

## DOWNTOWN POST-SECONDARY INSTITUTION INCENTIVE PROGRAM TERMS OF REFERENCE

### 1 PURPOSE

The purpose of the Downtown Post-Secondary Institution Incentive Program Terms of Reference (the “Terms of Reference”) is to define the intended outcomes of the Program, provide clarity and transparency of the review process, and outline the requirements and process for allocating The City of Calgary’s Post-Secondary Institution incentive funds (“PSI Funds”) to Post-Secondary Institutions (“PSIs”).

The Terms of Reference for the Downtown Post-Secondary Institution Incentive Program (the “Program”) reflects The City’s commitment to expand PSI learning spaces in the Greater Downtown Plan Area.

#### 1.1 Intended Outcomes

The Program was established in 2021 April by Council in report *C2021-0524 Realizing Calgary’s Greater Downtown Plan: Initial Investments and Incentives*. The approved report was presented in conjunction with report *PUD2021-0220 Calgary’s Greater Downtown Plan: Roadmap to Reinvention* that detailed the 10-year implementation plan.

The intended outcomes of the Program are to increase overall economic activity, vibrancy and safety; reduce Downtown office vacancy; and expand PSI presence in the Greater Downtown Plan Area by:

- Supporting the removal of approximately six million square feet of office space in the Greater Downtown Plan Area over a 10-year period (2021 to 2031);
- Reducing the downtown office vacancy rate and supporting property values;
- Encouraging adaptive reuse of existing buildings for complementary and diverse uses to increase resiliency;
- Supporting climate strategies through reuse of underutilized properties and building upgrades;
- Increasing PSI student presence to support local business, rejuvenate street-level retail, activate city streets, improve safety, and add vibrancy to Downtown Calgary;
- Enhancing work-integrated learning opportunities for PSI students with the proximity to downtown businesses, which creates the associations and relationships necessary to maintain and grow an innovative and talented workforce; and
- Supporting the demand for the downtown housing market with a broader demographic offering, which could increase the overall residential population, and enable student-focused housing development.

### 2 APPLICABILITY

These Terms of Reference shall supersede any prior versions issued by the Downtown Calgary Development Incentive Program and apply to all applications received by the Program after the approval of these Terms of Reference by Council, and any available funding designated to the Program.

The Program applies to office conversion projects in the Greater Downtown Plan Area. Projects

outside the Greater Downtown Plan Area will not be considered for the Program. PSI must be publicly funded, receive financial support from the Government of Alberta, and be identified and listed by the [Government of Alberta](#) as a publicly funded PSI to be eligible.

## 2.1 Out of Scope

The following applications will be considered out of scope and therefore will not be eligible for the Program:

- Proposed projects located outside of the Greater Downtown Plan Area.
- Conversions of buildings/spaces not currently classified by The City of Calgary (“The City”) as commercial office space and a “non-residential” property for assessment and tax purposes.
- Construction of new buildings, including any additions to existing buildings.
- Property owned by any municipal, provincial or federal government, subsidiaries or affiliates thereto.
- Privately funded PSIs.

## 3 INCENTIVE

### 3.1 Office to Post-Secondary Conversions

- The Program is offering incentive funding for office to PSI conversion projects at \$50 per square foot based on the original rentable area of existing office space that will be converted to post-secondary use.
- The PSI funds will be up to a maximum of \$15 million per project unless Council approves a greater amount for a particular application.
- The term of occupancy shall not be less than 15 years. A schedule of repayment will be included in the funding agreement entered into between the PSI and The City for the PSI Funds (the “Funding Agreement”) in the event the occupancy is terminated earlier than the 15 years and repayment is required.
- The PSI Funds will fund the costs of conversion, such as the building improvements and tenant improvements associated with the campus expansion project, including the incremental costs associated with addressing items specific to conversion of vacant office space to an “assembly” occupancy.
- The PSI will be undertaking and/or managing the PSI Funds for the building improvements and tenant improvements for the project.
- The PSI Funds will be distributed to the PSI in accordance with the terms of a negotiated Funding Agreement.
- Due to limited funding, access to PSI funds will be dependent on The City’s funding available at the time the application is submitted and reviewed.

