TO: Chair and Members
   Economic Development and Planning Committee

WARD(S) AFFECTED: WARDS 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, 15

COMMITTEE DATE: March 2, 2010

SUBJECT/REPORT NO: Amendments to the Downtown and Community Renewal Community Improvement Plan and Related Implementation Measures (PED10044)

SUBMITTED BY: Tim McCabe
   General Manager
   Planning and Economic Development Department

PREPARED BY: Hazel Milsome 905-546-2424 ext 2755

RECOMMENDATION:

(a) That the Downtown and Community Renewal Community Improvement Plan be amended as set out in Report PED10044 and that the by-law attached to Report PED10044 as Appendix “A” be enacted;

(b) That upon enactment of the by-law noted in Recommendation (a) of Report PED10044, Appendix “A” to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms for the Hamilton Downtown Property Investment Program, be deleted and replaced respectively with the program description and terms of the Hamilton Downtown Multi-Residential Property Investment Program attached as Appendix “B” to Report PED10044;

(c) That upon enactment of the by-law noted in Recommendation (a) of Report PED10044, Appendix “B” to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms of the Enterprise Zone Grant Program, be deleted and replaced respectively with the program...
(d) That upon enactment of the by-law noted in Recommendation (a) of Report PED10044, Appendix “C” to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms of the Commercial Property Improvement Grant Program, be deleted and replaced respectively with the program description and terms attached as Appendix “D” to Report PED10044;

(e) That upon enactment of the by-law noted in Recommendation (a) of Report PED10044, Appendix “D” to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms of the Main Street Housing Loan and Grant Program, be deleted and replaced respectively with the program description and terms of the Commercial Corridor Housing Loan and Grant Program attached as Appendix “E” to Report PED10044;

(f) That upon enactment of the by-law noted in Recommendation (a) of Report PED10044, the program description and terms of the Hamilton Downtown Office Tenancy Assistance Program attached to Report PED10044 as Appendix “F” be approved and attached to the Downtown and Community Renewal Community Improvement Plan as Appendix “E”;

(g) That By-law 07-062 as amended adopting the Downtown and Community Renewal Community Improvement Plan be amended by deleting all appendices;

(h) That the Dormant Business Improvement Area (B.I.A.) Status Procedure adopted by City Council at its meeting held November 11, 2009 be amended by inserting the word “exclusively” in the first paragraph in order that it reads “Financial incentives exclusively available to active B.I.A.s would not be available to non-active B.I.A.s” in order that the Commercial Corridor Housing Loan and Grant Program can continue to be offered within the Main Street Esplanade Community Improvement Project Area;

(i) That the by-law delegating authority to the General Manager, Planning and Economic Development for certain grants and loans under the Downtown and Community Renewal Community Improvement Plan attached as Appendix “G” to Report PED10044 be approved;

(j) That $50,000 from Project ID#8201003803 the Annual Hamilton Heritage Property Grant Program, be reallocated to a Hamilton Downtown Tenancy Assistance Program Reserve Account to fund the foregone interest income in order to administer the Hamilton Downtown Office Tenancy Assistance Program.
EXECUTIVE SUMMARY

Over the last couple of months City Council has approved changes to the financial incentive programs offered through the Downtown and Community Renewal Division. These changes were geared towards improving delivery of the programs and strengthening their terms and conditions. The changes have necessitated amendments to the Downtown and Community Renewal Community Improvement Plan as detailed below as well as other implementation measures:

Amendments to the Downtown and Community Renewal Community Improvement Plan:

Amendments to the Community Improvement Plan enable the administration of the Hamilton Downtown Office Tenancy Assistance Program, change titles of existing financial incentive programs to reflect the objective of the program, and, modify terms and conditions of the financial incentive programs in keeping with recent City Council approved changes to the program procedures such as delegated authority.

Amendments to the Community Improvement Plan and Appendices include the following changes:

1. **Hamilton Downtown Office Tenancy Assistance Program:**
   
   **Community Improvement Plan:** relative to the Hamilton Downtown Office Tenancy Assistance Program, a new section (Section 8.1.5) is inserted that describes the program and terms. The program offers a low interest loan to either building owners or tenants for eligible leasehold improvements to office buildings located within the Downtown Hamilton Community Improvement Project Area. The program is introduced as a pilot program to facilitate the increased attractiveness and marketability of the Downtown office stock.

   **Appendix E:** The Program Description and terms of the Hamilton Downtown Office Tenancy Assistance Program will be added as Appendix E to the Community Improvement Plan.

2. **Hamilton Downtown Property Investment Program:**

   **Community Improvement Plan:** Renaming the Hamilton Downtown Property Investment Program to the Hamilton Downtown Multi-Residential Property Investment Program. This name change reflects the objective of the program which is to provide financial assistance for multi-residential redevelopment/
development together with uses accessory to the residential development. Reference made to “residential” development will be amended to read “multi-residential”. The definition of multi-residential is inserted and defined as a multiple dwelling that contains at least three dwelling units.

Appendix A: Amendments to the Program Description attached as Appendix “A” to the Community Improvement Plan includes the aforementioned and; adds a two-year sunset clause for commencement of the development/redevelopment following City Council’s approval of the loan commitment; and, confirms that if an applicant is in litigation with the City of Hamilton where, in the opinion of City Council the commercial relationship between the City and the Applicant has been impaired, the City may reject the application.

3. **Enterprise Zone Grant Program:**

**Community Improvement Plan:** Renaming the Enterprise Zone Grant Program to the Hamilton Downtown Property Improvement Grant Program, a title that better describes the intent of the Program. This is a pilot program from May 2010 to April 2011 during which the 50% annualized vacancy rate requirement will be waived. The pilot is introduced in an effort to generate investment in the rehabilitation of older buildings in the Downtown Hamilton Community Improvement Project Area. City Council will ascertain the level of the take-up in the pilot program and determine whether the pilot will be continued, revert back to requiring that a property have a vacancy rate or cancel the Program.

The grant calculation and the first year in which the grant is payable is defined. The allowance of an applicant to assign their grant to the City of Hamilton as repayment of the applicant's loan under the Hamilton Downtown/West Harbourfront Remediation Loan Program is added. The Hamilton Downtown/West Harbourfront Remediation Pilot Program is a program administered through the Economic Development Division that offers a low-interest loan for the remediation of property to be developed/redevelopment in Downtown Hamilton and the West Harbourfront.

**Appendix B:** Amendments to the Program Description attached as Appendix “B” to the Community Improvement Plan include the aforementioned; adds a two-year sunset clause for commencement of the redevelopment/development following City Council’s approval of the grant; and, confirms that, if an applicant is in litigation with the City of Hamilton where, in the opinion of City Council the commercial relationship between the City and the Applicant has been impaired, the City may reject the application.
4. **Commercial Property Improvement Grant Program:**

**Community Improvement Plan:** The Commercial Property Improvement Grant Program Description is amended to clarify that the Program is available to “active” B.I.A.s and refers to the Dormant Business Improvement Area Status Procedure as approved by City Council at its meeting held November 11, 2009. A provision is added for buildings that have a linear street frontage of twenty-five feet (25’) or less. In such instances the grant will be paid on a matching basis to a maximum of $10,000 per property for eligible work and, $12,500 for corner properties or properties where at least one side of the property is exposed to a public street.

**Appendix C:** Amendments to the Program Description attached as Appendix “C” to the Community Improvement Plan include the aforementioned and: confirms that owners/authorized tenants are eligible to apply for a grant under the Program once per calendar year; that approval of the grant is at the sole discretion of the General Manager, Planning and Economic Development Department and subject to the availability of funds; allows property owners/tenants of properties designated under the Ontario Heritage Act to apply for funding for improvements other than those on heritage features of the property subject to a heritage permit being obtained for the work; and, confirms that, if an applicant is in litigation with the City of Hamilton where, in the opinion of City Council the commercial relationship between the City and the Applicant has been impaired, the City may reject the application.

5. **Main Street Housing Loan and Grant Program:**

**Community Improvement Plan:** Renaming the Main Street Housing Loan and Grant Program to the Commercial Corridor Housing Loan and Grant Program. The name change addresses feedback received from the public that the perception is that the Program is only available for properties that are located on Main Street. The amendment also clarifies that the Program is available to property owners in both active and dormant B.I.A.s.

**Appendix D:** Amendments to the Program Description attached as Appendix “D” to the Community Improvement Plan includes the aforementioned; clarifies that the Program does not apply to single-detached dwelling units; confirms that funding will not cover improvements including roofing, electrical, fascia, eavestrough in isolation of internal work on dwelling units; confirms that approval of the loan is at the absolute discretion of the General Manager, Planning and Economic Development Department and subject to the availability of funds; adds a sunset clause that the development/redevelopment will commence no later than one-year following the date the loan was approved by the General Manager,
Planning and Economic Development Department; confirms that the deadline for 60% of the proposed redevelopment/development will be subject to a date established through consultation with the applicant and approved by the General Manager of the Planning and Economic Development Department; and, confirms that if an applicant is in litigation with the City of Hamilton where, in the opinion of City Council the commercial relationship between the City and the Applicant has been impaired, the City may reject the application.

