



**Richmond Hill Office Development and Downtown Local Centre
Community Improvement Plan**

GRANT APPLICATION FORM

Appendix B – GRANT AGREEMENT

(To be prepared by the CITY for signature by the Recipient following Council approval of Grant Application)

THIS AGREEMENT dated ****insert****, 20****insert****

BETWEEN:

THE CORPORATION OF THE CITY OF RICHMOND HILL (the "CITY")

-and –

****insert full legal name of Recipient****(the "Recipient")

BACKGROUND:

1. Pursuant to Part IV of the Planning Act, R.S.O. 1990, c.P.13, on February 26, 2018, Council of the CITY adopted a community improvement plan known as "The Richmond Hill Office Development and Downtown Local Centre Community Improvement Plan" (the "CIP").
2. For the purpose of carrying out the CIP, the CITY has established grant programs pursuant to which property owners and tenants of lands and buildings within the CIP area may apply for grants to use towards the eligible costs of new development and redevelopment in the CIP area (each a "Grant Program").
3. The Recipient has applied to the CITY to receive grant monies pursuant to the Grant Program(s) to assist the Recipient in funding the Project approved by Council of the CITY as detailed in the Special Provisions below.
4. The Council of the CITY authorized the entry into this agreement to provide the recipient with the Grant(s), subject to the Recipient (a) completing the Project as approved by Council and in accordance with the terms of this Agreement, including the Special Provisions and the Standard Grant Terms and Conditions set out in Schedule "A".

NOW THEREFORE the Parties agree as follows:

SPECIAL PROVISIONS

Recipient Contact Information	Name/Title of Recipient's Representative:	Address:	Telephone No.:	E-mail:
Subject Property	Owner Name:	Municipal Address:	Legal Description:	
Project Description	See Staff Report attached as Schedule "B", as approved by Council by by-law no. on .			

(check applicable Special Provisions for approved Grant(s) as described in Schedule A)

Special Provisions for Tax Increment Equivalent Grant (TIEG):

- For the purpose of these Special Provisions for the TIEG, "tax increment" shall mean the percentage of the municipal portion of the incremental property tax increase payable for the Subject Property that is attributable to an office use, based on the difference between the property tax assessment at the time of approval of the Application for the Project, or such other time as determined by the CITY, in its sole discretion, and a re-assessment by MPAC obtained by the Recipient after completion of the Project.
- The maximum amount of the TIEG shall be:
 - o determined by the CITY upon receipt of a final property tax re-assessment by the Municipal Property Assessment Corporation ("MPAC"), after all appeals have been filed;
 - o the lesser of the Eligible Costs or a declining percentage of the tax increment, starting with (%) in the first year of the TIEG and declining by ten (10%) percent annually to zero (0%) percent by the (th) year (and every year thereafter);
 - o based only on the Project and not take into consideration any other development; and
 - o subject to the CITY's right to reduce the maximum amount of the TIEG should there be any reassessment resulting in a reduction of taxes owing at any time prior to the TIEG being fully disbursed.
- Once the amount of the TIEG has been determined, the Treasurer shall advise the Recipient in writing of the payment schedule.
- Without limiting any other provision in this Agreement, the CITY shall have no obligation to pay the TIEG, or any part thereof, unless and until the Recipient has: (a) complied with all the provisions of this Agreement; (b) achieved Final Completion; (c) had the Subject Property assessed by MPAC and the revised assessment added to the tax roll of the CITY; (d) demonstrated to the satisfaction of the CITY that the development has resulted in a tax increment; and (e) paid all outstanding property taxes levied on the Subject Property for a minimum of one (1) year after the MPAC re-assessment.

Special Provisions for Building Renovation Grant:

- The maximum amount of the Grant is \$, and shall not exceed (%) of the Eligible Costs.
- The CITY shall have no obligation to pay the Grant, or any part thereof, unless the Recipient has complied with all the provisions of this Agreement, commenced the Project within six (6) months of the building permit being issued and achieved Final Completion within eighteen (18) months, except as otherwise set out in the Staff Report attached as Schedule B.

Special Provisions for Façade Improvement, Landscape & Signage Grant

- The maximum amount of the Grant is \$, and shall not exceed (%) of the Eligible Costs.
- The CITY shall have no obligation to pay the Grant, or any part thereof, unless the Recipient has complied with all the provisions of this Agreement, and if a building permit applies to the Project, commenced the Project within six (6) months of the building permit being issued and achieved Final Completion within eighteen (18) months, except as otherwise set out in the Staff Report attached as Schedule B.

