

# Plus 15 Fund Offset Program - Terms of Reference

## 1. Purpose

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The purpose of the Plus 15 Fund Offset Program (Plus 15 Program) is to provide a financial incentive to offset required Plus 15 Fund contributions, in order to encourage new residential development in the downtown, specifically within the boundary of the Plus 15 Policy.

The overall goals of the Plus 15 Program are to increase economic activity, vibrancy and safety in the downtown area by:

- Promoting new housing and increasing the downtown resident population to improve vibrancy and safety;
- Encouraging redevelopment to increase the mix of uses in the downtown;
- Supporting property values and tax assessment base; and
- Improving the public realm through new active uses at ground level.

## 2. Program Applicability

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### 2.1 Program Applicability

The Plus 15 Program is open to:

- Projects located within the Plus 15 boundary, as shown in Appendix A;
- Project proposes new residential uses (as listed in the Residential Group of Schedule A to Land use Bylaw 1P2007), excluding hotels;
- Projects that are, or are anticipated to be, required to contribute to the Plus 15 Fund as a condition of a development permit for the project; and
- Projects where development has not commenced prior to May 1, 2024.

## 3. Incentive

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### 3.1 Plus 15 Program

The Plus 15 Program is offering a reimbursement for contributions made to the Plus 15 Fund in accordance with an approved development permit for new residential projects, excluding hotels.

### 3.2 Decision Making & Approval

**Downtown Strategy Team (DTS):** DTS will be the main point of contact and will guide applicants and applications through the application review process. DTS will provide the comprehensive reviews and make recommendations to the Director for approval or denial of applications.

**Director:** is the Director, Downtown Strategy. The Director renders decisions, through consideration of DTS’s recommendation, on whether an application is approved to proceed to negotiation of a funding agreement (“Funding Agreement”).

All application decisions made to the Plus 15 Program shall be at the sole and exclusive discretion of the Director, Downtown Strategy.

Approval Range (per Project)	Decision Making
Up to \$1 million	Director, Downtown Strategy

### 3.3 Incentive Amount

The incentive amount will be for the full amount of the contribution made to the Plus 15 Fund, to a maximum of \$1 million per project. No interest will be paid on the original fund contribution amount.

### 3.4 Reimbursement Timing

The reimbursement will be payable upon issuance of an occupancy permit.

If the proposed project is phased, the proportionate amount of funds may be reimbursed upon issuance of an occupancy permit for each phase, as shown on the phasing plan within the approved development permit, and as outlined in a Funding Agreement. The reimbursement amount and calculation methodology will be at the sole and exclusive discretion of the Director.

## 4. Criteria

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### 4.1 Application Review Criteria

The criteria below will be considered in evaluating applications to the Plus 15 Program:

1. Site is located within the Plus 15 boundary (Appendix A).
2. Project proposes new residential uses (as listed in the Residential Group of Schedule A to Land use Bylaw 1P2007), excluding hotels **OR** new mixed-use development with a significant residential component, excluding hotels.
3. The project is comprised of a minimum of 80% Residential Uses, excluding Hotel
4. The project is, or is anticipated to be, required to contribute to the Plus 15 Fund as a condition of a development permit for the project.
5. Development must not have commenced prior to May 1, 2024.
6. Number, type, livability and affordability of new residential projects and units.
7. Standing and reputation of the applicant and/or property owner with The City of Calgary.
8. The financing of the project, including additional applied for incentives.
9. The track record of the applicant, property owner, and or consultant/advisor team in successfully completing similar large-scale construction projects in dense urban areas.
10. Anticipated timeline for completion of the project.

### 4.2 Post Reimbursement Criteria

The project must not be converted to a non-residential use or hotel, for a minimum of 10 years.

## 5. Application Process, Review, and Approval

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### 5.1 Application Intake

The Plus 15 Program will operate with an ongoing and continual intake process beginning May 1, 2024, subject to available funding. Applications should be submitted electronically to [downtownstrategy@calgary.ca](mailto:downtownstrategy@calgary.ca).