**By-law 07-062 as Amended Adopting the Downtown Hamilton and Community Renewal Community Improvement Plan:**

The By-law adopting the Community Improvement Plan includes the Program Descriptions that are attached as appendices to the Plan. The intent was that the appendices would not form part of the By-law as the Plan clearly states that “the City may periodically review and adjust the terms and requirements of any of the financial incentive programs contained in the Plan without amendment to the Plan”. Any such adjustment to the terms and requirements would require a Council resolution.

The inclusion of the Program Descriptions in the adopting By-law necessitates a formal amendment to the Plan in accordance with Section 28 of the Planning Act when any change in the terms and requirements of any of the financial incentive programs is made. This includes a public meeting, consultation with the Province and, a 20 day appeal period to Council’s decision. An example is the insertion of a clause that addresses Council’s direction that, if an applicant is in litigation with the City of Hamilton and the commercial relationship is deemed to be impaired, Council may reject the application. As the adopting By-law includes the Program Descriptions, a formal amendment is now required. This was not the original intent and therefore the Program Descriptions that are attached as appendices to the adopting By-law should be removed.

The Plan also states that “The increase in financial assistance to registered owners, assessed owners, and tenants, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, the addition of any new financial incentive programs, or a change to the Community Improvement Project Areas will require a formal amendment to the Plan. Any formal amendments will require approval by City Council and shall be undertaken in accordance with Section 28 of the Planning Act. A formal amendment to the Plan is warranted under the above circumstances.

**Dormant Business Improvement Area (B.I.A.) Status Procedure:**

When the Main Street West Esplanade Business Improvement Area (B.I.A.) was declared dormant in accordance with the “Dormant Business Improvement Area Status Procedure” approved by City Council at its meeting held November 11, 2009 the
Procedure included the condition that financial incentive programs would not be available to dormant B.I.A.s. However, it was not the intention to decline financial incentive programs to dormant B.I.A.s that support residential intensification targets and objectives established by the Province in the Places to Grow Growth Plan and Provincial Policy Statement. The Commercial Corridor Housing Loan and Grant Program is a program that offers a loan and grant for converting existing built commercial space into residential units, renovations to existing residential units, construction of new units via building additions, and, the creation of new residential units on vacant land, thereby assisting in meeting intensification targets. In order to continue offering the Program within the dormant Main Street West Esplanade Business Improvement Area, the Dormant Business Improvement Area Status Procedure requires amendment.

**Hamilton Downtown Office Tenancy Assistance Program:**

Report PED10044 recommends approval of the program description and terms of the Hamilton Downtown Office Tenancy Assistance Program, a program that provides a low-interest loan to either building owners or tenants for eligible leasehold improvements to office buildings located within the Downtown Hamilton Community Improvement Project Area. The intent of the Program is to reduce the Downtown office vacancy rate by attracting new office tenants and owner-occupied office uses from outside the City, and to assist existing Downtown businesses to expand in the Downtown. Loans will be advanced utilizing the City's investment funds and, the Downtown and Community Renewal Division will fund the foregone interest income through the reallocation of $50,000 from Project ID#8201003803 the Annual Hamilton Heritage Property Grant Program.

**Delegated Authority:**

City Council at its meeting held January 27, 2010 authorized the General Manager of the Planning and Economic Development Department to approve loans and grants to a maximum of $200,000 under the Commercial Property Improvement Grant Program, the Commercial Corridor Housing Loan and Grant Program and, the Hamilton Heritage Property Grant Program. In order to meet Provincial legislation that allows a municipality to delegate its powers to a person or body, the by-law attached as Appendix “G” to Report PED10044, titled “A By-law to delegate authority to the General Manager, Planning and Economic Development for financial incentive loan/grant programs” requires approval.

**Alternatives for Consideration – See Page12.**
FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Hamilton Downtown Office Tenancy Assistance Program - loans provided through the proposed Hamilton Downtown Office Tenancy Assistance Program will be funded by creating a receivable on the City's balance sheet. As loan repayments are made, the receivable is reduced. Funding provided through the Downtown & Community Renewal Division’s program budget is used to subsidize the interest rate charged on the loans which is the difference between the 5 year borrowing rate for the City as indicated by RBC Capital Markets plus 25 basis points (which is currently about 3% + 25 basis points) and the current cost of money for the City which is about 5% plus 25 basis points.

Funding for the interest in the amount $50,000 is recommended to be derived from reallocating $50,000 from Project ID#8201003803 the Annual Hamilton Heritage Property Grant Program, and transferred to a Hamilton Downtown Office Tenancy Assistance Program Reserve Account. Staff will monitor the take-up of the Program and make appropriate recommendations on funding for the interest during future budget deliberations. $50,000 would cover the interest on $1,400,000 for 365 days at 3.5% interest and $1,000,000 for 365 days at 5% interest.

Hamilton Downtown Multi-Residential Property Investment Program - the cost of the Hamilton Downtown Multi-Residential Property Investment Program is the foregone interest income lost to the City. This cost is funded through the Downtown and Community Renewal Division’s Operating Account Number 52901-815010.

Hamilton Downtown Property Improvement Grant Program - the City collects full property taxes on properties under the Hamilton Downtown Property Improvement Grant Program and, in turn, provides a grant for five (5) years declining each year after the first (1st) year by 20% due to the redevelopment/development of the property. Commencing in year two (2) of the grant payment, the City starts to realize the positive results of the Program from a financial perspective.

Commercial Corridor Housing Loan and Grant Program - the cost to fund the loan portion of the Commercial Corridor Housing Loan and Grant Program is the foregone interest income and funded through Downtown and Community Renewal's Operating Budget Account Number 52901-815025. The cost to fund the grant portion of the Commercial Corridor Housing Loan and Grant Program is contained in the Division’s Operating Budget Account number 58201-815025.

Commercial Property Improvement Grant Program - the Commercial Property Improvement Grant Program is funded through the Downtown and Community Renewal Division’s Capital Budget. The 2010 funding is contained in Project ID#8201003610.
Staffing: Administration of the financial incentive programs can be accommodated within the existing staff complement of the Downtown and Community Renewal Division of the Planning and Economic Development Department as well as the Corporate Services Department.

Legal: Section 28 of the Planning Act permits a municipality, in accordance with a Community Improvement plan to make loans and grants which would otherwise be prohibited under Section 106(2) of the Municipal Act, to registered/assessed owners and tenants of lands and buildings. A Community Improvement Plan can only be adopted and come into effect within a designated Community Improvement Project Area. Changes to a Community Improvement Plan or Community Improvement Project Area require formal amendments as dictated by the Planning Act.

HISTORICAL BACKGROUND (Chronology of events)

The Downtown and Community Renewal Community Improvement Plan serves as a broad guide to assist in the regeneration of Downtowns, Business Improvement Areas and, traditional retail streets providing the legal basis for various municipal financial incentives.

Recent changes to the terms and conditions of the financial incentive programs require a formal amendment to the Plan. The amendments to the programs are detailed in the Executive Summary Section of Report PED10044.

POLICY IMPLICATIONS

The Hamilton Downtown Office Tenancy Assistance Program is affected by land use policies that direct significant office development to the area in which it will be delivered, which coincides with the Downtown Hamilton Urban Growth Centre identified in the Council adopted Urban Official Plan and the Places to Grow Growth Plan for the Greater Golden Horseshoe. The Hamilton Downtown Office Tenancy Assistance Program will help to implement those plans and their growth objectives.

Places to Grow directs municipalities to locate major office buildings “in urban growth centres, major transit station areas, or areas with existing frequent transit service, or existing or planned higher order transit service”. (Places to Grow, Section 2.2.6.4) It defines “major office” as “freestanding office buildings of 10,000 sq. m. [approximately 108,000 sq. ft.] or greater, or with 500 jobs or more”.

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Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
The Downtown Hamilton Urban Growth Centre is described in the Urban Official Plan as the “pre-eminent centre in Hamilton for commercial and office development”. Regarding jobs, Section E.2.3.1.4 states that “The Downtown Urban Growth Centre shall function as a major employment centre for the City. Major business, professional and government offices shall be directed to the Downtown”.

The Strategy Area also coincides with the Downtown Hamilton Community Improvement Project Area. Properties within this area may be targeted for new and/or revised financial incentive programs offered through the Downtown and Community Renewal Community Improvement Plan. The existing programs encourage new construction and the renovation/conversion/improvement of residential and commercial/office buildings.