SIGNED, SEALED & DELIVERED

in the presence of:

[INSERT FULL LEGAL NAME OF RECIPIENT]

THE CORPORATION OF THE CITY OF RICHMOND HILL

Witness Name: _____

Name: _____
Title: _____

Recommended for Execution in accordance with By-law No. _____:

MAYOR

Witness Name: _____

Name: _____
Title: _____
I/We have authority to bind the Recipient

CLERK
We have authority to bind the CITY



Appendix B – GRANT AGREEMENT

SCHEDULE “A” – STANDARD GRANT TERMS AND CONDITIONS

1. DEFINITIONS, INTERPRETATION AND GENERAL PROVISIONS

- 1.1 **Definitions:** In this Agreement the following terms will have the following meanings:
- (a) **“Agreement”** means this agreement, all of the schedules listed in Section 1.5 (Entire Agreement), and any amending agreement entered into pursuant to section 1.4 (Amendments);
 - (b) **“Authority”** or **“Authorities”** means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Agreement and/or the Project;
 - (c) **“Building Code Act”** means Ontario Building Code Act, 1992, S.O. 1992, c.23, as amended or superseded;
 - (d) **“Building Renovation Grant Program”** means the grant program described in Section 4.4 of the CIP and pages 43 to 44 of Appendix A – Schedule of Program Details of the CIP;
 - (e) **“CBO”** means the individual appointed from time to time as the Chief Building Official for the CITY pursuant to Section 3(2) of the *Building Code Act*;
 - (f) **“CIP”** means the community improvement plan by Council of the CITY Pursuant to Part IV of the Planning Act, R.S.O. 1990, c.P.13, on February 26, 2018 known as “The Richmond Hill Office Development and Downtown Local Centre Community Improvement Plan”;
 - (g) **“Eligible Costs”** means, with respect to the Tax Increment Equivalent Grant, the costs described as eligible in Section 4.3.2 of the CIP, with respect to the Building Renovation Grant, the costs described as eligible in Section 4.4.2 of the CIP and with respect to the Façade Improvement, Landscape & Signage Grant, the costs described as eligible in Section 4.5.2 of the CIP;
 - (h) **“Event of Default”** has the meaning ascribed to in subsection 6.1;
 - (i) **Façade Improvement, Landscape & Signage Grant”** means the grant program described in Section 4.5 of the CIP and pages 45 to 47 of Appendix A – Schedule of Program Details of the CIP;
 - (j) **“Final Completion”** means the completion of the Project in its entirety, including all final payments having been made and holdbacks released;
 - (k) **“Grant”** or **“Grant(s)”** means the money the CITY has agreed to provide to the Recipient pursuant to the terms of this Agreement to assist in funding the Project;
 - (l) **“Grant Program”** means a grant program provided for in the CIP, including the Tax Increment Equivalent Grant and the Building Renovation Grant;
 - (m) **“Parties”** mean all the parties listed in the introductory clause of this Agreement has and **“Party”** has a corresponding meaning and shall refer to any one of the Parties, as the case be;
 - (n) **“Project”** means the works proposed by the Applicant to be installed on the Subject Property as shown in Schedule “B”.
 - (o) **“Recipient”** means the person that has been approved for a Grant;
 - (p) **“Requirements of Law”** means all applicable requirements, laws, statutes, codes, acts, ordinances, approvals, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licences, authorizations, directions, and agreements with all Authorities.
 - (q) **“Special Provisions”** means those additional term applicable to the specific Grant Program under which the Grant has been approved, as set out in the table on the first page of this Agreement;
 - (r) **“Subject Property”** means the lands described in Schedule “A”;
 - (s) **“Tax Increment Equivalent Grant Program”** means the grant program described in Section 4.3 of the CIP and pages 40 to 42 of Appendix A – Schedule of Program Details of the CIP;
 - (t) **“CITY”** means the Corporation of the CITY of Richmond Hill; and
 - (u) **“Treasurer”** means the individual appointed from time to time as the Treasurer for the CITY pursuant to Section 286(1) of the *Municipal Act, 2001*, S.O. 2001, c.25.
- 1.2 **General Interpretation:** (a) Words in the singular include the plural and vice-versa; words in one gender include all genders; (b) the background and the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement; (c) any reference to dollars or currency will be in Canadian dollars and currency; and (d) every obligation of the Recipient under this Agreement shall be deemed to include “at the expense of the Recipient”, unless specifically stated otherwise.

