if the project becomes eligible.

6(2) The Director shall refuse to accept an application where it appears that issuing a conditional approval will result in grants being paid by the City pursuant to this By-law that will exceed the sum authorized by Council for this purpose or where an application is made more than three years after the date this By-law comes into force.

Conditional approval of application

7(1) The Director may issue a conditional approval of an application if:

(a) the application has been made while this By-law is still in force and effect;

(b) the Director is satisfied that the project proposed to be constructed on the property meets or, after being constructed, is likely to meet the eligibility requirements set out in section 5;

(c) issuing the conditional approval will not result in grants being paid pursuant to this By-law that will exceed the sum authorized by Council for the program; and

(d) the property or properties on which the project is proposed to be located is or will be designated as a community revitalization property by the Lieutenant-Governor-in-Council pursuant to *The Community Revitalization Tax Increment Financing Act*.

7(2) Without restricting the generality of clause (1)(b), before issuing a conditional approval, the Director may require an applicant to provide evidence that the residential portion of an existing multiple family residential or mixed-use building proposed to be redeveloped has been vacant for a period of 12 months or more pursuant to subclause 5(d)(ii)(A).

7(3) The Director may delay issuing a conditional approval until a representative from the Assessment and Taxation Department of the City has had an opportunity to inspect the property or properties and, if necessary, amend the assessment roll and the tax roll.

7(4) A conditional approval issued under this section expires:

(a) one year after the conditional approval has been issued unless a building permit for the project has been issued;

(b) four years after the conditional approval has been issued unless subsections 5(c), (g), (h) and (n) have been satisfied; and

(c) if the Lieutenant-Governor-in-Council revokes the designation as a community revitalization property of the property on which the project is proposed to be located pursuant to *The Community Revitalization Tax Increment Financing Act*.

Completion

8 The date of completion of the project shall be the date on which the project, in the case of a multiple family residential or mixed use building, has been issued one or more occupancy

permits authorizing the use of the entire building for residential occupancies or, in the case of a mixed use property, has been issued one or more occupancy permits for both residential occupancies and common areas but excluding commercial occupancy and meets all of the eligibility requirements set out in section 5.

First come, first served

9(1) Applications will be received on a first-come, first-served basis.

Administration

10(1) The Director may conduct inspections and take steps to administer and enforce this By-law in accordance with *The City of Winnipeg Charter* and, for those purposes, has the powers of a "designated employee" under *The City of Winnipeg Charter*.

10(2) Without restricting the generality of subsection (1), the Director may require that the applicant contact the Director in a manner authorized by the Director to advise that the project meets all of the eligibility requirements set out in section 5.

10(3) Where it is necessary to determine an address for service on a person, the following addresses may be used:

(a) if the person is an applicant, the address provided by the applicant in an application under this By-law;

(b) if the person is not an applicant, but is the owner of real property, the address maintained by the tax collector of the City for the purpose of issuing the tax notice for that property; or

(c) in all other situations, any address maintained by any department of the City for the person.

10(4) A decision made by the Director under this By-law that is subject to an appeal under *The City of Winnipeg Charter* may be appealed to the Standing Policy Committee on Downtown Development.

Coming into force

11(1) This By-law comes into force on July 1, 2010.

DONE AND PASSED in Council assembled, this day of June, 2010.

Mayor

City Clerk

Approved as to content:

Director of Planning, Property & Development

Certified as to form:

For Director of Legal Services and
City Solicitor