The current Downtown and Community Renewal Community Improvement Plan (CIP) states that “the introduction of new programs and major policy amendments necessitating changes to existing programs shall be made with City Council approval and processed according to the provisions of the Planning Act.” It further states that “the increase in financial assistance to registered owners, assessed owners, and tenants, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, the addition of any new financial incentive programs, or a change to the Community Improvement Project Area will require a formal amendment to this Plan.” The amendments recommended in Report PED10044 have been put forward on that basis and in accordance with the legal requirements of the Planning Act.

In addition, the CIP states that “Council shall adopt by resolution detailed implementation measures to allow for the efficient administration of financial incentive programs”, and that the “City may periodically review and adjust the terms and requirements of any of the financial incentive programs contained in the Plan, or discontinue any of the programs contained in the Plan, without amendment to the Plan.” It is therefore recommended that the revised versions of the financial incentive program description and terms, provided in Appendices “B”, “C”, “D” and “E” to Report PED10044, be approved by Council.

RELEVANT CONSULTATION

The Hamilton Downtown Stakeholder Implementation Task Force with membership comprising a number of Downtown office building and property owners/managers was consulted on the terms and conditions of the Hamilton Downtown Office Tenancy Assistance Program.
The Hamilton Association of Business Improvement Areas (HABIA) was consulted with respect to the proposed changes to the Commercial Property Improvement Grant Program.

The Corporate Services Department was consulted and concurs with the recommendations included in Report PED10044.

The Ministry of Municipal Affairs was consulted concerning the amendments to the Community Improvement Plan.

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The financial incentive programs referred to in Report PED10044 support City Council’s performance measurements as follows:

- **Decrease the office vacancy rate by 25% in the Downtown Core based on a 2008 baseline by January 2012.** The Hamilton Downtown Office Tenancy Assistance Program is introduced as a pilot program to facilitate the increased attractiveness and marketability of the Downtown office stock. The intent of the Program is to reduce the Downtown vacancy rate by attracting new office tenants and owner-occupied office uses from outside the City, and to assist existing Downtown businesses to expand in the Downtown.

- **Increase the number of residential units Downtown by 150 per year starting in 2009.** This measure relates specifically to a primary goal of the Division’s financial incentive programs, most specifically the Hamilton Downtown Multi-Residential Investment Program (formerly the Hamilton Downtown Property Investment Program), the Hamilton Downtown Property Improvement Grant Program (formerly the Enterprise Zone Grant Program), and the Commercial Corridor Housing Loan and Grant Program (formerly the Main Street Housing Loan and Grant Program), to encourage development of residential units.

- **Increase Downtown property taxes (municipal portion) by $1.45M on an average per year.** Another performance measure is the tracking of property assessments and taxes within the Downtown Hamilton Community Improvement Project Area. The Tax Division, Corporate Services Department, has confirmed that annual taxes have increased from $25,086,600 in 2008 to $25,730,600 in 2009. The net levy increase is $644,000 with $242,000 being attributable to assessment increase. Projects developed/redevelopment under the Hamilton Downtown Multi-Residential Investment Program and the Hamilton Downtown Property Improvement Grant Program contribute to increasing taxes in the Downtown.
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ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Non-acceptance of the recommendations contained in Report PED10044 would result in Council resolutions not being implemented. This is not a recommended alternative.

Financial: The $50,000 reallocation from Project ID# 8201003803 the Annual Hamilton Heritage Property Grant Program to a Hamilton Downtown Office Tenancy Assistance Program would not be required.

Staffing: Not applicable

Legal: Not applicable

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Growing Our Economy

• Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases. New office tenants are attracted to Downtown Hamilton.

Environmental Stewardship

• The financial incentive programs support residential intensification and the reuse of existing building stock and infrastructure.

Healthy Community

• Partnerships are promoted. As well, mixing residences within commercial districts creates community life after normal business hours.

APPENDICES / SCHEDULES

Appendix ‘A’ to Report PED10044 is the By-law to adopt Amendment No. 4 to the Downtown and Community Renewal Community Improvement Plan.
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Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

Appendix ‘B’ to Report PED10044 is the amended Program Description for the Hamilton Downtown Multi-Residential Property Investment Program.

Appendix ‘C’ to Report PED10044 is the amended Program Description for the Hamilton Downtown Property Improvement Grant Program.

Appendix ‘D’ to Report PED10044 is the amended Program Description for the Commercial Property Improvement Grant Program.

Appendix ‘E’ to Report PED10044 is the amended Program Description for the Commercial Corridor Housing Loan and Grant Program.

Appendix ‘F’ to Report PED10044 is the Program Description of the Hamilton Downtown Office Tenancy Assistance Program.

Appendix ‘G’ to Report PED10044 is the By-law to delegate to the General Manager, Planning and Economic Development for certain grants and loans under the Downtown and Community Renewal Community Improvement Plan.

HM:vk
CITY OF HAMILTON

BY-LAW NO. 10-___

To Adopt:

Amendment No. 4 to the Downtown and Community Renewal Community Improvement Plan

WHEREAS Section 28 of the Planning Act entitled Community Improvement states where a by-law has been passed to designate a community improvement project area, the Council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area;

AND WHEREAS By-law 07-061, as amended, passed on the 28th day of February 2007, designated the Downtown and Community Renewal Community Improvement Project Area;

AND WHEREAS By-law 07-062, as amended, passed on the 28th day of February 2007 adopted and approved the Downtown and Community Renewal Community Improvement Plan;

AND WHEREAS Council, by its Economic Development and Planning Committee, held a public meeting on March 2, 2010 to discuss and receive public input regarding an amendment to the Downtown and Community Renewal Community Improvement Plan, and has taken other steps required to amend the Plan, prior to the enactment of this by-law, as required by the Planning Act.

AND WHEREAS the City has prepared an amendment to the Downtown and Community Renewal Community Improvement Plan, attached hereto as Schedule 1 and forming part of this By-law.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Amendment No. 4 to the Downtown and Community Renewal Community Improvement Plan, consisting of Schedule 1 hereto annexed and forming part of this by-law, is hereby adopted and approved.

2. Schedule ‘A’ to By-law 07-062, as amended, is further amended as set out in Schedule 1 to this By-law.
PASSED AND ENACTED this________day of ________, 2010

___________________________    _____________________________
Fred Eisenberger             Kevin C. Christenson
Mayor                       City Clerk
Appendix ‘A’ to Report PED10044
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Schedule 1 to By-law 10-___

Amendment No. 4

to the

Downtown and Community Renewal
Community Improvement Plan

The following text constitutes Amendment No. 4 to the Downtown and Community Renewal Community Improvement Plan.

Purpose

• To add the Hamilton Downtown Office Tenancy Assistance Program.
• To rename the Hamilton Downtown Property Investment Program to the Hamilton Downtown Multi-Residential Property Investment Program and amend the terms of the Program.
• To rename the Enterprise Zone Grant Program to the Hamilton Downtown Property Improvement Grant Program and amend the terms of the Program.
• To amend the terms of the Commercial Property Improvement Grant Program.
• To rename the Main Street Housing Loan and Grant Program to the Commercial Corridor Housing Loan and Grant Program and amend the terms of the Program.

Location

The lands affected by the amendment are contained within the Downtown and Community Renewal Community Improvement Project Area, designated by By-law 07-61, as amended.

Basis

• The addition of the Hamilton Downtown Office Tenancy Assistance Program is consistent with the goals and objectives of the Community Improvement Plan, including enhancing existing and attracting new business operations to the Downtown and promoting Downtown as a primary office centre for the City.
• The new titles of the Hamilton Downtown Property Investment Program, the Enterprise Zone Grant Program, the Commercial Property Improvement Grant Program and the Main Street Housing Loan and Grant Program more accurately reflect the intent of the Programs.
The amended terms of the Hamilton Downtown Property Investment Program, the Enterprise Zone Grant Program, the Commercial Property Improvement Grant Program and the Main Street Housing Loan and Grant Programs are consistent with the goals and objectives of the Community Improvement Plan, including increasing population and housing stock and to encourage and assist private property owners to rehabilitate buildings to ensure their long-term economic viability.

The changes are consistent with the Provincial Policy Statement, and conform to the Greenbelt Plan and the Places to Grow Growth Plan for the Greater Golden Horseshoe.

The changes are consistent with the general intent of the Urban Official Plan for the City of Hamilton.

