

Formal Written Comments Received During Staff's Review

From: Luciano Piccioni [REDACTED]
Sent: January 4, 2023 4:33 PM
To: Caldwell, Phil
Cc: Lam, Judy; Schleeahn, Norm; Dan Gabriele; Dani Gabriele; Anthony Di Santo; Brandon Campbell; Anthony Girolami; Stefano Guglietti; 'Fred Serrafiero'
Subject: Brownfield Virtual Workshop on ERASE CIP Review - Comments from RCI Consulting
Importance: High

Hi Phil:

Happy New Year to you, Judy, and the rest of the staff team in Economic Development!

Following up on the virtual workshop in late November, and our brief discussion afterward, I finally found some time to pass along more detailed comments on the ERASE CIP. I mentioned some of these comments during the virtual workshop, but some are new. While I have copied my current ERASE clients on these comments for their information, I want to stress that these comments are just my thoughts for your consideration.

Please feel free to call me if you have any questions about the comments below.

ERASE Study Grant (ESG) Program

- As you and I have discussed, it is getting more and more difficult to obtain two (2) cost estimates for environmental studies. This is particularly the case when the applicant/ developer is known to work with a particular environmental consultant, or had a particular environmental consultant prepare a Phase One ESA and a Phase Two ESA on the property in question.
- The ability to obtain two quotes is even more of a problem with a Supplementary Phase Two ESA, or specialized studies such as a Risk Assessment or DSHM Survey. Environmental consultants are very busy right now, and in order to provide a cost estimate, the environmental consultant must prepare a work plan. Understandably, they don't want to spend hours preparing a work plan, including a detailed cost proposal, if they do not have a good chance of actually being awarded the study work by the ESG applicant.
- If most of the studies being funded by the ESG exceed the maximum grant per study, and I suspect many nowadays do or are close, the need for two quotes is lessened because: a) the maximum grant paid out by the City is the same (capped) regardless of the quoted amount; and b) the eligible study cost carried over from the ESG to the Erase Redevelopment Grant (ERG)is based on the actual cost of the environmental study, and the amount of this cost is typically negligible compared to the eligible remediation cost in the ERG.
- In summary, I think it is going to become even more difficult in the future to obtain two quotes for the types of studies eligible under the ESG Program. **Therefore, I would suggest that the City of Hamilton remove the mandatory requirement for two quotes from the ESG Program while retaining the right to require a second quote if the first quote appears to be too high based on industry standards.** With the volume of studies approved every year under the ESG, the City should have a pretty good handle on the reasonable cost of these studies based on number of boreholes, testing, etc...If the cost quote for the study seems to high, City staff can then request a second quote. Another alternative would be to requires two quotes only, where it is a Phase Two ESA being performed for the

first time (not a supplementary) by the current owner/applicant. Supplementary Phase Two ESA, RWPs, RAs, and DSHM Surveys would not require a second quote.

