



Hamilton

INFORMATION REPORT

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: WARDS 1, 2 and 3
COMMITTEE DATE: January 15, 2014	
SUBJECT/REPORT NO: Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program – (PED09263(b)) (Wards 1, 2 and 3) (Outstanding Business List Item)	
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SIGNATURE:	

Council Direction:

That staff report back to the General Issues Committee in the summer of 2013 on the success of the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program and its continuance or expansion.

Information:

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program was first introduced in October 2009 as a low-interest loan towards the cost of remediating properties for residential or commercial use within the Downtown Hamilton Community Improvement Project Area and the area defined by the Setting Sail Secondary Plan boundaries. The program was created to fill the gap left by traditional financial institutions for securing financing for the remediation of properties. The terms and conditions of the program are contained in Appendix “A” to Report PED09263(b).

Initially the program offered a low-interest loan equal to 75% of the cost to remediate a property to a maximum of \$100,000. In April of 2011, City Council approved amendments to the terms of the program increasing the maximum loan to 80% of the cost of remediation to a maximum of \$400,000. The interest rate on the loan is 1%

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork.

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below the prime rate as established by the Royal Bank of Canada (RBC). The interest rate is established at the time the first instalment of the loan is advanced by the City. The increase in the maximum loan amount was in response to conversations with brownfield industry stakeholders and potential applicants/property owners who indicated the \$100,000 was not sufficient to encourage a prospective landowner to purchase a brownfield property and undertake remediation.

Since the program was introduced, three applications have been submitted, two of which have been approved by City Council. The approved applications are:

- 275 James Street North. Environmental site remediation was required in order to permit the redevelopment of a vacant commercial building with on-site parking. The property has been remediated and the Bank of Montreal occupies the former vacant commercial space.
- 134 Cannon Street East. The applicant proposes to remediate the property and, upon remediation, redevelop the existing building creating a new commercial/office complex. The actual configuration of tenant space is unknown at this time. The owner is currently re-zoning the property in order to accommodate commercial/office uses. It has not been ruled out that live/work housing may be a part of the redevelopment. The loan was conditionally approved based on the applicant obtaining the required zoning amendment.

The take-up of the program has been limited based on, but not limited to, the following:

- The program was introduced during the global economic downturn.
- The Ontario Municipal Board (OMB) only recently made its final decision on the Setting Sail Secondary Plan which guides investment and development in the area.
- The inherent risk of purchasing contaminated property when uncontaminated properties are available to purchase within the geographic boundaries the program is offered.