**Actual Changes**

1. **Section 8.0** is amended as follows:
   
a) **In Section 8.1.1.** the title “Hamilton Downtown Property Investment Program” be replaced with “Hamilton Downtown Multi-Residential Property Investment Program”.

b) In the first paragraph of Section 8.1.1 the words “The Hamilton Downtown Property Investment Program” are to be deleted and replaced with “The Hamilton Downtown Multi-Residential Property Investment Program”. In the same paragraph the last sentence, the words “The Program is intended to provide financial assistance for projects that result in predominantly residential developments including converting existing commercial space into residential units; renovations to existing residential units; the creation of new residential units on vacant land; together with uses accessory to the residential development” are to be deleted and replaced with “The Program is intended to provide financial assistance for projects that result in predominantly residential development including converting existing commercial space into multiple dwelling units; renovations to existing multiple dwelling units; the creation of a new multiple dwelling on vacant land; together with uses accessory to the residential development. A multiple dwelling must contain at least three (3) dwelling units”.

c) **In Section 8.1.2.** the title “The Enterprise Zone Grant Program” be replaced with “Hamilton Downtown Property Improvement Grant Program”.

d) In the first paragraph of Section 8.1.2. the words “Enterprise Zone Grant Program” be replaced with “Hamilton Downtown Property Improvement Grant Program”. In the same paragraph the following words are to be added as the last
sentence “As a pilot program from May 2010 to April 2011, the City will waive the requirement that a building have an annualized vacancy rate of 50%. Upon expiration of the pilot program on May 2011, City Council will by resolution: a) continue to waive the annualized 50% vacancy rate requirement; or b) re-instate an appropriate annualized vacancy requirement of up to 50%”.

e) In the second paragraph of Section 8.1.2. the words “as a direct result of the development/redevelopment of the land and/or building.” be deleted and replaced with “The increase in municipal realty taxes (City portion only) will be based on either the year in which the building permit that initiated the development/redevelopment was issued or, for properties where the proposed development/redevelopment does not require a building permit, the year in which City Council approved the grant amount, and, the first full year in which the property is reassessed post completion”.

f) In the third paragraph of Section 8.1.2. the following words are to be added as the last sentence “An applicant can assign the grant to the City of Hamilton as payment of their loan under the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program or its successor program”.

g) In the fifth paragraph of Section 8.1.2. the words “which has been accepted by the City, prior to City Council approval of this CIP on February 28, 2007, will be grandfathered under the former program rules as approved by City Council” are to be deleted and replaced with “under the former Enterprise Zone Grant Program terms will be processed under the former terms of the Program unless the City receives a formal cancellation of the application”.

h) In Section 8.1.3 Commercial Property Improvement Grant Program. In the first paragraph the words “active City-wide” are to be added prior to the wording “Business Improvement Areas”. The following wording is to be added as the last sentence of the first paragraph “An active BIA is not considered dormant as defined by the Dormant Business Improvement Area Status Procedure as approved by City Council at its meeting held November 11, 2009”.

i) In the second paragraph of Section 8.1.3. the word “active” is to be added prior to the words “Business Improvement Areas”.

j) In the third paragraph of Section 8.1.3. the wording “for buildings that have a linear foot street frontage greater than twenty-five feet (25’)” is to be added at the end of the first sentence. The wording “and properties where at least one
side of the property is exposed to a public street” is to be added to the second sentence after the words “corner properties”.

k) In the third paragraph of Section 8.1.3. the wording “Buildings that have a linear foot street frontage of twenty-five feet (25’) or less, grant amounts will be paid on a matching basis to a maximum of $10,000 for eligible work under the Program. Also, properties that have a street frontage of twenty-five feet (25’) or less, the City will increase the maximum grant to $12,500 for corner properties and properties where at least one side of the property is exposed to a public street” as the fourth sentence.

l) In the third paragraph of Section 8.1.3. the wording “Commercial properties designated under the Ontario Heritage Act are not eligible under the grant program” is to be removed and replaced with “Restoration/conservation of heritage features on commercial properties designated under the Ontario Heritage Act are not eligible under this grant program however, improvements other than those on heritage features are eligible subject to the approval of a City heritage permit”.

m) In the fifth paragraph of Section 8.1.3. the words “which has been accepted by the City, prior to City Council approval of this CIP on February 28, 2007, will be grandfathered under the former program rules as approved by City Council” are to be deleted and replaced with “under the former terms of the Program will be processed under the former terms unless the City receives a formal cancellation of the application”.

n) In Section 8.1.4. the title “Main Street Housing Loan and Grant Program” be replaced with “Commercial Corridor Housing Loan and Grant Program”.

o) In the first paragraph of Section 8.1.4. the wording “Main Street Housing Program” is to be deleted and replaced with “Commercial Corridor Housing Loan and Grant Program” and the word “eligible” is to be deleted and replaced with “active and dormant”.

p) After the last paragraph of Section 8.1.4., a new section is added as follows:

“Section 8.1.5. Hamilton Downtown Office Tenancy Assistance Program

The Hamilton Downtown Office Tenancy Assistance Program provides financial assistance to either building owners or tenants for eligible leasehold improvements to office buildings located within the Downtown Hamilton
Community Improvement Project Area. It is introduced as a pilot program to facilitate the increased attractiveness and marketability of the Downtown office stock. The Program’s intent is to reduce the Downtown office vacancy rate by attracting new office tenants and owner-occupied office uses from outside the City, and to assist existing Downtown businesses to expand in the Downtown.

The maximum loan amount will not exceed $450,000 per application. The loan amount will be based on the lesser of either a) 90% of invoiced eligible leasehold improvement costs; or b) i) in the case of applications by an owner or tenant involving a lease, the square foot area multiplied by up to $25 per square foot depending on the term of the lease, or ii) in the case of applications by an owner not involving a lease (i.e. owner-occupied office space), the square foot area multiplied by $25.

Council has adopted by resolution the detailed implementation measures to allow for the efficient administration of this program. These administration procedures are appended in Appendix ‘E’ to this C.I.P.”.

Implementation

The provisions of Section 6A of the former Hamilton-Wentworth Official Plan and Section 28 of the Planning Act give effect to this amendment.

This amendment constitutes Schedule 1 to By-law No. 10-___ passed on the _____ day of __________, 2010.
PROGRAM DESCRIPTION

The Hamilton Downtown Multi Residential Property Investment Program (the “Program”) was developed as a catalyst for stimulating residential development within Downtown Hamilton as defined by the Downtown Hamilton Community Improvement Project Area. The Program is intended to provide financial assistance for projects that result in predominantly residential development including converting existing commercial space into multiple dwelling units; renovations to existing multiple dwelling units; the creation of a new multiple dwelling on vacant land; together with uses accessory to the residential development. A multiple dwelling must contain at least three (3) dwelling units.

Acting as a lender, the City provides financial support for the Program and ensures that development arising from the Program within the Downtown is consistent with the policies, principles and design themes contained within the Downtown Hamilton Secondary Plan, relevant Urban Design Guidelines, the Zoning By-law as well as any other City Council approved policy/regulation.

TERMS OF THE PROGRAM

1. The maximum Loan term is five (5) years and six (6) months (subject to prior termination on default) from the date of the final advance exclusive of holdback. No extension or renewal shall be granted.

2. The Loan interest rate will be at 0% interest for the first five (5) years. For the last six (6) months of the Loan, interest shall be payable on the principal outstanding at the then prevailing rate established by Council for interest on tax arrears, such interest to be calculated and payable monthly, not in advance.

3. The Loan will be secured by a second mortgage upon the lands to be developed (the “Property”) upon first advance of funds.

4. Interest on arrears will be 15% per annum or such tax arrears interest rate as may be established by Council from time to time.

5. Principal is repayable in annual amounts of ten percent (10%), in 12 equal monthly payments, of the original loan amount. Monthly principal payments will continue during the last six (6) months of the repayment
term with interest calculated and payable monthly, not in advance. Payments will commence one year following the final advance, exclusive of any required holdback. The balance outstanding will be paid by a balloon payment at the end of the five (5) year and six (6) month term. Monthly principal payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance, if not paid earlier.

6. The loan will mature at the end of the five (5) year and six (6) month term at which time the principal balance outstanding will be paid in full plus any outstanding interest.

7. The loan may be prepaid at any time without notice, bonus or penalty.

8. The maximum loan amount is 25% of the Cost to Construct Budget prepared by an architect/engineer and addressed to the City of Hamilton and dated within 6 months of the date of application. For loans $1 million or above, a letter addressed to the City from a third-party quantity surveyor approving the Cost to Construct Budget must accompany the application. For loans under $1 million the appraisal submitted at time of application is to be addressed to the City of Hamilton and include replacement cost. All of the aforementioned documents are at the expense of the applicant.

9. Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.

10. The City will periodically review the terms and the duration of the Program and make appropriate revisions as per the direction of City Council.

11. The City may request such security as may be required to secure a commercial loan, including the following: title insurance in lieu of a survey if appropriate; loan agreement; and/or personal property security; and/or personal guarantee’s; and/or lien on the property to be improved; and/or collateral mortgage/charge registered on the property to be improved; and/or letter of credit in lieu of a second mortgage charge on the property (subject to City’s minimum equity requirements); and/or such other security which may be appropriate or available in the circumstance. In the instance where a personal guarantee is required a personal net-worth statement may also be required.

