Agenda – Council – April 27, 2011

Report – Executive Policy Committee – April 20, 2011

Item No. 6 Downtown Residential Development Grant Program By-law No. 77/2010 – Amendments

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2011, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submits the following to Council:

1. That the Downtown Residential Development Grant Program increase the maximum subscription limit from $10,000,000 of education taxes and $10,000,000 of municipal taxes to $20,000,000 of education taxes and $20,000,000 of municipal taxes (whichever subscribes first), subject to amendment of the operating agreement between the City and the Province of Manitoba.

2. That subject to the establishment of the City's agreements with the Province of Manitoba and CentreVenture Development Corporation, a loan guarantee be approved for CentreVenture of up to an additional $20,000,000. This loan guarantee would be specific to this Program and subject to the terms and conditions of the operating agreement over the life of the Program.

3. That the Downtown Residential Development Grant Program By-law No. 77/2010 be amended to include the changes summarized in Appendix A. These changes include the following:

    A. An application fee of $5,000 refundable at the time of the first grant payment;
    B. An application amendment fee of $500, non-refundable;
    C. A grant deposit fee of $300 per residential unit due 90 days after conditional approval of the application, and refundable 12 months after conditional approval if a building permit for the project have been issued;
    D. Changes to the rent levels in the grid used to calculate a project maximum.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – April 20, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2011, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: ***Expansion of subscription limit, and amendments to the Downtown Residential Development Grant Program***

Critical Path: **Executive Policy Committee – Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
S Dueck	D Joshi	N/A	M Ruta

RECOMMENDATIONS

1. That the Downtown Residential Development Grant Program (Program) increase the maximum subscription limit from $10,000,000 of education taxes and $10,000,000 of municipal taxes to $20,000,000 of education taxes and $20,000,000 of municipal taxes (whichever subscribes first), subject to amendment of the operating agreement between the City and the Province.

2. That subject to the establishment of the City's agreements with the Province and CentreVenture, Council approve a loan guarantee for CentreVenture of up to an additional $20,000,000. This loan guarantee would be specific to this Program and subject to the terms and conditions of the operating agreement over the life of the Program.

3. That the Program By-law BL 77/2010 be amended to include the changes summarized in Appendix A. These changes include the following:

    a. An application fee of $5,000 refundable at the time of the first grant payment;

    b. An application amendment fee of $500, non-refundable;

    c. A grant deposit fee of $300 per residential unit due 90 days after conditional approval of the application, and refundable 12 months after conditional approval if a building permit for the project have been issued;

    d. Changes to the rent levels in the grid used to calculate a project maximum.

REASON FOR THE REPORT

The Downtown Residential Development Grant Program was introduced in spring, 2010, and the Program By-law was adopted by Council on June 1, 2010. A Program subscription limit of $20M split equally between the City and Province was established for the Program.

In the first 8 months of the Program, applications have exceeded the subscription limit. This report requests expansion of the subscription limit to meet this demand.

Additionally, the need for By-law clarification and changes were established as part of the negotiations with the Province and the experience of the first 8 months of the Program.

IMPLICATIONS OF THE RECOMMENDATIONS

Extension of Subscription Amount and Loan Guarantees

- The Program subscription has reached the Council-approved limit within the first year of the Program[1]. Assuming each project was to proceed, this represents an additional 741 new units (representing roughly 1,200 additional residents) in the Downtown.
- There have been applications to date that would consume an estimated additional subscription of $12M. In addition, there are other projects being contemplated for which no formal application has yet been received.
- There has been strong indication that many proposed developments will not proceed unless the grant subscription is extended.
- Extending the subscription limit will provide additional momentum to an exciting wave of new downtown residential development.
- One of the cornerstones of the Program is to provide applicants with an option for a one-time payment of the Net Present Value (NPV) of the grant payment stream. As such, CentreVenture is the borrowing agent backed by loan guarantees from the City. Extending the subscription limit by $20M effectively requires an additional loan guarantee by the City for up to an additional $20M.
- The City, in turn, would have the equivalent of loan guarantees from the Province for up to an additional $10M in the form of the operating agreement.
  - Regardless of which entity initiates the borrowing, both levels of government would be mutually responsible in the event that the estimated incremental taxes failed to materialize.
  - The Province has agreed to consider extending direct loan guarantees for its portion of the risk. Assuming this was to be negotiated, the City may not need to actually extend some or all of the incremental loan guarantee.
  - Since some proponents may not request the one-time payment option for the grant, and because the one-time payment represents an NPV amount, it is foreseeable that the effective incremental loan guarantee will be considerably less than the full $20M.
  - Previous reports have presented a variety of options and strategies available to the City to mitigate any potential risk associated with this borrowing.
- When the City guarantees a loan, it must disclose the potential liability in the Financial Statements. If the organization is in default of the loan agreement, the City would be obliged to make payments on the loan.
- This loan guarantee would represent an exception to some of the criteria identified in the 1992 Council-adopted “Policy and Criteria to be used as a Guideline in the Consideration of Request for Loan Guarantees” such as a limit of a $1M.