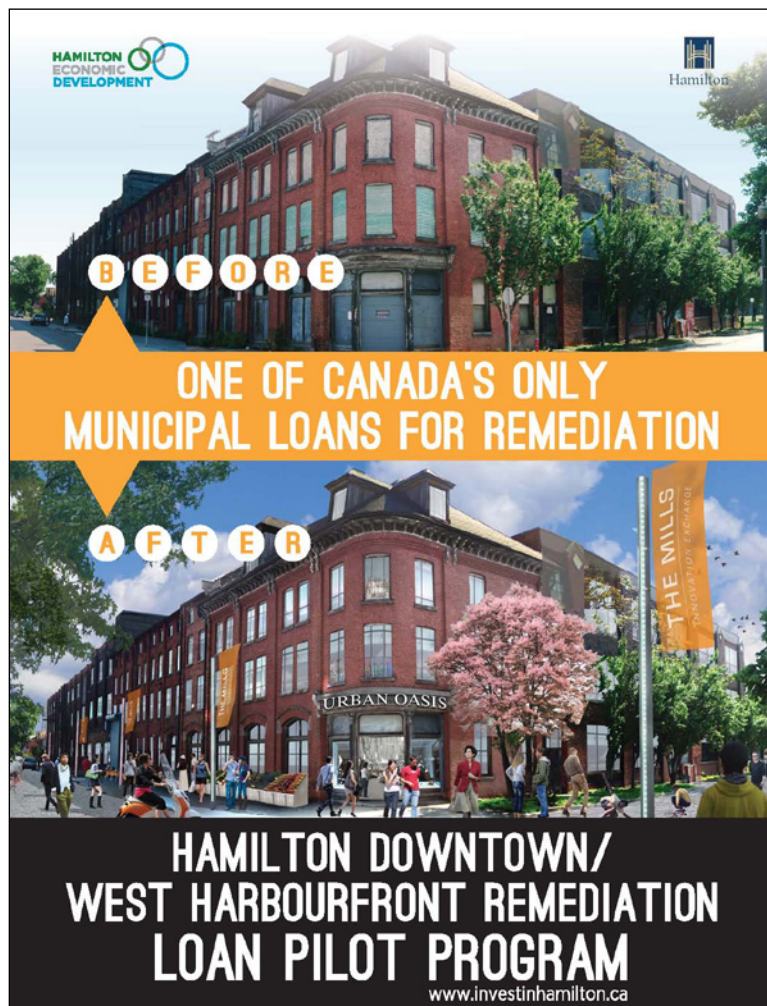
Now that the economy is showing signs of recovery and the OMB has made its decision on the appeals to the Setting Sail Secondary Plan, there is renewed interest in purchasing property in the Downtown and West Harbourfront areas. Therefore, staff will continue to offer the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program and will re-evaluate its effectiveness as part of the five year review of the Downtown and Community Renewal and the ERASE Community Improvement Plans. The review forms part of Urban Renewal's 2015 Work Plan and entails reviewing all financial incentive programs and project areas in which the programs are offered, with the objective of determining whether the programs need to be amended, expanded, focused on other geographic areas within the city or, cancelled. The resultant

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recommendations will be forwarded for consideration by Committee and Council in 2015.

Funding for the program is contained in Project ID # 8200903900.

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program was an award winner of the 2013 Canadian Urban Institute's Brownie Awards which recognizes excellence in brownfield development across Canada. The program won in the category for financing, risk management and partnerships.



The poster submitted as part of the nomination package for the CUI Brownie Award

Moving forward in 2014, as part of promotional initiatives for the financial incentive programs, staff will create a financial incentive brochure focussed on the Downtown Hamilton Community Improvement Project Area and the boundaries of the Setting Sail Secondary Plan highlighting all financial incentives offered within the areas. Once

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produced, the brochures will be provided to prospective investors as well as mailed to each property owner within each area.

APPENDICES / SCHEDULES

Appendix “A” to Report PED09263(b) – Downtown Hamilton / West Harbourfront Remediation Loan Pilot Program (RLP)

HM/dkm



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Downtown Hamilton / West Harbourfront Remediation Loan Pilot Program (RLP)

Purpose

The purpose of this program is to help remove a serious financial impediment to brownfield redevelopment efforts. Because it is often difficult to secure traditional financing for the remediation of contaminated properties, the City, by providing a low interest loan, is offering financing assistance and the economic stimulus for the remediation of properties being developed/redeveloped as residential or residential/commercial use within the defined areas of Downtown Hamilton and the West Harbourfront.

Program Description

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program (RLP) has been developed to stimulate residential or residential / commercial development/ redevelopment on properties requiring remediation (i.e. brownfield properties) that are located within Downtown Hamilton or the West Harbourfront. Downtown Hamilton is defined as the Downtown Hamilton Community Improvement Project Area (as such boundaries are presently defined). The West Harbourfront is defined by the boundaries of the Setting Sail Secondary Plan. The Program is an “add on” to the existing ERASE Community Improvement Plan implemented by the Economic Development Division.

The Program offers a loan for the remediation of properties being developed/ redeveloped for residential or residential/commercial use. The Program will provide financial assistance through a low interest loan equal to 80% of the cost of remediating a property within the defined areas to a maximum of \$400,000 per property/project. The loan is to be a ‘bridge’ until such time as the property owner receives their ERASE Redevelopment Grant money or the Hamilton Tax Increment Grant Program.