12. Redevelopment/development will commence no longer than 2 years following City Council’s approval of the loan commitment. The 2 year period may be extended by City Council at its absolute discretion.

13. The City’s funding will be advanced in 3 stages, upon completion of 60%, 80% and substantial completion of the project. Upon proof satisfactory to the City that the proposed development is 60% complete based upon the cost of construction and that equity and/or financing required to that stage of completion has been injected into the development then the approved City funds will be made available and released proportionately based upon the approved source of funds (equity/financing/City funds).
The calculation of the proportion to be advanced will reflect that the first 60% of funding is from non-City sources. Advances will be made in conjunction with first mortgage financing advances or after proof of equity injections.

14. Owner applicants shall have no less than 25% equity based upon the appraised value of the property upon completion. The appraisal must be addressed to the City of Hamilton, dated within 6 months of the date of the application, include replacement cost, be prepared by an accredited member of the Appraisal Institute of Canada (AIC) and, must accompany the application. The cost of the appraisal is at the total expense of the owner.

15. An application fee of $255.00 must accompany the application. An administration fee of $500.00 per unit for developments under 50 units; $400.00 per unit for developments between 50 and 100 units and $300.00 per unit for projects over 100 units is charged to the borrower and is eligible to be paid out of the loan proceeds. The administration fees will be paid out of the first loan advance that flows from the City of Hamilton. All fees will be authorized through a user-fee by-law passed by City Council. The rate of the fees may be changed from time to time as approved by City Council.

16. All taxes as billed must be paid current and in good standing throughout the development process.

17. Eligible existing buildings/vacant properties must be located in the Downtown Hamilton Community Improvement Project Area. Vacant lands include properties developed as parking lots.

18. Site Concept Plan drawings in a form acceptable to the City must accompany the application.

19. Advances are made by the City, upon proof by a third-party quantity surveyor for loans $1 million or above confirming the value of the work completed. Loans under $1 million require an architect/engineer to confirm the value of the work completed.

20. All costs associated with the conversion or renovations are to be borne by the applicant including construction, design, application and administration fees, appraisals, professional services, inspections, legal and registration fees. The City retains the right to assess the reasonableness of costs and which costs are eligible under the terms of the Program.

21. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property then at the option of the City all monies secured by the mortgage to the City shall forthwith become due and payable. The City shall have absolute discretion in requiring repayment of the loan secured by the mortgage.

22. 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 City 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 City 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 sales 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 all monies secured by the mortgage together with accrued interest thereon shall forthwith become due and payable at the option of the City and the City’s powers of sale hereby given and all other remedies for enforcement shall be exercisable.

23. Upon sale of individual condominium units, the City will be repaid upon closing 25% of the sale price of the unit until the total loan amount has been paid in full.

24. The proposed development must conform to the City of Hamilton Official Plan, the Downtown Hamilton Secondary Plan, relevant Urban Design Guidelines and the Zoning By-law, as well as any other City Council approved policy/regulation.

25. The City of Hamilton will require specific insurance terms to be met to protect the City’s interest.

26. Deadlines for the submission and approval of building permits and construction start dates are established following a report to Council for approved applications.

27. Whether or not an Applicant satisfies the requirements of the Program, the City may reject any application received from an applicant where, in the opinion of Council, 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. Applicants are individuals; corporate entities and individuals behind the corporation (Officers/Directors/Shareholders).
HAMILTON DOWNTOWN PROPERTY IMPROVEMENT GRANT PROGRAM

PROGRAM DESCRIPTION

The intent of the Hamilton Downtown Property Improvement Grant Program (the “Program”) is to provide an economic catalyst for developing, redeveloping or renovating residential/commercial lands and buildings located within the Downtown Hamilton Community Improvement Project Area (as such boundaries are presently defined). As a pilot project, from May 2010 to April 2011, the City will waive the requirement that a building have an annualized vacancy rate of 50%.

This Program authorizes for each approved grant application, a five year grant, the amount of which is subject to Council approval, in an amount not exceeding the increase in municipal realty taxes. The increase in municipal realty taxes (City portion only) will be based on either the year in which the building permit that initiated the development/redevelopment was issued or, for properties where the proposed development/redevelopment does not require a building permit, the year in which City Council approved the grant amount, and, the first full year in which the property is reassessed. The grant shall be an amount which does not exceed 100% of the municipal realty tax increase during the first year, 80% in year 2, 60% in year 3, 40% in year 4, and 20% in year 5. For purposes of determining the eligible amount of the increase in municipal realty taxes, special charges including B.I.A. levies shall be excluded from the calculation. The grant would reduce the effect of an increase in municipal realty taxes attributable to the differential between the pre-renovation assessment and the post-renovation assessment.

Before any grant is provided to the applicant for a property for which a satisfactory grant application has been received and approved, realty taxes are required to have been paid as billed each year and, the property shall be in compliance with the program’s requirements and conditions.

The first-year of the grant is payable by the end of the calendar year in the first full year of reassessment, post completion, of the redevelopment/development. For residential condominium projects, the first-year grant is payable by the end of the calendar year in which 75% of the residential condominium units within the project are fully assessed, and is calculated on a rateable per unit basis.
For commercial projects, the first year of the grant is payable by the end of the calendar year in the first full year of reassessment, post completion, of the redevelopment/development regardless of the number of commercial units occupied.

The grants may be received by an owner in conjunction with any other available municipal program in support of redevelopment/development, including the municipality’s loan and heritage programs. The approved grants are not assignable by the owner to anyone, except to the initial purchaser of any condominium unit or to the City of Hamilton. The total of each property’s five years of approved grants shall not exceed the costs of the property’s development/redevelopment.

A limited assignment of the grant under the terms of the Program may be made from a registered or assessed owner of the property to the initial purchaser of each new condominium unit. The assignment of the grant shall not apply to any subsequent re-sale of any such unit. The assigned grant shall be restricted to the balance of the five (5) year term running from the re-assessment date following the date of the registration of the condominium. The first-year grant is payable during the calendar year in which 75% of the condominium units within the project are fully assessed, and is calculated on a rateable per unit basis. In addition to the one time $660 application fee, a one time administration fee of $340 per unit shall be deducted from the initial grant payment. Fees will be authorized through a by-law passed by City Council. The rate of the fees may be changed from time to time as approved by City Council.

An applicant can assign the grant to the City of Hamilton as payment of their loan under the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program or its successor program.

The applicant will be required to enter into an Agreement with the City of Hamilton that sets out the conditions of the annual grant.

Redevelopment/development will commence no longer than 2 years following City Council’s approval of the grant or the grant will be cancelled. The 2 year period may be extended by the City Council at its absolute discretion.

In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property the City shall have absolute discretion in ceasing any further grant payments.

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 City 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 City first had and obtained:
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i) the Owner issues or redeems any of its shares or transfers any of its shares;

ii) there is a sale or sales 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 City.

Whether or not an Applicant satisfies the requirements of the Program, the City may reject any application received from an applicant where, in the opinion of Council, 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. Applicants are individuals; corporate entities and individuals behind the corporation (Officers/Directors/Shareholders).

**GRANT CRITERIA**

Projects that include developing, redeveloping or renovating residential/commercial lands and buildings within the Enterprise Zone are eligible under the Program. Approval of the application and estimated grant amount is subject to City Council approval. Such application shall be submitted and only received if it is prior to the owner’s commencement of improvements/rehabilitation to their property and shall include plans, estimates, contracts and other details as may be required to satisfy the City as to the cost of the project and as to the conformity of the project with the objectives of the Downtown and Community Renewal Community Improvement Plan.

Such project is also required to be in compliance with the City’s other by-laws and policies, including zoning, site plan approval, design guidelines, heritage matters including preservation of historical buildings. The compliance of each application with the criteria of this Program and the estimated amount of the Property’s grants (within the permitted terms of this Program) is at the discretion of and subject to Council approval.

For an existing building to qualify, it is also required to have at least a 50% annualized vacancy rate. In this regard the application shall, at a minimum, by affidavit confirm the annualized vacancy rate, provide a copy of the supporting letter from the B.I.A.’s Board of Management confirming the vacancy rate (if the property is located within a B.I.A.), or provide other satisfactory documentation confirming that the property, one year previous to the date of application had at least a 50% vacancy rate.
The 50% annualized vacancy requirement will be waived from May 2010 – April 2011 as a pilot, in an effort to generate investment in the rehabilitation of older buildings in the Downtown Hamilton Community Improvement Project Area. City Council will ascertain the level of take-up in the pilot program in Q3/11 and decide on the Program’s continuation/cancellation or restructuring.