### 5.2 Application Submission Requirements

1. Applicant Information
  - a. Applicant name
  - b. Company name (if applicable)
  - c. Applicant's ownership status (property owner or representing owner)
    - If representing the owner, a [Letter of Authorization](#) from the registered owner of the land, their agent, or other persons having legal or equitable interest in the parcel.
2. Overview of the proposed development
  - a. Project address/location
  - b. Associated development permit number
  - c. Required, or anticipated, Plus 15 Fund Contribution amount
  - d. Project overview:
    - Project description
    - Number and type of new residential units
    - Proposed phasing (for multi-tower developments only)
    - Is the project providing affordable housing? (explain)
    - Estimated project timelines (permitting, construction and completion)
    - Has the applicant applied for any other City of Calgary incentive programs?
3. Project readiness, owner and financing due diligence information
  - a. Applicant's project experience with projects of a similar size and scope contemplated in the application, including any consultants, advisors and/or construction manager(s) that have relevant demolition experience and can demonstrate a proven track record in large scale demolition projects in urban areas, and including any applicable required human resources that have a project management, supervision and execution perspective. Identify any previous agreements that you have had with The City of Calgary, if any.
  - b. Signed authorization permitting The City to carry out corporate due diligence with respect to the project and the owner (see forms below).
  - c. Description of type of applicant/owner's corporate entity (include a corporate tree or structure diagram with application showing any parent/subsidiary corporate entities if applicable)
  - d. How, and from whom, financing and/or capital is to be sourced
  - e. Status of financing/funding
    - If financing required, provide evidence of financial support such as a comfort letter or commitment letter from the owner's financial institution demonstrating support for completion of the development project.

## **5.3 Review Process**

All applications will be subject to a multi-step review process. The purpose of this process is to stage-gate approvals and provide greater transparency to applicants as to status of their application in the process. It also provides decision makers clear points within a process where an application will either move to the next step or be refused.

### **5.3.1 Step 1: Application Intake & Preliminary Review**

Upon submission, the Downtown Strategy Team will review applications for completeness against the Application Submission Requirements (as detailed in Section 5.2). After intake, applications will go through a Preliminary Review. This step will confirm whether an application satisfies the Program Applicability criteria (as detailed in Section 2.1) that allows it to proceed to the next step. The criteria by which the application will be reviewed are the following:

- Location: project is located within the Plus 15 boundary, as shown in Appendix A;
- Use: project proposes residential uses (as listed in the Residential Group of Schedule A to Land use Bylaw 1P2007), excluding hotels;
- Contribution: project is, or is anticipated to be, required to contribute to the Plus 15 Fund as a condition of a development permit for the project; and
- Commencement: project has not commenced prior to May 1, 2024.

If the application does not meet all of the above criteria, the application will not be accepted.

### **5.3.2 Step 2: Application Review: Legal Due Diligence**

The City of Calgary will perform a comprehensive due diligence search to ensure (to the degree possible) that the owner or owner management group is reputable and represents a sound investment for The City of Calgary.

If relevant areas of concern are identified during the legal due diligence research, such may result in a refusal to proceed further with the application.

### **5.3.3 Step 3: Application Review: Evaluation Criteria & Financial Due Diligence**

The application will be reviewed to determine if it sufficiently satisfies the Evaluation Criteria (as detailed in Section 4.1).

This step will also include performance of financial due diligence by The City of Calgary of the owner's or owner management group's financial capacity, which will include documentary evidence of support for financing for the project, such as a commitment letter or comfort letter from the owner's or owner management group's financial institution, and the corporate annual filings and financial capacity of any corporate affiliates.

Applications that sufficiently satisfy the Evaluation Criteria and financial due diligence will be short-listed.

#### **5.3.4 Step 4: Funding Availability & Director Approval**

DTS will review all qualified applications that have proceeded through Step 3 for available funding. If there is sufficient funding for all qualified applicants, the applications will proceed to the Director for approval for the DTS to negotiate a Funding Agreement with the applicant, subject to the applicant obtaining an approval and releasing the associated development permit.