- 1.3 **Recitals:** The recitals to this Agreement form an integral part of this Agreement.
- 1.4 **Amendments:** The Agreement may only be amended by a written agreement.
- 1.5 **Entire Agreement:** This agreement, including: the Special Provisions; Schedule “A” – Project Description; and this Schedule “B” – Standard Grant Terms and Conditions; constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.
- 1.6 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between any of the requirements of the Special Provisions and any requirements of a schedule: (a) Schedule “B” – Project Description will prevail over the Special Provisions and Schedule “A” – Standard Grant Terms and Conditions and (b) the Special Provisions of the Agreement will prevail over Schedule “A” – Standard Grant Terms and Conditions.
- #### 2. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS
- 2.1 **General Representations.** The Recipient represents, warrants and covenants that: (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement; (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project; (c) unless otherwise provided for in the Agreement, any information the Recipient provided to the CITY in support of its request for the Grant including, without limitation, information relating to any eligibility requirements and the Project, was true and complete at the time the Recipient provided it and will continue to be true and complete; (d) it is not in default of any term, condition or obligation under any agreement with or order of the CITY; and (d) it, the Subject Property and the Project are in compliance with, and will continue to comply with, all Requirements of Law related to any aspect of the Project and the Grant.
- 2.2 **Execution of Agreement:** The Recipient represents and warrants that it has the full power and authority to enter into the Agreement and taken all necessary actions to authorize the execution of the Agreement.
- 2.3 **Acknowledgements:** The Recipient acknowledges that: (a) the Grant is to assist the Recipient in carrying out the Project and not to provide goods or services to the CITY; (b) the CITY is not responsible for carrying out the Project; and (c) the CITY is bound by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M56, and any information provided to the CITY in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act
- #### 3. CARRYING OUT THE PROJECT
- 3.1 **Requirements Prior to Submission of an Application for a Building Permit:** The Recipient acknowledges that, prior to submitting an application for a building permit for the Project to the CBO it shall have: (i) executed this Agreement; (b) obtained all necessary road occupancy and other permits and approvals required by any Authorities, or made satisfactory arrangements to do so prior to starting construction; (c) submitted the required applications and fees to the CITY’s Planning and Regulatory Services Department for building permits, inclusive of all information as may be required by the CBO; and; (d) paid to the CITY all applicable development and other charges as may be required by the CITY or have made an arrangement satisfactory to the CITY for payment of same.
- 3.2 **Recipient’s Responsibility for Project.** The Recipient shall have full responsibility for the Project, including, without limitation: (i) complete, diligent and timely implementation of the Project in accordance with the terms and conditions of the Agreement; (b) the entire cost of the Project, including, without limitation, payment of all Eligible Costs; (c) subsequent operation, maintenance, repair, rehabilitation, demolition or reconstruction, as required and as per appropriate standards; and (d) undertaking, or causing to be undertaken, any engineering and construction work in accordance with industry or applicable CITY standards, in conformity with the approved scope and in compliance with the Requirements of Law and of any building permit and the *Building Code Act* and no deviation