## 4 GOVERNANCE

### 4.1 Downtown Strategy Business Unit

All applications to the Program will be submitted to, and reviewed by the Downtown Strategy Business Unit (“DTS”) or, in the event of a restructuring of roles, an equivalent team as may be designated by the Chief Operating Officer in their sole discretion.

The funding application process from intake to payment of funds will be led and managed by the DTS team. Funding recommendations (approval or refusal) will be made by the DTS team to the Incentives Approval Committee or Council, as applicable (per Section 4.3 Approvals & Decision-Making).

Other subject matter experts will be engaged as required for support throughout the review, project development process, negotiation of a funding agreement, execution of the project, and any other processes as required.

#### 4.2 Incentives Approval Committee

The Incentives Approval Committee (“IAC”) consists of three members:

1. General Manager of Planning & Development Services, or their designate;
2. Director of Finance, or their designate; and
3. Director of Real Estate & Development Services, or their designate.

#### 4.3 Approvals and Decision-Making

The DTS team will make recommendations for decision (approval or refusal) to the IAC for all funding requests up to and including \$15 million for any individual application. Decisions for funding requests up to and including \$15 million shall be in the sole and exclusive discretion of the IAC.

The DTS team will make recommendations for decision (approval or refusal) to Council for all funding requests greater than \$15 million for any individual application, following endorsement by the IAC. Decisions for funding requests greater than \$15 million shall be in the sole and exclusive discretion of Council.

Approval Range (per Conversion Project)	Decision-Making Authority
Up to and including \$15 million	Incentive Approvals Committee
Greater than \$15 million	Council

All application decisions made pursuant to this Program shall be in the sole and exclusive discretion of the IAC or Council as summarized above.

Decisions, including approvals, made pursuant to these Terms of Reference do not: (1) constitute the granting by the municipality of The City of any approval or permit as may be required pursuant to the *Municipal Government Act (Alberta)* or any other legislation in force in the Province of Alberta, including approvals of subdivision and permit applications and any land use redesignation applications, or (2) restrict the municipality of The City, its Council, officers, employees or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as an approving authority over subdivision and permit applications and land use redesignations applications, or as a governmental authority.

#### 4.4 Administrative Review Panel

Applicants may request a reconsideration of the IAC’s decision to the Administrative Review Panel (“ARP”) within 30 calendar days of receiving notification of decision. To be eligible for reconsideration, applicants must have new and material information that could not have reasonably been submitted with their original application and was not considered by the IAC in its decision-making process.

The ARP consists of the following two members:

- Chief Financial Officer, or their designate; and
- Chief Operating Officer, or their designate.

The ARP will render decisions on all requests for reconsideration within 30 calendar days of receiving the request for reconsideration, and upon recommendation of the ARP a reconsideration of a Council decision will be returned to Council (timelines for Council are dependent on the Council calendar).

## 5 APPLICATION REVIEW PROCESS

### 5.1 Site Identification

The PSI's shall circulate their interest in the Program and related information regarding their space requirements (directly or by way of their agents) to all suitable potential property/building owners/landlords that may satisfy the PSI's space and amenity requirements that have property for lease in the Greater Downtown Plan Area to ensure a transparent and open process for all parties.

The PSI will be responsible for reviewing the market responses from property/building owners/landlords and identifying a short list of potential properties/buildings that can be assessed in greater detail for suitability for the Program's purposes.

### 5.2 Application Intake

Submission intake timing and details will be posted on The City of Calgary Downtown Strategy's website. Information regarding the Program will also be provided on the website including the Terms of Reference. To be considered for the Program, all applications must be submitted in the format described on The City of Calgary Downtown Strategy's website ("Downtown Strategy website").

### 5.3 Review Process

All submissions for the Program will be subject to successive interactive review stages that have the purpose of stage-gating the process to provide greater transparency to applicants regarding their application status during the review process. This also provides decision makers with clear points within the process where an application will either move to the next stage, be deemed ineligible to proceed, or receive a decision recommendation (approval or refusal) to progress to negotiation of a funding agreement. The DTS Team will be the main point of contact throughout the application review process and will communicate directly with applicants and provide guidance through the process. Throughout the stages of the review process, applicants will receive written confirmation from the DTS team of the application's status (i.e. ability to proceed and/or decision outcomes).