By-law Amendments

[1] See Table in History section.

- Unlike the previous Downtown Multiple Family / Mixed Use Building Grant Program which was never fully subscribed, the experience of this Program soon revealed that applications can consume subscription limits, even for projects that don't proceed and have their conditional approval expire after one year (because no building permit was issued). As such, it is recommended that Program changes are implemented to more effectively manage this situation.
- As such, two amendments are proposed:
    1. **An application fee of $5,000** would be introduced. This proposed fee would not prevent a proponent from inquiring about the nature of the grant or being able to make a rough estimate of what that grant might be for their development prior to application. However, it would ensure that only serious applicants would move to formalizing their application and triggering an estimate from the City's Assessment and Taxation Department and formal designation of the property by the Province as a Community Revitalization Property. This proposed deposit would be fully refundable if the project proceeded to completion.
    2. **A grant 'deposit' of $300 per unit**, required three months subsequent to conditional approval is proposed. Failure to provide this deposit would result in the expiry of the conditional approval. Given timelines for most multiple family developments, it would not be unreasonable to assume that a project with a reasonable chance of proceeding would need to have completed due diligence regarding feasibility 9 months prior to a first building permit being issued. Therefore, given that the Program requires this building permit within 12 months of conditional approval, a proponent should have clarity regarding a project's feasibility within three months of conditional approval The required deposit represents a significant, but not unreasonable amount to ensure that only feasible projects continue to 'tie up' grant subscription amounts at the expense of other applicants.
        - In the absence of this deposit requirement, conditionally approved applicants that have had a chance to complete their due diligence and have decided not to proceed, continue to consume grant subscription until their conditional approval formally expires at the 12 month milestone. Only at this point is subscription room made available for other applicants.
        - This deposit is fully refundable if the project meets the 12 month milestone of a building permit being issued. It is assumed that the investment made by a proponent by this point associated with building plan preparation and permit fees are significant enough to demonstrate project feasibility and likelihood of proceeding to completion.
- Additionally, a non-refundable **application amendment fee of $500** is proposed. The experience to date is that some applicants will submit an application and receive a formal review and estimate of future, incremental taxes by the City. Then an amendment is made with changes to the size and nature of the units, which requires additional estimating and processing. In some cases, multiple amendments are made to a single application. It is assumed that this fee will result in fewer speculative initial applications being presented, reduce the number of amendments requested, and more accurately reflect the administrative costs associated with each amended application.
- The initial Program By-law established a 'grid' used to calculate a project maximum grant, based on unit tenure (condominium vs. rental), size (e.g. bedrooms) and value (monthly rental amount / assessed value). Given that the 'median market rent' rates for the City are about to rise, the Province has agreed to reflect these increases in the Program grid. It was assumed from the outset of the Program that these grid rates may fluctuate during the lifespan of the Program.

HISTORY

The existing program (Downtown Multiple Family / Mixed-use Building Grant Program (By-law 123/2007) was established on June 1, 2007 for a three year period.

As of March, 2011, the current DT RDG program has generated the statistics, noted in the table below, for projects that have been or are about to be conditionally approved.

The take-up of this program has been very strong. The City has formally conditionally approved (in 2010) 6 projects comprised of 129 rental and 151 condominium units, totaling $3.8M of estimated Provincial grant. In addition to those, the City is about to conditionally approve another 10 projects representing an estimated $6M in Provincial subscription, 455 condominiums, and 6 rental units.

	# of Projects	# of Condo Units	# of Rental Units	Total	Total # 'Affordable/ Attainable'	Total Estimated Grants	Estimated Municipal Portion
Conditionally Approved	6	151	129	280	144	$7.1M	46%
Conditional Approval Imminent	10	455	6	461	325	$11.4M	47%
TOTAL	**16**	**606**	**135**	**741**	**469**	**$18.5**	**$8.7M**
Applications beyond Subscription Limit	9	454	161	615	N/A	$12.1M	N/A

The Program, and its predecessor the Downtown Multiple Family / Mixed-Use Building Grant Program have been significant factors in spurring new residential development in the Downtown.

Section 218(1) of The City of Winnipeg Charter allows Council to provide financial assistance "(c) to aid economic and cultural development; (d) to improve, preserve, repair, maintain, convert or develop any property in the city". Section 218(2) outlines the form of financial assistance Council may provide, one form being a loan guarantee.

The City adopted a Policy and Criteria to be used as a Guideline in the Consideration of Request for Loan Guarantees on June 17th, 1992. Loan guarantees constitute meaningful commitments by the City and these commitments have to be recorded in the notes to the City's financial statements, are factors in determining the City's potential liabilities, and are a factor in determining the City's credit rating. As at December 31st, 2009, the City of Winnipeg was the guarantor of 15 different loans totaling just under $6.3 million.