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SCHEDULE “A” – STANDARD GRANT TERMS AND CONDITIONS

- from or modification of the Project shall be made without the written approval of the CITY.
- 3.3 **Access and Inspection:** Without limiting any of the statutory powers of the CBO or of any inspector appointed for the purpose of enforcing the *Building Code Act*, the Recipient covenants and agrees that the CBO, and any other designated agent(s) of the CITY shall have the right, at all times, to inspect the Subject Property and the Project. If in the opinion of the CBO, or other CITY designate, the Project is not being carried out in accordance with the *Building Code Act* or other Requirements of Law or of this Agreement, the CBO may, in the event of an urgent or emergency situation, immediately issue a stop work order for all or any part of the construction for any length of time until the Project been placed in satisfactory condition.
- 3.4 **Road Occupancy Permits and Related Matters:** No construction shall take place on, or cause the obstruction of, any CITY lands, including highways, unless the Recipient has obtained the proper road occupancy or other permits and in any event, not prior to sufficient securities having been deposited with the CITY. Without limiting the provisions of any road occupancy or other permit, the Recipient shall at all times keep the Subject Property and the CITY’s lands and highways in reasonable condition and free from public nuisances such as dust, noise, vibration or noxious odours, all hazardous situations and unnecessary debris and refuse and shall properly secure any hazardous or potentially hazardous site situation that may be necessary during the course of construction of the Project. The Recipient shall not obstruct ingress or egress to the Subject Property or interfere with traffic flowing along adjoining highways and shall provide all necessary signs and lighting to provide ample warning to the public and any area that poses actual or potential dangers and/or hazards. The Recipient shall be responsible for the full costs involved in the relocation of any existing service or utility and shall repair or replace any infrastructure, utilities, existing structure or landscaping located within any highway or other CITY lands that have been damaged as a result of the Project.
- 3.5 **Waste:** The Recipient shall ensure that all refuse and debris associated with the Project are disposed of in an orderly, sanitary and expeditious manner in a disposal area provided by the Recipient. The CITY will not be responsible for the removal, disposal or acceptance of refuse and debris.
- 3.6 **Construction Lien Act:** The Recipient covenants and agrees that it will hold back in its payments to any contractor on the Project such amounts as may be required under the provisions of the *Construction Lien Act*. The obligation of the Recipient to indemnify the CITY will extend to any matters arising under the *Construction Lien Act*, or any other claim for unpaid accounts. On demand by the CITY, the Recipient will take such steps as may be necessary to immediately discharge all liens registered upon the Subject Property.
4. **GRANT AND CITY COSTS**
- 4.1 **Grant provided.** Provided the Recipient is not in default of any of its obligations under this Agreement and subject to the conditions precedent below having been met, the CITY will provide the Grant to the Recipient in accordance with the Special Provisions.
- 4.2 **Conditions Precedent to Payment of Grant(s):** The CITY shall have no obligation to pay the Grant(s) until the Recipient has: (a) obtained a final inspection of, and (if applicable) an occupancy permit for, the Project by the CITY; (b) provided a written request to the Treasurer for the Grant(s), accompanied by an accounting of all Eligible Costs with supporting invoices; (c) demonstrated to the CITY that Final Completion has been reached; (d) satisfied the CITY that, in achieving Final Completion for the Project, it has completed the Project in accordance with its Application and in compliance with this Agreement and any other applicable agreements or permits; (e) satisfied the CITY that any Eligible Costs or other costs relating to the Project have been paid in full and that there are no claims or litigation in respect of the Project or the Subject Property and (f) satisfied any other additional requirements that may be set out in the Special Provisions.
- 4.3 **Additional Documentation and Audit.** The CITY may request any additional documentation or proof of any work claimed to be complete and may request a third party review or audit of any matter. Any third party audit shall be at the cost of the Recipient. Notwithstanding the performance of an audit or the payment of any Grant(s) pursuant to this agreement, the CITY shall not be stopped from having such additional audits conducted as it sees fit, in its sole discretion.
5. **INSURANCE AND INDEMNIFICATION**
- 5.1 **Insurance:** Upon execution of this Agreement, the Recipient shall file with the CITY evidence of the Recipients General Liability Insurance coverage in the amount of not less than two million dollars (\$2,000,000) per occurrence, identifies the CITY as an additional insured, and is specifically applicable to the project for which this grant applies. Evidence of Insurance must be provided on a CITY Certificate of Insurance form, which is available in PDF fillable format at www.richmondhill.ca/certificatesofinsurance. The insurance coverage shall be primary and shall not call into contribution any insurance coverage of the CITY. The CITY reserves the right to increase this limit in the event it identifies additional risks that require further coverage. The Recipient shall keep the policy in force until the Project has been completed and approved by the CITY, or the CITY otherwise advises that the coverage is no longer required.
- 5.2 **Indemnification.** The Recipient will indemnify, defend and hold harmless the CITY, its appointees, employees, agents, contractors and volunteers from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made, sustained, incurred, brought or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the CITY.
6. **DEFAULT**
- 6.1 **Events of Default.** Each of the following events will constitute an Event of Default: (a) in the opinion of the CITY, the Recipient breaches any representation, warranty, covenant or other material term of the Agreement including, without limitation, failing to do any of the following in accordance with the terms and conditions of the Agreement: (i) obtain a building permit (if applicable) and reaching Final Completion within any timeline specified in the Special Provisions; (ii) complete the Project in accordance with the Application; (iii) make payments to service providers or contractors in connection with the Project; (b) the Recipient or the Project no longer meets one or more of the eligibility requirements of the Grant Program; or (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver.
- 6.2 **Consequences of Default:** If an Event of Default occurs, the CITY may, at any time, take one or more of the following actions: (a) initiate any action the CITY considers necessary in order to facilitate the successful continuation or completion of the Project; (b) provide the Recipient with an opportunity to remedy the Event of Default; (c) suspend the payment of the Grant(s) until such time as the CITY determines appropriate; (d) reduce the amount of the Grant(s) and/or cancel further instalments of the Grant(s); (e) demand from the Recipient the payment of any Grant(s) already paid, or an amount equal to any Grant(s) together with interest at a rate to be determined by Council for the CITY; (f) add those amounts referred to in (e) to the tax roll to be collected in like manner as municipal taxes; and (g) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the CITY upon giving notice to the Recipient of same.
- 6.3 **Opportunity to Remedy:** If, in accordance with paragraph 6.2, the CITY provides the Recipient with an opportunity to remedy the Event of Default, the CITY will provide the Recipient with a written notice including the particulars of the Event of Default and the period of time in which to remedy. In the event that the Recipient does not or cannot remedy the Event of Default within the time set out in the notice or is not proceeding to remedy the Event of Default in a manner that is satisfactory to the CITY, the CITY may extend the period to remedy or may initiate any one or more of the other actions provided for in subsection 6.2.