All parking lots and vacant sites are eligible (provided said vacant sites were existing as of July 1, 2001). Notwithstanding the foregoing, properties upon which commercial, residential or industrial buildings are cleared and demolished after July 1, 2001, may be declared by Council as eligible to apply where:

1) The commercial, residential or industrial building(s) intended to be demolished or cleared after July 1, 2001, are not designated heritage building(s);

2) Prior to the clearance and demolition, the owner of the property informs Council of:
   - their plans for the demolition and clearance; and,
   - their plans for the redevelopment of the property through the application for a grant under this Program;

3) The proposed redevelopment of the cleared and demolished property shall be for residential and/or commercial uses expressly permitted by the Zoning By-law applicable to such property;

4) Council declares, after reviewing the property owner’s submissions, the City’s Official Plan, the City’s Hamilton Downtown Secondary Plan, the City’s Design Guidelines, and site plan considerations – that the proposed clearance or demolition of the building(s) and the proposed redevelopment of the property would be in conformity with the Downtown and Community Renewal Community Improvement Plan, including its goals and objectives; and,

5) The demolition or clearance of the building(s) is not commenced until after Council’s declaration is made and communicated to the property owner.

**Note:** All hotels and motels that have an annualized occupancy of less than 50% would qualify under the eligibility requirements of the Program. Vacancy is subject to confirmation by affidavit and other supporting documentation by the hotel management.

This Program shall not apply to existing or to proposed Second Level Lodging Houses or to Short or Long Term Care Facilities.
PROCEDURE TO SUBMIT AN APPLICATION
To submit an application please make arrangements to meet with Downtown and Community Renewal Division Staff. APPLICATIONS WILL ONLY BE ACCEPTED WITH TWO (2) COST ESTIMATES AND AN APPLICATION FEE OF $310.00 (or any such fee as approved by City Council).

PROGRAM DESCRIPTION
The Business Improvement Area Commercial Property Improvement Grant Program is intended to provide financial assistance for commercial property owners/authorized tenants within active* City-wide Business Improvement Areas as identified within the Downtown and Community Renewal Community Improvement Plan. The Program provides financial assistance for property owners/authorized tenants within each of the active Business Improvement Areas across the entire City of Hamilton. The Program aims to improve upon the appearance of numerous commercial properties throughout the City. It is understood that smaller scale commercial activities contribute greatly to the economic vitality and health of the commercial sector within the City of Hamilton. This Program seeks to build upon these successes, to result in long lasting physical improvements to the assets of commercial property owners/authorized tenants, and to bring about aesthetic improvements to the commercial areas as defined by the Business Improvement Areas, and to broadly improve commerce within the entire City.

*An active BIA is not considered dormant as defined by the Dormant Business Improvement Area Status Procedure as approved by City Council at its meeting held November 11, 2009.

ARTS COMPONENT
The arts component is introduced as a pilot project for properties that front on King William Street between James Street North and Ferguson Avenue North. The arts component of the Program will provide financial assistance for artfully designed façade improvements or art pieces placed on private property that can be viewed by the public. The Program intends to complement public art placed along the King William Urban Art Walk.
PROGRAM TERMS

- Commercial property owners/authorized tenants are eligible to apply for a grant under the Program once each calendar year.

- Commercial properties are to be identified by municipal address to identify multiple and separate commercial units with ground floor street frontages.

- Commercial uses must be in conformity with relevant policy documents of the City and the provisions of the Zoning By-law.

- Performance measures are to be applied to the payment of grants.

- Eligibility requirements for the Program relating to the work to be funded will be specifically identified. Two (2) separate cost estimates of the work to be provided by a licensed contractor other than the owner. Owner may present an estimate but is required to have at least two prepared by contractors. The grant will be calculated based upon lowest cost estimate, and is not to address cost increases or over runs.

- Before and after pictures are required as part of the application and processing of the grant disbursement.

- Buildings that have a linear foot street frontage greater than twenty-five feet (25’), grants will be paid on a matching basis of $400 per linear foot of street frontage up to a maximum of $20,000 for eligible work under the Program.

- Buildings that have a linear foot street frontage of twenty-five feet (25’) or less, grant amounts will be paid on a matching basis to a maximum of $10,000 for eligible work under the Program.

- As a further incentive for corner properties and properties where at least one side of the property is exposed to a public street, the City will increase the maximum grant amount to $25,000 for properties that have a street frontage greater than twenty-five feet (25’) or more, on a similar matching basis for eligible work under the Program to recognize the importance of flankage facades.

- Properties that have a street frontage of twenty-five feet (25’) or less, the City will increase the maximum grant to $12,500 for corner properties and properties where at least one side of the property is exposed to a public street, on a similar matching basis for eligible work under the Program to recognize the importance of flankage facades.

- Restoration/conservation of heritage features on commercial properties designated under the Ontario Heritage Act are not eligible under this grant program however, improvements other than those on heritage features are eligible subject to the approval of a City heritage permit. Downtown and Community Renewal staff will work closely with Community Planning and Design staff on all applications received that are designated under the Ontario Heritage Act.
• A building inspector will perform initial inspection relative to the façade which is intended to be improved, and subsequent final inspection to assure compliance with the Ontario Building Code.

• Approval of the grant is at the sole discretion of the General Manager of the Planning and Economic Development Department and subject to the availability of funds.

• Proposed improvements to be completed within one year to be eligible for payment. A one year extension can be authorized by the Director of Downtown and Community Renewal.

• Work completed must be consistent with estimates, and work proposed and identified within the application unless previously discussed and approved by the Downtown and Community Renewal Division.

• An application fee of $310 is payable upon submission of application. The fee will be authorized through a by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council.

• Whether or not an Applicant satisfies the requirements of the Program, the City may reject any application received from an applicant where, in the opinion of Council, 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. Applicants are individuals; corporate entities and individuals behind the corporation (Officers/Directors/Shareholders).

ELIGIBILITY REQUIREMENTS

• Property owners and authorized tenants are eligible.

• Property taxes must be paid current.

• The proposed work cannot commence prior to application approval, and pre-inspection by the City Building Inspector.

• Commercial properties must be located within one of the City’s active Business Improvement Areas and be within the corresponding Community Improvement Project Area.

• Existing use must be in conformity with the applicable Zoning By-law regulations, and other relevant planning controls.

ELIGIBLE IMPROVEMENTS

• Replacement or repairing of storefronts and rear entrances (at the discretion of the Review Committee) if used as an access to the business.

• Improvements and or upgrades to doors, cornices and parapets.

• Addition of new lighting and upgrading of existing fixtures, on exterior of the façade and within the storefront area normally associated with the display area.
• Awning replacements and/or additions.
• Brick repairs and/or pointing.
• Painting and façade treatments.
• Installation or improvement of signage.
• Architectural or design fees may be eligible up to $750 as part of the total grant awarded for completed construction.
• Interior improvements related to display windows and entrance areas are eligible to an amount of $2,500 of the total allotment. Eligible areas will be determined by the review committee.

ARTS COMPONENT – ADDITIONAL TERMS

• Commercial property owners/authorized tenants of properties that front on King William Street between James Street North and Ferguson Avenue North are eligible to apply for a grant under the arts component of the Program during the advertised application period held twice a year.
• The applicant will provide an adequate brief and rendering of the proposed art piece.
• A jury will be established and may comprise a selection of the following: Downtown and Community Renewal Division representative, urban designer, Business Improvement Area member. The Manager of Culture or representative will be on the jury.
• The selection jury will review, evaluate and approve all proposed art projects.
• The jury will reserve the right to deem what is eligible for funding under the arts component.
• The grant will be on a matching basis to a maximum of $10,000 per property.
COMMERCIAL CORRIDOR HOUSING LOAN AND GRANT PROGRAM

PROGRAM DESCRIPTION

The Commercial Corridor Housing Loan and Grant Program (the “Program”) is designed to stimulate residential development within Downtown Hamilton, Hamilton’s Community Downtowns, active and dormant Business Improvement Areas and “main street” corridors, as identified in the Downtown and Community Renewal Community Improvement Project Area By-law.

The Program is intended to provide financial assistance for converting existing built commercial space into residential units, renovations to existing residential units or construction of new units via building additions. The Program is also intended to provide assistance for the costs of creating new residential units on vacant land.

Acting as a lender, the City provides financial support for the Program and ensures that development arising from the Program is consistent with the principles and design themes contained within the Downtown and Community Renewal Community Improvement Plan, the applicable Official Plan and Zoning By-law, and the provisions of relevant Urban Design Plans.

PROGRAM TERMS

Note: A Pre-Application Form must be completed and forwarded to the Downtown and Community Renewal Division prior to scheduling a meeting with staff to complete a final application form. The Pre-Application Form is required in order that staff can review property details and determine appropriate next steps.

1. Subject to meeting all other Program terms, the Commercial Corridor Housing Loan and Grant Program is available to property owners within:
   a) the Downtown Hamilton Community Improvement Project Area;
   b) the City of Hamilton’s Community Downtowns;
   c) the active and dormant Business Improvement Areas;
   d) the “main street” corridors as identified in the Downtown and Community Renewal Community Improvement Project Area By-law.