FINANCIAL IMPACT

Financial Impact Statement **Date:** March 30, 2011

Project Name:

Expansion of subscription limit, and amendments to the Downtown Residential Development Grant Program

COMMENTS:

The extended Program, as envisioned, will provide a financial incentive to developers of downtown multi-family / mixed-use building projects in the form of tax grants paid out over time OR an "upfront" grant based on future incremental municipal and education taxes to be generated by the project to a maximum additional subscription limit of $20 million. CentreVentre Development Corporation will be the "borrowing agent" on behalf of the City of Winnipeg with the City providing a guarantee of any loans associated with the Program. The City will enter into a funding and operating agreement with the Province of Manitoba regarding provincial participation with incremental education-related taxes to a maximum additional subscription level of $10 million. The above tax grants will be offset by the incremental tax revenue generated by the program. There is also no financial impact to the City in the granting of the loan guarantee unless there is a default in the payment of the loan.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

Corporate Finance
Province of Manitoba - Local Government
- Manitoba Housing and Community Development

SUBMITTED BY

Department: Planning, Property and Development
Division: Housing Development Division
Prepared by: Stan Dueck
Date: *April 4, 2011*
File No. o:/reportsdirective/housing development/RIS DT Residential Development Grant Program Changes.doc

APPENDIX A.

Key Changes to the Downtown Residential Development Grant Program and By-law

1. **Introduction of an Application Fee.** An application fee of $5,000 will be required prior to the application being considered submitted and complete. The application fee will be refundable if and when the City determines that the application will NOT receive conditional approval. If a conditionally approved project is completed and becomes eligible for the grant, the application fee will be refunded at the time of the first grant payment.

2. **Introduction of an Application Amendment Fee**. An application amendment fee of $500 will be required for each amendment to a completed application. Application amendments subsequent to conditional approval would need to receive additional approval by the City. An amendment fee is non-refundable.

3. **Introduction of a Program Grant Deposit**. A Program grant deposit will be required in the amount of $300 for each residential unit identified as eligible for the project maximum calculation under the Program. This deposit is due 90 days subsequent to the date of conditional approval. Failure to submit this deposit will result in termination of the conditional approval. All deposits will be refunded 12 months after the date of conditional approval provided that the conditional approval has not expired or been terminated (e.g. if the applicant has met the 12 month requirement of having building permits issued for the project).

4. **Grid changes**. Given upward changes to provincial 'median market rent' levels, the grid used to calculate project maximum grants will adjust upwards as indicated in the following two tables:

	RENTAL / APARTMENTS					RENTAL / APARTMENTS			
	Original					Proposed			
Max. Grant per Dwelling unit	**$40K**	**$35K**	**$30K**	**$25K**		**$40K**	**$35K**	**$30K**	**$25K**
	Max. Rent Levels					Max. Rent Levels			
B/Studio up to 650 sq ft	**$500/m**	$550/m	$625/m	$750/m		**$500/m**	$550/m	$625/m	$750/m
B/Studio of 650 sq ft or more OR 1 Bedroom	**$650/m**	$725/m	$825/m	$950/m		**$655/m**	$730/m	$830/m	$955/m
2 Bedroom	**$825/m**	$900/m	$1,025/m	$1,150/m		**$880/m**	$955/m	$1,080/m	$1,205/m
3+ Bedroom	**$975/m**	$1,100/m	$1,225/m	$1,350/m		**$1,100/m**	$1,225/m	$1,350/m	$1,475/m

Condominium assessed values and reference year will not change at this time. However, the grid presentation will change for condominiums to reflect a technical correction.

5. **Defining a Building Permit.** The building permit definition in the By-law will be clarified to include a permit issued pursuant to The Winnipeg Building By-law for any aspect or stage of the project.

6. **Defining a Bedroom.** The definition of a bedroom will be clarified for the purpose of identifying a unit's category in the grid used to calculate a project maximum grant. As such, a bedroom must be a minimum of 5.6 square meters[2] and must meet the building code standards for a bedroom.

[2] Approximately 60 square feet

7. **Conversions of Condominium to Apartment after project completion**. A project will be considered as ineligible for further payments or in default of any outstanding loan amount (in the case of a lump sum advance of grant to the Approved Applicant) if a condominium project is completed as a condominium, but is later assessed as an apartment building through re-assessment or appeal.

8. **Forgivable loan agreements secured on title**. The By-law identifies that the grant will be considered a forgivable loan if the lump-sum payment option is chosen. The By-law is amended to identify that this forgivable loan will be secured on title of the project property. In the case of condominium developments, the registration of the loan security will be discharged from title of individual units as titles are transferred in City-approved sales.

9. **Insurance on project buildings.** The forgivable loan agreement entered into with each project proponent will require the building to have adequate insurance as defined in the loan agreement and must name the City as an additional insured in the coverage.