The development/redevelopment arising from this Pilot Program must be consistent with the policies, principles and design themes contained within the Downtown Hamilton Secondary Plan, the West Harbourfront Secondary Plan, relevant Urban Design Guidelines, and Zoning By-laws as well as any other City Council approved policy/regulation.

The Program is offering financial assistance for qualifying projects through a low interest loan equal to 80% of the remediation costs of the property, up to a maximum loan per property/project of \$400,000.

The Program is not intended to provide a loan for the total development/ redevelopment of the property but solely for the remediation costs that qualify under the criteria of the ERASE Redevelopment Grant Program, excluding LEED eligible component costs.

Actual costs for which the City loan is being provided may be subject to audit.

Prior to a loan being approved, realty taxes are required to have been paid in full as billed each year and remain in good standing throughout the development/ redevelopment of the property.

The loan under this Program, once approved, will be provided to the owner, in progress payments based on 80% of the actual qualifying remediation costs incurred as evidenced by copies of paid invoices. Such progress payments will be advanced within 30 days of submission of the property owner's request for a loan draw. There will be a limit of six draws, spaced no less than 30 days apart.

The loan provided under this Program will be subject to a Loan Agreement, and will be specifically secured by an assignment of the grant payments under the ERASE Redevelopment Grant Program. Payments under the ERASE Redevelopment Grant will be applied directly to the remediation loan until such time as the loan is repaid, and any balance in the grant will then and only then flow directly to the owner.

The owner has the option of securing the loan by an assignment of the grant payments under the City of Hamilton's Hamilton Tax Increment Grant Program if eligible. *Note:* The ERASE Redevelopment Grant is transferable to new property owners. City Council at its sole discretion may cease grants under the Hamilton Tax Increment Grant Program if property ownership changes. The Hamilton Tax Increment Grant Program shall not be transferred if the development/ redevelopment of the property is incomplete.

Remediation of the property will commence no longer than one year following City Council's approval of the loan commitment and be completed no longer than two years following City Council's approval of the loan commitment. The one and two year periods may be extended by City Council at its absolute discretion.

Redevelopment/development of the property will commence no longer than three years following City Council's approval of the loan commitment and be completed no longer than four years following City Council's approval. The three and four year periods may be extended by City Council at its absolute discretion.

The loan, if being repaid through the assignment of grant payments under the ERASE Redevelopment Grant Program, will be fully amortized over a maximum 10 year period calculated from the first full year in which the property is reassessed by MPAC. 100% of the grant amount will be applied to the repayment of the loan until the loan is fully repaid. In the event that the full 10 year grant amount is not sufficient to repay the loan in its entirety, supplemental payments will be a requirement of the applicant in order that each year through the 10 year repayment term, one-tenth of the loan amount is repaid.

The loan, if being repaid through the assignment of grant payments under the Hamilton Tax Increment Grant Program, will be fully amortized over a maximum five year period calculated from the first full year in which the property is reassessed by MPAC. 100% of the grant amount will be applied to the repayment of the loan until the loan is fully repaid. In the event that the full five year grant amount is not sufficient to repay the loan in its entirety, supplemental

payments will be a requirement of the applicant in order that each year through the five year repayment term, one-fifth of the loan amount is repaid.

In the event that the development/redevelopment of the property has not proceeded within one year of the remediation being completed or, the owner invalidates their qualification under the ERASE Redevelopment Grant, the loan will be capped immediately (unless alternate security acceptable to the City is provided) at the drawn amount and shall be repaid in annual installments over no longer than a five year period calculated from the date City Council approved the loan commitment.

Interest on the principal amount only will be repaid annually by the applicant commencing one year following the date of the first advance of the loan until such time as the repayment terms of the principal plus interest are confirmed.

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 installment of the loan is advanced by the City and reset annually on the anniversary date of the first advance.

The loan, together with interest can be prepaid in full by the owner without notice, penalty or bonus at anytime.

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

In order to support the redevelopment/development within the defined areas, the remediation loan may be received by an owner in conjunction with any other available municipal incentive program.

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 interest accrued to date.

In the case where the owner is a corporation, the owner 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 owner, the City shall have absolute discretion to request the full repayment of any outstanding loan under this Program together with interest accrued to date.