If there is not sufficient funding for all qualified applicants, the applicants will be evaluated on the following criteria:

- Readiness to proceed with the project;
- Prior experience and expertise; and
- Project considerations including provision of affordable housing, number and type of new residential units.

The highest rated applications based on the above criteria will proceed to the Director for approval to proceed to Step 5 (negotiation of a Funding Agreement).

All application decisions made pursuant to this Plus 15 Program shall be at the sole and exclusive discretion of the Director. If approved to proceed to Step 5, the Director may, at their sole and exclusive discretion, attach conditions to an approval. Conditions may include, but are not limited to: the applicant entering into a Funding Agreement within a specified timeline.

Application decisions, including approvals, made pursuant to the Plus 15 Program 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.

#### **5.3.5 Step 5: Funding Agreement**

The DTS will provide the applicant with the standard form of the Funding Agreement. Engagement of the parties (DTS, applicant, applicant's legal counsel, City Law) continues until either the terms of the Funding Agreement are agreed upon or they are not agreed to, and the deal terminates. The terms of the Funding Agreement will finalize any additional requirements such as development permit timelines, building permit timelines, construction schedule, and project completion.

If the parties agree to the terms of the Funding Agreement, the parties execute the Funding Agreement.

#### **5.3.6 Step 6: Contract Management**

The applicant is required to meet the terms of the Funding Agreement. Failure to meet the terms of the Funding Agreement could result in an event of default and potential termination of the agreement.

### 5.3.7 Step 7: Payment of Funds

Reimbursement will be payable upon:

- fulfilment of the terms of the Funding Agreement;
- receipt of proof of payment to the Plus 15 Fund (receipt of payment through City Cashiers); and
- issuance of an occupancy permit.

## 6. Monitoring, Reporting & Program Information

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### 6.1 Reporting

- The success of the processes outlined in these Terms of Reference will be monitored on an ongoing basis.
- The Downtown Strategy Team will provide information and make recommendations on the Plus 15 Program, as requested by Council.

### 6.2 Effective Date

These Terms of Reference are effective May 1, 2024.

### 6.3 Plus 15 Program Information

The Plus 15 Fund Offset Program - Terms of Reference, application process, and other applicable information will be available on The City of Calgary's website.

## 7. Confidentiality

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For the purposes of this section, "**Confidential Information**" means information considered proprietary to an applicant and disclosed to The City pursuant to the Plus 15 Program, and includes all material, data and information (regardless of form and whether or not the same is protected by copyright, patent, or other applicable law) which is not available to the public. "Confidential Information" does not include any information that: (i) is now in or subsequently enters the public domain through means other than by the direct or indirect disclosure by The City; (ii) is already in the possession of The City; (iii) is lawfully communicated to The City, free of any confidentiality obligation; (iv) The City has received the applicant's prior written approval to disclose; or (v) The City is required to disclose pursuant to the Municipal Government Act (Alberta), the Freedom of Information and Protection of Privacy Act ("**FOIP Act**"), or any subsequent legislation of similar effect, or The City is required to disclose pursuant to any law or order of a court having jurisdiction over the matter.

Applications may include the Confidential Information of the applicants. The City shall make all reasonable efforts to maintain in confidence the Confidential Information. Without limiting the generality of the foregoing, The City will make reasonable efforts to keep, file and store all Confidential Information, together with any notes or other material incorporating or relating to the Confidential information, in a manner consistent with the FOIP Act, as well as in a manner consistent with its confidential nature and to take all reasonable action, whether by instruction,

agreement or otherwise, to ensure that its employees do not disclose or use the Confidential Information directly or indirectly, for any purpose other than the purposes for which it was provided.

Notwithstanding the foregoing, The City may be required to disclose Confidential Information pursuant to its public disclosure obligations as contained in the FOIP Act. Should such disclosure be required, The City shall use its reasonable efforts to limit that disclosure and, in any event, shall make that disclosure only to the extent so required. The City shall communicate its disclosure obligations to all applicants and advise them that any disclosure of Confidential Information pursuant to The City's obligations under the FOIP Act shall not breach any obligation of confidentiality that may exist between The City and applicant.

# Appendix A: Plus 15 boundary