ERASE Redevelopment Grant (ERG) Program

- The idea of increasing the 80% TIG to 100% for projects that include a minimum amount of affordable housing is a good idea. I have used variations of this type of “bump up” to promote affordable housing in a number of brownfield and other types of CIPs over the last several years. Because the 20% bump from 80% to 100% is not necessarily significant enough by itself to induce the construction of affordable housing, **the City should also consider increasing the grant term from 10 years to say 13-15 years for affordable housing projects.**
- As we discussed, excess fill is becoming a major problem for developers. Even if this fill meets the industrial/commercial standard, but not the residential standard, the costs of testing, trucking and disposing of this fill, either at a receiving site or at a licensed waste facility in order to obtain an RSC, have sky rocketed in the last year or two. The MECP regulations require that the fill be tested, and I have come to learn that it is not nearly as easy as it sounds to find a site owner willing to legally take the excess fill. I have a client in another municipality who will need to spend over \$500K just on testing of excess fill and \$15M+ moving that fill to a receiving site. In some cases, this excess fill is the result of historical municipal infrastructure projects. At least one municipality in Niagara Region has agreed to accept the cost of excess fill management (testing, excavation, trucking and placement at a receiving site/disposal at a licensed facility) as an eligible cost under their equivalent ERG Program. **Therefore, I would suggest that the City of Hamilton include the costs of excess soil management as an eligible cost under the City’s ERG Program.**
- During the virtual workshop, there was some discussion of the City considering a cap on the amount of an ERG, depending on say the location of the project. Unfortunately, remediation costs do not respect geography. With the City’s policy emphasis on intensification within the current urban area, both downtown and elsewhere, it does not make sense to cap the ERG based on geography. The amount of a grant under the ERG Program is essentially already capped by the length (10 years) and percentage (80%) of the TIG. Therefore, if a project creates enough density, and therefore tax lift, to repay remediation costs, why should the ERG be further capped at some arbitrary amount? The result of doing so may be that certain brownfield redevelopment projects that would have been induced under the current ERG Program will simply not happen. **Therefore, I would suggest that the City not place any sort of dollar cap on the amount of grants awarded under the ERG Program.**

ERASE Tax Assistance Program

- You noted that the Province recently changed its BTIF Program to allow freezing of education taxes for 6 years on industrial/commercial projects and 10 years on residential projects and that the City is looking into this and considering matching the Province’s BTIF Program. **I would suggest that the City match the freeze of taxes permitted under the Province’s updated BTIF Program.**

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

- While subtle improvements have been made to this program, the \$400K limit is still too low to represent a significant inducement because most remediation projects far exceed \$400K. The security requirements of the program are also onerous. Finally, municipal administrative costs and resources for a loan programs like this can be high. The end result is the low uptake for this program that the City has

experienced. I note that in my experience in this field over the last 20+ years, very few if any other municipalities in Ontario offer or have offered a remediation loan program for the reasons noted above. Therefore, **I would suggest that if the City wants to retain this program, the loan limit be significantly increased. Consideration could also be given to limiting this program to affordable and non-profit housing projects/units.** Alternatively, if the City is not going to significantly increase the loan amount limit from \$400K, the program could be deleted from the ERASE CIP.

ERASE Development Charge Reduction (DCR) Program

- This Program was more attractive and easier for applicants to understand and access when the verified costs of remediation were applied directly against the DCs payable at building permit issuance, i.e., a true DC Reduction Program. The current DC Reduction Program is a hybrid type deferral program that applies the ERG against DCs payable utilizing the assigned ERG payments.
- I note that the copy of the 2018 ERASE CIP (updated to February 2020) available via web link on the City's Invest Hamilton website still contains a description of the ERASE DC Reduction Program (pages 38-40) that is outdated because it refers to the previous ERASE DCR Program in terms of both costs eligible to be applied against the DC payable, and the application of said costs at building permit issuance. **The description of the ERASE DCR Program within the CIP should be corrected in the update to the ERASE CIP. Even though the ERASE DCR Program is now authorised by the DC Bylaw rather than the CIP, in the interests of full disclosure and providing users of the ERASE CIP with full information about this program, the ERASE CIP should still contain a description of the program, including eligible costs, program requirements, and administration.**
- At 25 pages in length, the standard ERASE DC Deferral Agreement employed by the City is far too lengthy and it is difficult to understand. The standard terms of the Agreement, and particularly the security requirements, are onerous and too heavily weighted in favour of the City. Therefore, I find it very difficult to recommend to my clients that they sign this Agreement. **I would suggest that the City undertake a thorough review of the standard ERASE DC Deferral Agreement to make it shorter, easier to understand, and less onerous in terms of the security requirements and other requirements contained in the Agreement.**

ERASE Municipal Acquisition and Partnership Program (MAPP)

- You noted that this program has been reinitiated and that is a good thing. When I developed this innovative program and included it in the 2001 and 2004 versions of the ERASE CIP, the intent was for the program to act as a funding tool for the City to participate in the remediation and redevelopment of key brownfield sites by: assisting with the cost of environmental studies on key publicly and privately owned brownfields; remediating and rehabilitating publicly owned properties that could then be offered for redevelopment; acquiring, remediating, and redeveloping privately owned brownfield sites; and funding pilot projects and public-private partnerships to remediate, and redevelopment privately owned brownfield sites. The use of the MAPP funds to promote private affordable housing and non-profit housing on brownfield sites would be a highly appropriate use of MAPP Funds. However, it is imperative that the City actually use the funds in the MAPP Account, and then thoroughly document and publicise the results of these brownfield redevelopment projects.