#### 5.4.1 Expression of Interest Letter-Preliminary Review

The PSI will initiate the process by submitting an expression of interest letter ("EOI Letter") to The City of Calgary's DTS Team outlining the PSI's interest in establishing or expanding a Downtown campus.

The EOI enables the DTS Team to answer questions a PSI may have regarding a potential site, concerns regarding the eligibility for the Program, or concerns regarding a building's suitability of conversion from a planning perspective.

The EOI Letter will include:

**1. Post Secondary Programming Overview:**

- Estimated square footage of the premises required;
- Summary of the status of the site identification and selection process – including buildings that may be identified for further due diligence if available;
- Ownership of potential properties that may be identified as suitable for the project, if known;
- The benefits to the PSI of locating Downtown and how the surrounding community will benefit;
- Confirmation of PSI's intent to occupy the proposed premises for at least 15 years;
- The content of post-secondary program(s) to be delivered in the Downtown campus and the benefits of delivering the program(s) long-term Downtown;
- Estimated number of students that are expected to take advantage of the PSI's programming;
- If applicable, the projected student population growth expected downtown because of the proposed programming;
- Timing for occupancy of the PSI's staff and student population (including set up time required before semester commencement); and
- High-level functional program requirements – types of space, classroom sizes, other potential amenities for students.

**2. Project Readiness, including:**

- Status of funding or financing for the project;
- Status of approvals from Board of Governors of the PSI (or other required Executive level authority);
- Status of any funding commitment from any other external sources including the Province of Alberta, commercial sponsors or philanthropic donors, if applicable.

**5.4.2 Submission of Request for Funding – Application Review**

After the PSI has selected a site, and is advanced in their negotiation process with a property Owner (hereinafter referenced as the "Property Owner"), the PSI will submit a proposal to The City requesting the total funding amount required for the project, together with the PSI's finalized programming details (updated from those initially provided in the EOI Letter) and will attach a letter of intent ("LOI") to the proposal (collectively, the "Request for Funding").

The LOI shall set out the key terms of the proposed lease agreement between the PSI and the Property Owner, including, but not limited to, demolition and construction timelines, space allocation, building improvements and tenant improvements, including high-level fit and finish requirements, and the required minimum 15-year lease term by the PSI.

The review of the Request for Funding will encompass a legal due diligence review, a financial due diligence review and a review of other key criteria (per Section 6: Evaluation Criteria).

#### 5.4.4 Incentive Approval Committee, Administrative Review Panel and Council Approvals

Subsequent to the review of the Request for Funding, the DTS Team will make recommendations to the IAC or Council (as may be applicable) for approval or denial of applications to proceed to the next stage of negotiation of a Funding Agreement.

Other subject matter experts will be engaged as required for support throughout the review, project development process, negotiation of Funding Agreement, and execution of the project. Details regarding the review process are described in Section 6 below. Requests for Funding will be reviewed in the order they are received.

Applicants will be notified in writing by the DTS team regarding the funding recommendation and the decision rendered (approval or refusal). Applicants that receive a decision of refusal regarding their application may request a reconsideration to the Administrative Review Panel within 30 calendar days of the date of receiving notification of the decision if the applicant has new and material information that could not have reasonably been submitted with their original Request for Funding and was not considered by the IAC or Council in its decision-making process. Refer to Section 4.4 above.

#### 5.4.5 Negotiation of the Funding Agreement

After approval by the IAC, ARP or Council to proceed to negotiate a Funding Agreement, the DTS Team will further refine project development details, negotiate the terms of a Funding Agreement and finalize any additional obligations of the PSI, including, but not limited to, permitting timelines, construction schedules, financing details, milestone obligations, finalization of the lease agreement between the Property Owner and PSI, and payment terms for the PSI Funds.

The PSI shall not finalize a lease agreement with the Property Owner without The City's knowledge. The PSI shall provide a copy of the executed lease agreement for attachment to the Funding Agreement to ensure overall alignment with Program requirements (lease agreement may be redacted to preserve the commercially confidential information of the Property Owner and PSI).

The Funding Agreement will be executed on behalf of The City in accordance with a Delegation of Authority issued by the Chief Administrative Officer.