2. The maximum loan amount is $10,000 per dwelling unit to a maximum of $200,000 per property. A dwelling unit is a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which
an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway.

3. The Program has a grant portion of $5,000 per application allocated to professional fees only. The grant portion is paid upon presentation of paid receipts to the City’s satisfaction. Professional fees will include: architects; lawyers; engineers; surveyors’ fees, title insurance, etc. Eligible fees will be at the absolute discretion of the City.

4. The Program does not apply to single-detached dwelling units.

5. The Program will not fund improvements including roofing, electrical, fascia, eavestrough, in isolation of internal work on dwelling units.

7. Approval of the loan application is at the absolute discretion of the General Manager of the Planning and Economic Development Department and subject to the availability of funds.

8. The maximum Loan term is five (5) years and six (6) months (subject to prior termination on default) from the date of the final advance exclusive of holdback. No extension or renewal shall be granted.

9. The Loan interest rate will be at 0% interest for the first five (5) years. For the last six (6) months of the Loan, interest shall be payable on the principal outstanding at the then prevailing rate established by Council for interest on tax arrears, such interest to be calculated and payable monthly, not in advance.

10. The Loan will be registered as a second mortgage upon the lands to be developed (the “Property”) upon first advance of funds.

11. Interest on arrears will be 15% per annum or such tax arrears interest rate as may be established by Council from time to time.

12. Principal is repayable in annual amounts of ten percent (10%), in 12 equal monthly payments, of the original loan amount. Monthly principal payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance. Payments will commence one year following the final advance, exclusive of any required holdback. The balance outstanding will be paid by a balloon payment at the end of the five (5) year and six (6) month term. Monthly principal payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance, if not paid earlier.

13. The loan will mature at the end of the five (5) year and six (6) month term at which time the principal balance outstanding will be paid in full plus any outstanding interest.

14. The loan may be prepaid at any time without notice, bonus or penalty.

15. The City may request such security as may be required to secure a commercial loan, including the following: loan agreement; and/or promissory note; and/or personal property security; and/or personal guarantees; and/or lien on the property to be improved; and/or collateral mortgage charge registered on the property to be improved; and/or letter of credit in lieu of a second mortgage charge on the property (subject to City’s minimum equity requirements); and/or such other security which
may be appropriate or available in the circumstance. The City will request net worth statements or variations thereof as the City may determine.

16. The City’s funding will be advanced in 3 stages, upon completion of 60%, 80% and substantial completion of the project. Upon proof satisfactory to the City that the proposed development is 60% complete based upon the value of the construction and that equity and/or financing required to that stage of completion has been injected into the development, then the approved City funds will be made available and released proportionately based upon the approved source of funds (equity/financing/City funds). The calculation of the proportion to be advanced will reflect that the first 60% of funding is from non-City sources. Advances will be made in conjunction with financing advances or after proof of equity injections.

17. Applicants shall have no less than 25% equity based upon the appraised value of the property offered as security, including cost of improvements being financed. The City at its discretion will determine whether an appraisal is required or whether it will accept a drive-by appraisal, tax assessment or other proof of value, depending on the amount of the Loan and the extent of construction or renovation.

18. The City may request personal guarantees, and/or such other security which may be appropriate or available in the circumstances.

19. An application fee of $250 must accompany the final application. An administration fee of $260 per unit is charged to the borrower. The administration fees will be paid out of the first advance of funds that flow from the City of Hamilton. The fee amount may be changed from time to time as approved by City Council.

20. Realty taxes must be paid as billed throughout the development process.

21. Advances are made by the City, upon proof satisfactory to the City confirming the value of the work completed.

22. All costs associated with the conversion or renovations are to be borne by the applicant including construction, design, administration fees, appraisals, inspections, legal and registration fees. The City retains the right to assess the reasonableness of costs and which costs are eligible under the terms of the Program.

23. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property then at the option of the City all monies secured by the mortgage to the City shall forthwith become due and payable. The City shall have absolute discretion in requiring repayment of the loan secured by the mortgage.

24. 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 City 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 City first had and obtained:

i) the Owner issues or redeems any of its shares or transfers any of its shares;
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ii) there is a sale or sales 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 all monies secured by the mortgage together with accrued interest thereon shall forthwith become due and payable at the option of the City and the City’s powers of sale hereby given and all other remedies for enforcement shall be exercisable.

25. Upon sale of individual condominium units, the City will be repaid $12,500 per unit, until the loan is paid in full.

26. The proposed development must conform to the relevant Official Plan and Zoning By-law and such other approved municipal policies as are applicable, e.g. urban design guidelines/built form guidelines.

27. The proposed development must conform to an Urban Design Plan where same is in effect. The applicant must demonstrate to staff that the Urban Design Plan is being implemented.

28. The City of Hamilton will require specific insurance terms to be met to protect the City’s interest.

29. Redevelopment/development will commence no longer than one-year following the date the loan is approved by the General Manager of the Planning and Economic Development Department or the loan/grant will be cancelled. The one-year period may be extended at the absolute discretion of the General Manager of the Planning and Economic Development Department.

30. The deadline for 60% completion of the proposed redevelopment/development will be subject to a date established through consultation with the applicant and approved by the General Manager of the Planning and Economic Development Department.

31. The City will periodically review the terms and the duration of the Program and make appropriate revisions as per the direction of City Council.

32. The Commercial Corridor Housing Loan and Grant may be received by an owner in conjunction with any other available City programs (excluding the Hamilton Downtown Multi-Residential Property Investment Program) in support of the redevelopment/development of the property.

33. Whether or not an Applicant satisfies the requirements of the Program, the City may reject any application received from an applicant where, in the opinion of Council, 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. Applicants are individuals; corporate entities and individuals behind the corporation (Officers/Directors/Shareholders).
PROGRAM DESCRIPTION

The Hamilton Downtown Office Tenancy Assistance Program (the “Program”) provides financial assistance to either building owners or tenants for eligible leasehold improvements to office buildings located within the Downtown Hamilton Community Improvement Project Area. It is introduced as a pilot program to facilitate the increased attractiveness and marketability of the Downtown office stock. The Program’s intent is to reduce the Downtown office vacancy rate by attracting new office tenants and owner-occupied office uses from outside the City, and to assist existing Downtown businesses to expand in the Downtown.

Acting as a lender, the City provides financial support for the Program in the form of a low interest loan. Development arising from the Program must be consistent with the Downtown and Community Renewal Community Improvement Plan and other policies and regulations as may be applicable, such as the Downtown Hamilton Secondary Plan, the Zoning By-law, Urban Design Guidelines, and building permit requirements.

ELIGIBILITY REQUIREMENTS

1. Buildings must be located within the Downtown Hamilton Community Improvement Project Area to be considered for the Program. This area includes properties within and abutting the block bounded by Hunter Street, Queen Street, Cannon Street and Victoria Avenue, and properties abutting James Street north to the CN railway and south to Charlton Avenue.

2. Either owners of eligible buildings, or tenants within eligible buildings, may apply to the Program.

Applications by Owner/Tenant involving a Lease:

3. Leasehold improvements made for a tenant relocating to an eligible building from outside the City of Hamilton are eligible for the Program. Each application must involve leasehold improvements within an approximate minimum of 2,000 square feet of gross leaseable office space that is subject to a lease. The minimum square foot requirement may be subdivided within a larger building. The lease term must be a minimum of one (1) year.
4. Leasehold improvements made for a tenant relocating from a location within the City of Hamilton that is outside of the Downtown Hamilton Community Improvement Project Area are ineligible for the Program.

5. Leasehold improvements made for a tenant currently leasing office space within an eligible building in the Downtown Hamilton Community Improvement Project Area may be eligible for the program, only in cases where the current leasehold area is being expanded in the same or another eligible building. For the purpose of calculating the loan amount, the total eligible leasehold improvement costs will account for the expansion area only. Each application must involve leasehold improvements within an approximate minimum of 1,000 square feet of gross leaseable office space that is subject to a lease. The minimum square foot requirement may be subdivided within a larger building. The lease term must be a minimum of one (1) year.

Applications by Owner not involving a Lease:

6. In the case of owner-occupied office space that does not have a lease, the building owner occupying said office space may apply to the Program, provided the owner applicant is relocating from outside the City of Hamilton to an eligible building. For the purpose of the Program, the office space and improvements will be considered to be leaseable/leasehold improvements. Each application must involve leasehold improvements within an approximate minimum of 2,000 square feet of gross leaseable office space.