Final Thoughts on the future of the ERASE CIP and Programs

- I am concerned that with most of the Council members now being newly elected, the ERASE CIP and Programs may be viewed by some councillors as "corporate welfare", especially for applicants who are

large developers. Therefore, it will be very important for City staff to educate the new Council on the immense economic, environmental, and social benefits that have been generated by the ERASE CIP over the last 20+ years. No municipal Brownfield CIP in Ontario comes anywhere close to having generated the amount of program uptake, development, and economic benefits when compared to the ERASE CIP.

- The brownfield projects coming across my desk today involve remediation costs that are much larger than those coming across my desk even just a few years ago. That is a direct result of stricter MECP environmental testing regulations, and the huge increase in waste disposal tipping fees and trucking costs over the last year to two years. Moreover, the less contaminated and complex brownfield sites (positive and neutral cash value) in Hamilton and other cities in Ontario have largely been redeveloped. Now we are seeing the more complex and higher remediation cost sites (negative cash value) coming forward. Therefore, it is no surprise that eligible remediation costs are much higher for recent ERG applications than earlier ERG applications. This is merely a natural evolution. Keeping these factors in mind, and taking into consideration the City's very public emphasis on promoting intensification within the current urban boundary, now is not the time to cap the amount of individual ERG amounts or restrict the ERG to certain applicants and/or geographic areas of the City. Now is the time to ensure that the ERASE Programs accessible, fair, and competitive. Based on our discussions over the years, I trust that you, Judy, and other key City Economic Development staff will skillfully and articulately deliver this important message to the new Council during the ERASE CIP Review process.

Thank you again for this opportunity to provide input into the ERASE CIP Review process.

Regards,

Luciano

Luciano P. Piccioni, M.Sc.Pl, RPP, Ec.D.

President

RCI Consulting

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From: Luciano Piccioni [REDACTED]
Sent: November 24, 2022 9:11 AM
To: 'Caldwell, Phil'
Cc: 'Lam, Judy'
Subject: RE: Brownfield Virtual Workshop - Thank you

Thanks Phil.

I am just pulling some notes together and will email my thoughts over to you and Judy, likely early next week. We can then discuss further if you have any questions or want additional feedback.

Regards,

Luc

Luciano P. Piccioni, M.Sc.Pl, RPP, Ec.D.
President
RCI Consulting

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From: Caldwell, Phil [REDACTED]
Sent: November 23, 2022 12:27 PM
To: Luciano Piccioni; Lam, Judy
Subject: RE: Brownfield Virtual Workshop - Thank you

Thank you Luc. Appreciate your taking the time to attend the workshop and your feedback. Also happy to connect about the other minor comments. Let me know when would work best for you.

Phil

From: Luciano Piccioni [REDACTED]
Sent: November 22, 2022 7:51 PM
To: Caldwell, Phil [REDACTED] Lam, Judy [REDACTED]
Subject: Brownfield Virtual Workshop - Thank you

Phil and Judy:

I just want to thank you for an informative presentation, and a well-run virtual workshop.

Phil – I have a couple of other minor comments around specific ERG and ESG program details that I will relay to you.

I am heartened to see that the ERASE CIP Programs are still relevant after all these years, and that the ERASE CIP is in good hands.

Thank you again for offering this workshop.

Regards,

Luc

Luciano P. Piccioni, M.Sc.Pl, RPP, Ec.D.