#### 5.4.6 Contract Management

After the Funding Agreement has been signed/executed, the PSI must provide regular reporting to The City in accordance with the terms of the Funding Agreement. Failure to continue regular reporting in accordance with the Funding Agreement could result in an event of default and potential termination of the agreement, including repayment of all or a portion of the PSI Funds. Information on typical reporting documentation and requirements will be available on the Downtown Strategy website.

#### External Communications.

If applicable, The City, the PSI, and Province (if a participant) will coordinate public relations and external communications as stipulated in the Funding Agreement.

### 5.4.7 Payment of PSI Funds

Payment of the PSI Funds will occur in accordance with the terms of the Funding Agreement after the PSI's construction obligations have been achieved as set out in the Funding Agreement and notice of occupancy has been issued.

## 6 EVALUATION CRITERIA

The applicants' submission contained in the formal Request for Funding for the proposed project will undergo a fulsome review by the DTS Team. The review encompasses the following criteria summarized in the below table and further detailed throughout Section 6:

No.	Evaluation Criteria	Scoring
1	Legal Requirements – Legal Due Diligence	Pass/Fail
2	Financial Plan – Financial Due Diligence	Pass/Fail
3	Publicly Funded PSI – Government of Alberta	Pass/Fail
4	Understanding of the Proposed Project	Pass/Fail
5	Experience and Capacity of PSI to Manage/Undertake a Major Capital Construction Project	Pass/Fail
6	Occupancy Commitment – Minimum of 15 Years	Pass/Fail

The following identifies the information required to be submitted by the applicant PSI for each of the criteria above. Any additional information to support the required information may also be included. Further, if the information submitted lacks clarity or the DTS Team requires further information about a matter, the DTS Team may contact the PSI at any time during the process to obtain the requested information.

All criteria will be evaluated on a pass/fail basis as The City is providing the PSI Funds to another publicly funded institution registered with the Province of Alberta as a PSI and the PSI is ultimately responsible for the proposed project. Failure to achieve a “pass” on any of the Evaluation criterion will result in a denial of the Request for Funding.

### 6.1 Legal Requirements – Legal Due Diligence

The City will undertake a legal due diligence search of the Property Owner with whom the PSI is entering into a lease agreement. The search will include, inter alia, a search of land titles, property tax status, bankruptcy filings, any existing Canadian or international sanctions, litigation/prosecution status, and workers' compensation board status.

Property Owners will be scored on a pass/fail basis to ensure the project overall represents a sound investment for The City of Calgary. Failure to achieve a “pass” on the “Legal Requirements – Legal Due Diligence” criterion will result in a denial of the Request for Funding.

Completed due diligence searches will remain valid for a period of six months after the date of the completion of the due diligence search. However, the due diligence search may be updated at any time at the sole discretion of the DTS Team, depending on the status of the project.

### 6.2 Financial Plan – Financial Due Diligence

The PSI shall provide:

- A high-level breakdown of estimated project costs (it is understood that further refinement and provision of updated costing will be provided throughout the project);

- A financing plan and related timelines for fulfilment of the financing plan, including the status of any funding commitment from any other external source, including the Province of Alberta, commercial sponsors, or philanthropic donors (if any);
- Demonstration of the financial capacity and commitment of the applicant PSI to undertake the proposed project (i.e. verified by PSI's CFO in a letter to The City);
- An estimated funding request, based on the scope (including square footage of the premises to be converted to PSI space) of the proposed project; and
- Approvals from the Board of Governors of the PSI for the proposed project (or other required executive level authority).

A review will be performed of the breakdown of the estimated project costs, the PSI's financing plan, related timelines for fulfilment of the financing plan, as well as of the approvals required for the proposed project.

The DTS Team, in their sole discretion, reserve the right to request additional financial information if they require additional support to make an assessment of the financial capacity.

Applicants will be scored on a pass/fail basis in accordance with their ability to demonstrate their financial capacity to deliver the proposed project. Failure to achieve a "pass" on the "Financing Plan – Financial Due Diligence" criterion will result in a denial of the Request for Funding. Obligations regarding financing commitments will be incorporated into the Funding Agreement.

### 6.3 Publicly Funded PSI – Government of Alberta

The applicant PSI shall provide confirmation that they are publicly funded, receive financial support from the Province of Alberta and are identified and listed by the Government of Alberta as a publicly funded PSI.