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6.4 **Termination Effective.** Termination under this Section 6 will take effect as provided for in any termination notice.

7. GENERAL MATTERS

7.1 **Assignment:** The Recipient may not assign the whole or part of this Agreement or any monies due under the Grant(s) without prior written consent of the CITY. Such consent shall be in the sole discretion of the CITY and subject to such terms and conditions that may be imposed by the CITY. Without limiting the generality of the conditions which the CITY may require prior to consenting to an assignment, every assignment must be documented by an agreement between the Recipient, the person to whom the recipient intends to assign (the "Assignee") and the CITY whereby the Recipient and Assignee agree that the Assignee will be bound by all the terms and conditions of this Agreement and assume all of rights, liabilities and obligations the Recipient in the Agreement.

7.2 **Notices:** All notices that are required to be given under this Agreement shall be in writing and shall be delivered personally, sent by registered mail, or sent by facsimile or by electronic mail to the parties at their respective addresses as set out as follows: To the CITY at: Director of Policy Planning, CITY of Richmond Hill, 225 East Beaver Creek Road, Richmond Hill, Ontario L4B 3P4, Fax Number: 905-771-2502, E-mail: [insert] and to the Recipient at the Recipient address, facsimile number and electronic mail address set out in the Special Provisions.

7.3 **Extension of Time:** Time shall always be of the essence in fulfilling the terms of this Agreement. Any time limit specified in this Agreement may be extended with the consent in writing of all the Parties, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

7.4 **Waivers:** Either Party may, by providing notice in accordance with subsection 7.2, as the other Party to waive an obligation under the Agreement. Any waiver granted in response to such request will; be valid only if the Party granting the waiver provides it in writing; and apply only to the specific obligation referred to in the waiver.

7.5 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

7.6 **Parties Independent.** The Recipient is not an agent, joint venture, partner or employee of the CITY, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

7.7 **Governing Law:** This Agreement shall be interpreted and governed by the laws of the Province of Ontario.

7.8 **Successors and Assigns:** This Agreement shall be binding upon and ensure the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns, as the case may be.

7.9 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

7.10 **Survival.** The following Sections, subsections, paragraphs and all applicable cross-referenced Sections, subsections and paragraphs will continue in full force and effect for a period of 7 years from the date of expiry or termination of the Agreement: Section 1 (Definitions, Interpretation and General Provisions), subsection 2.1 (General Representations), subsection 3.2 (Recipient's Responsibility for Project), subsection 3.3 (Access and Inspection), subsection 4.3 (Additional Documentation and Audit), subsection 5.2 (Indemnification), subsection 6.1 (Events of Default), subsection 7.2 (Notice), and subsection 7.5 (Invalidity or Enforceability of Any Provision), subsection 7.7 (Governing Law), subsection 7.8 (Successors and Assigns) subsection 7.9 (Rights and Remedies Cumulative), and this subsection 7.9.



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SCHEDULE "B" – PROJECT DESCRIPTION

[APPROVED COUNCIL STAFF REPORT TO BE ATTACHED]