All Applications:

7. Eligible leasehold improvements include leasehold improvements required by the tenant in order to lease the space, but that will become the property of the landlord upon termination of the lease. They include additions, alterations or improvements to the building that cannot be removed upon termination of the lease because they are attached to or form part of the leased premises. They may include:

- alterations to a building such as interior walls, ceilings and doors;
- paint, wallpaper, window coverings and flooring;
- phone and data cabling;
- fixed lighting, HVAC, electrical or plumbing upgrades.

Ineligible leasehold improvements would include items that can be moved or taken out of the building, such as mobile partitions, furniture and equipment, appliances, pictures, signs, and carpeting/rugs that are not attached to the floor. Capital improvements to a property are not eligible.

8. For the purpose of this Program, eligible leasehold improvements are to be made to space within eligible buildings that is devoted to office uses, where permitted by the zoning by-law, in which management, clerical, administrative, consulting, advisory or training services are offered or performed, including call centres. Other uses may include commercial
school, communications establishment, financial establishment, medical office, and medical clinic, where permitted by the zoning by-law.

Leasehold improvements to space within eligible buildings that is devoted to more commercially-oriented uses are ineligible, such as retail, restaurant, personal services, commercial entertainment, commercial recreation, day nursery, hotel, conference or convention centre uses.

9. The improvements made to buildings shall be in accordance with the Ontario Building Code and in compliance with all applicable City by-laws, official plans, zoning regulations, design guidelines and site plan approvals.

10. Improvements commenced prior to submitting an application are ineligible. Improvements commenced after submitting an application but prior to application approval do so at the applicant’s risk.

11. Prior to a loan being approved, property taxes are required to be paid in full as billed.

12. Whether or not an applicant satisfies the requirements of the Program, the City may reject any application received from an applicant where, in the opinion of Council, 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. Applicants are individuals; or, corporate entities and individuals behind the corporation (e.g. Officers/Directors/Shareholders).

**TERMS OF THE PROGRAM**

13. The maximum loan amount will not exceed $450,000 per application.

14. The loan amount will be based on the lesser of either a) or b):
   a) 90% of invoiced eligible leasehold improvement costs;
   b) i) in the case of applications by an owner or tenant involving a lease, the square foot area multiplied by the appropriate $ amount based on the term of the lease, as indicated in the table below;

<table>
<thead>
<tr>
<th>Term of Lease</th>
<th>$ amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 to 35 months</td>
<td>$10</td>
</tr>
<tr>
<td>36 to 47 months</td>
<td>$15</td>
</tr>
<tr>
<td>48 to 59 months</td>
<td>$20</td>
</tr>
<tr>
<td>60 months or longer</td>
<td>$25</td>
</tr>
</tbody>
</table>

   ii) in the case of applications by an owner not involving a lease (i.e. owner-occupied office space), the square foot area multiplied by $25.
15. The annual interest rate on the loan will be 1% below the prime rate as established by the Royal Bank of Canada. Such rate shall be established at the time the first instalment of the loan is advanced by the City, and reset annually on the anniversary date of the first advance.

16. The maximum loan term is the term of the lease and shall not exceed five (5) years (subject to prior termination on default) from the date of the final loan advance. In the case of applications for owner-occupied office space, the maximum loan term shall not exceed five (5) years (subject to prior termination on default) from the date of the final loan advance.

17. All applicants will submit a completed Program application form, financial statements, a business plan in a format acceptable to the City in its absolute discretion, and any other documentation or evidence the City may require to evaluate the loan application.

18. All applicants receiving approval for a City loan under this Program shall be required to enter into a Loan Agreement with the City and execute a General Security Agreement.

19. Loans are conditional upon the City being provided with a copy of the executed lease, in a format acceptable to the City in its absolute discretion. This Program term does not apply in the case of applications for owner-occupied office space.

20. The loan under this Program, once approved, may be advanced in up to three (3) stages, upon completion of 50%, 75% and 100% completion of the improvements, based on 90% of the actual eligible leasehold improvement costs incurred as evidenced by copies of paid invoices.

21. Prior to each loan advance, realty taxes are required to be paid in full as billed.

22. Prior to the final advance, final inspection will be completed for all building permits required in relation to the leasehold improvements.

23. Loan repayments will commence one (1) month following the final advance and no later than four (4) months following the first advance. The four (4) month period may be extended by the City in its absolute discretion in cases where an applicant submits a work schedule in a format acceptable to the City. The work schedule must be submitted no later than the time of the first advance (i.e. 50% complete) and demonstrate that a longer period is required to complete the balance of the leasehold improvements.

24. Loan repayments will be a blend of interest and principal based on the term of the loan and the interest rate set at the first advance. Payments will be adjusted annually at the time the interest rate is reset (i.e. the anniversary date of the first advance).

25. Interest on arrears will be such tax arrears interest rate as may be established by Council from time to time.
26. If the applicant is the owner, in the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the property by the owner, the City shall have absolute discretion to request the full repayment of any outstanding loan under this Program together with the interest accrued to date.

27. 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 full repayment of any outstanding loan under this Program together with the interest accrued to date.

28. If the applicant is a tenant, in the event that the tenant vacates the office space prior to the end of the loan term (i.e. the end term of the lease or five (5) years from the date of the final loan advance, whichever is less), the City shall have absolute discretion to request the full repayment of any outstanding loan under this Program together with the interest accrued to date.

29. An Office Tenancy Assistance Program loan may be received by an applicant in conjunction with other available City incentive programs in support of the redevelopment/development of the property.

30. Approval of loan applications is at the absolute discretion of the City and subject to the availability of funds.

31. An application fee of $400.00 must accompany the application. All fees will be authorized through a user-fee by-law passed by City Council, and may be changed from time to time as approved by City Council.
CITY OF HAMILTON

BY-LAW NO. ________

To enact a by-law to delegate authority to the General Manager, Planning and Economic Development for certain grants and loans under the Downtown and Community Renewal Community Improvement Plan

WHEREAS subsection 28(2) of the Planning Act, R.S.O. 1990, c. P.13, provides that Council may, by by-law designate the whole or any part of an area covered by an Official Plan as a community improvement project area;

AND WHEREAS By-law 07-061 as amended identifies various areas of the City of Hamilton, including the Downtown Hamilton Community Improvement Project Area, Downtown Dundas Community Improvement Project Area, Downtown Stoney Creek Community Improvement Project Area, Waterdown Community Improvement Project Area, Binbrook Community Improvement Project Area, Ancaster Village Core Community Improvement Project Area, Barton Village Community Improvement Project Area, Concession Street Community Improvement Project Area, Locke Street Community Improvement Project Area, Main Street Esplanade Community Improvement Project Area, Ottawa Street Community Improvement Project Area, Westdale Village Community Improvement Project Area and the Main Street Corridors Community Improvement Project Area, and designates collectively said areas as the "Downtown and Community Renewal Community Improvement Project Area".

AND WHEREAS Section 28 of the Planning Act, R.S.O., 1990, c. P.13 states that where a by-law has been passed to designate a community improvement project area, the Council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area;

AND WHEREAS By-law 07-062 as amended adopted the Downtown and Community Renewal Community Improvement Plan as the Community Improvement Plan for the Downtown and Community Renewal Community Improvement Project Area;

AND WHEREAS under subsection 28(7) of the Planning Act, R.S.O. 1990, c. P.13, Council may make grants or loans, in conformity with the community improvement plan, to registered owners, assessed owners and tenants of lands and buildings within the community improvement area, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, to pay for the whole or any part of the eligible costs of the community improvement plan;
AND WHEREAS under sections 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, in accordance with section 23.1 of the Municipal Act, 2001, the powers of a municipality under that or any other Act may be delegated to a person or body subject to the restrictions set in sections 23.2 to 23.5, inclusive of the Municipal Act, 2001;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. In this By-law:
   “Community Improvement Plan” means the Downtown and Community Renewal Community Improvement Plan.
   “Council” means the Council of the City of Hamilton;
   “General Manager” means the General Manager of Planning and Economic Development, and in the case of a change of name of the title of this position, this shall apply to any successor title change;

2. Subject to section 3, Council delegates to the General Manager of Planning and Economic Development power to approve grants or loans, which was given to Council under subsection 28(7) of the Planning Act, under the following financial incentive programs created under the Community Improvement Plan:
   (a) Commercial Property Improvement Grant Program
   (b) Hamilton Heritage Property Grant Program
   (c) Main Street Housing Loan and Grant Program

3. For the purposes of section 2, the power of the General Manager to approve grants or loans shall be limited to a maximum of $200,000 per loan or grant.

4. The General Manager is authorized to undertake all acts necessary to carry out the delegated power under Section 2, including the authority to sign any required documents.

5. This By-law may be cited as the “A By-law to delegate authority to the General Manager of Planning and Economic Development for financial incentive programs”.

6. This By-law comes into force on the date of its passing.

PASSED this ___ day of ___, 200_.

_____________________________    ________________________________
Fred Eisenberger                  Kevin C. Christenson
Mayor                             City Clerk