Regardless of whether or not an Applicant otherwise 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

Qualifying owners are owners of properties who qualify for financing under the ERASE Redevelopment Grant Program and/or the Hamilton Tax Increment Grant Program.

Qualifying properties are properties that fall within the Downtown Hamilton or West Harbourfront as defined by the Downtown Hamilton Community Improvement Project Area or the boundaries of the Setting Sail Secondary Plan.

Eligible program costs are the same as those established for the ERASE Redevelopment Grant Program excluding LEED eligible component costs. Eligible costs include:

- The cost of any action taken to reduce the concentration of contaminants on, in or under the eligible property to permit a record of site condition (RSC) to be filed for the proposed use by a qualified person, including costs of preparing the RSC;
- Phase II and Environment Site Assessments (ESA's), risk assessments or remedial work plans not covered by the ERASE Study Grant Program
- Installing environmental and/or engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment and/or Certificate of Property Use
- Monitoring, maintaining and operating environmental and/or engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment and/or Certificate of Property Use
- Demolition not covered by demolition charge credits (Area 3 only)
- Removal of existing on-site infrastructure prior to replacement up to a minimum of 25% of construction/improvement costs for on-site public works (water services, sanitary sewers and storm sewers) (Area 3 only)
- Certain relocation/removal costs for existing and operating industrial manufacturing and transportation uses, where such costs relate to or contribute directly to the actual remediation and rehabilitation of the site (Area 3 only).

The following terms specifically apply:

- a) The improvements made to buildings and/or land shall be in accordance with the Ontario Building Code and in compliance with all applicable City by-laws, official plans, zoning requirements and site plan approvals.
- b) All owners receiving approval for a City loan under this Program shall be required to enter into a Loan Agreement with the City.

Administration

The Economic Development Department will be responsible for administering the Loan, in consultation with other departments as necessary, specifically the Downtown and Community Renewal Division. Applications shall be submitted to the Economic Development Department and shall be accompanied by a Phase II ESA and/or risk assessment undertaken by a qualified person that:

- i) identifies the extent and provides a cost estimate for the environmental remediation, installation, monitoring, maintaining and operating environmental and/or engineering controls/works of the eligible property; and,
- ii) contains a detailed work plan and budget for said environmental remediation, installation, monitoring, maintaining and operating environmental and/or engineering controls/works;

Applicants will be required to have a pre-application consultation meeting with City staff in order to determine program eligibility, proposed scope of work, project timing, etc...

Applications shall be submitted to the Economic Development Department and shall include a detailed work plan and cost estimate for the proposed eligible works. Said work plan and cost estimate will be supported by a Phase II ESA and/or risk assessment undertaken by a qualified person that identifies the estimated cost of environmental remediation and a written contractor's estimate for other eligible works. The City may also require a Business Plan.

Before accepting an application, City staff will screen the application. If the application is not within the community improvement project area or the application clearly does not meet the program eligibility requirements, the application will not be accepted. Acceptance of the application by the City in no way implies loan approval.

Program eligibility will be determined by the Economic Development Department, in consultation with other departments as necessary. Applications will be recommended for approval only if they meet the criteria specified in this Plan and any other requirements of the City.

An application fee of \$270.00 must accompany the application. 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.

A recommendation on the application (including estimated eligible costs) and RLP Agreement will be forwarded to City Council (or Council's designate) for consideration. Once City Council (or Council's designate) approves the RLP Application, the RLP Agreement will be forwarded to the applicant for signature. Once the applicant has signed the agreement, the agreement will then be executed by City officials and a copy will be provided to the applicant. The City may require the applicant to register the agreement on title immediately upon execution of the agreement.

The Owner shall submit to the MOE a signed record of site condition (RSC) prepared by a qualified person, and the Owner shall submit to the City an acknowledgement of receipt of the RSC by the MOE. The City reserves the right to require the submission to the City's satisfaction, of environmental reports and documentation showing the subject property has been remediated to the appropriate levels for the proposed use.