Failure to achieve a "pass" on the "Publicly Funded PSI – Government of Alberta" criterion will result in a denial of the Request for Funding.

### 6.4 Understanding of the Proposed Project

In addition to the information required under Sections 6.2, 6.3, 6.5, and 6.6 herein, the applicant PSI shall provide the following information for review:

- Description of the proposed project.
- Any photos of the property, renderings or preliminary floorplans that demonstrate that the proposed PSI use can be accommodated within the building footprint.
- Description of any site constraints, such as:
  - environmental concerns,
  - utility servicing challenges,
  - any existing Development Agreement related to Plus 15 requirements, or other Plus 15 concerns.
- Any existing tenants or uses that may be retained, including any plans for tenant relocations (if known), existing active ground floor retail or Plus 15 level commercial uses, or other commercial uses in the property that will remain that may be relevant to the PSI's lease with the Property Owner.
- Any evidence of plans or work already completed (if available) that address applicable building codes and regulations, such as "assembly use" requirements related to fire code ingress and egress as well as floor loading and HVAC requirements.

- Details of the post-secondary programming being proposed upon completion of the proposed project, including:
  - Final functional program requirements, such as types of space required for the programming;
  - Most recent estimate of the number of students that are expected to take advantage of the PSI's programming;
  - Most recent approximate percentage of domestic and/or international students and projected student population growth over a minimum of the next five years expected as a result of the proposed programming expansion;
  - Plans to address student housing needs for both domestic and international students, and;
  - Timing for occupancy for the PSI's staff and student population (including set-up time required before semester commencement).

The PSI shall be responsible for obtaining any required information from the Property Owner. Applicants will be scored on a pass/fail basis in accordance with their ability to demonstrate that they have thoughtfully considered all aspects of the proposed property and its suitability for the proposed programming that the PSI will provide in the converted PSI space.

The DTS Team may request additional information to understand the PSI's plans for ensuring compliance with all applicable building codes and regulations and to ensure that adequate utility site servicing capacity is adequate.

Failure to achieve a "pass" on the "Understanding of the Proposed Project" criterion will result in a denial of the Request for Funding.

## 6.5 Experience and Capacity of PSI to Undertake a Major Capital Construction Project

The applicant PSI shall provide information regarding its capacity and experience in managing and/or undertaking the building improvements and tenant improvements contemplated in the proposed project, which shall include the following:

- Description of the construction/project team undertaking the building improvements and tenant improvements, including fit and finish requirements. The construction/project team includes both internal and external resources such as the architect/designer and general contractor required to complete the proposed project.
- Examples of previous relevant building and tenant improvement projects of similar scale undertaken by the PSI and/or Project Team. Contractor/consultant experience may be relied upon to fulfill this requirement; however, if contractor/consultant experience is relied upon, the PSI may be required to provide further financial or business information to ensure the capacity to deliver the proposed project.
- Estimated timeline for the proposed project, including anticipated receipt of all permitting approvals, construction timelines, and planned occupancy date.

Applicant PSIs will be scored on a pass/fail basis in accordance with their ability to demonstrate that they have the capacity and experience to manage and/or undertake the building improvements and tenant improvements contemplated in the proposed project, as well as the ability to work collaboratively with the Property Owner to complete the proposed project.

The DTS Team may request additional information to obtain a fuller understanding of the construction/project team or of the PSI's experience in managing or undertaking similar projects.

Failure to achieve a "pass" on the "Experience and Capacity of PSI to Manage/Undertake a Major Capital Construction Project" criterion will result in a denial of the Request for Funding.

## 6.6 Occupancy Commitment – Minimum 15 Years

The proposed lease agreement between the PSI and the Property Owner shall include a minimum 15-year term lease by the PSI of the identified property. A minimum 15-year term lease demonstrates a long-term commitment to Calgary's Greater Downtown. The PSI shall provide written confirmation that the Lease includes a minimum 15-year term.

A schedule of repayment will be included in the Funding Agreement in the event the occupancy is terminated earlier than the 15 years and repayment is required.

Failure to achieve a "pass" on the "Occupancy Commitment – Minimum 15 Years" criterion will result in a denial of the Request for Funding.

# APPENDIX

## 7.1 Greater Downtown Plan Area Map