President

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West End Home Builders' Association

Serving members in Hamilton and Halton Region

February 6, 2023

To: Phil Caldwell RPP, MCIP
Senior Project Manager
Economic Development Division
City of Hamilton

WE HBA Letter of Support: ERASE Grant Program

The West End HBA and many of our member companies were pleased to participate in the City of Hamilton's November 22, 2022 virtual meeting to discuss the ERASE Grant Program. Based on discussions with our members, WE HBA would like to provide the City with a formal letter of support for the program. WE HBA believes this program is an important component of building on *sustainable sites* in Hamilton communities. **The most important message we have heard from our membership is that the ERASE Grant Program is *not* a form of "corporate welfare", but instead a critical use of government incentives to allow for development on heavily contaminated sites, that would have otherwise been cost prohibitive—while also permanently increasing tax revenue in the City over the long term.** Without this grant program, contaminated brownfield sites would otherwise remain undeveloped and unremediated. The purpose of the ERASE program is to level the playing field in terms of cost of developing brownfield intensification sites when compared to greenfield sites. As such, the program is critical to the future of intensification and growth in Hamilton.

Tax Increment Financing (the model through which much of the ERASE Grant Program is built) is a widely misunderstood financial model,¹ and as such clarity is of the utmost importance. A large portion of the program is "tax increment-based grants provided annually equal to a portion of the increase in taxes resulting from the remediation and redevelopment of a site as a means of reimbursing for costs required to remediate the environmental condition of the property".² In other words, the remediation of the site is contingent on its redevelopment, but the redevelopment and tax assessment uplift from the better utilization of the site is what pays for its remediation. Once the remediation grant has been repaid, the new development provides continual property tax revenue to the City at the newly uplifted property value, in perpetuity. Without having this incentive program in place, these sites would remain contaminated, undeveloped and underutilized. Hamilton has been, and should continue to be a leader in the brownfield remediation space.

It is within this context that WE HBA would like to follow up on the survey and provide feedback on behalf of our collective membership:

Should promoting and supporting the remediation and redevelopment of brownfields financially continue to be a priority for the City?

WE HBA believes the City of Hamilton should continue the promotion and support of remediation and redevelopment of brownfields. Part of this justification is that costs for both new development and remediation have increased on ERASE eligible sites. This is predominantly due to an increased focus on

¹ Jim Tischler, "C4C Housing Systems Workshop Series: Financial Incentives - TIFs, CIPs & More" Windsor Law Centre for Cities, June 21, 2022. <https://windsorlawcities.ca/housing-systems-workshop-series/>

² City of Hamilton, "ERASE Grant Program" February 2021.

residential redevelopment (which requires a higher standard of remediation) and that many of the remaining sites eligible for ERASE funding are contaminated at a higher level than previous sites, needing more intensive attention. Our members have emphasized that without the support from the City of Hamilton, these projects may be put off or potentially abandoned. The level of site contamination is often not fully known until a study has been completed, meaning there can often be hidden costs to a redevelopment project. Without having this program in place, many projects would simply be unfeasible, and the increased cost would likely make the sale price beyond what an average Hamilton home buyer could afford, writing off the development's feasibility. Smaller scale intensification projects will also be challenged to find ways to absorb that additional cost of remediation without the ERASE program funding. Our members have also identified that the program is a benefit to young/new companies that do not have the same resources to shoulder additional or unexpected costs. They noted that the projects built will be a better product for the end consumer, having received this funding. This could be through the provision of nicer features to enrich the development if the profit margins are not so small that they cannot be included.

Given all of the benefits the program provides to the City, WE HBA believes there is tremendous opportunity to be had by increasing awareness for the program. Informing developers of the program can help them make decisions about where and what properties they can purchase to redevelop. Timeliness of their awareness of the programs is especially important, so they may take full advantage of the program.

Do you believe that developments receiving financial assistance through ERASE should be required to address additional community priorities?

No, given ongoing challenges with the housing shortage, and multi-partisan provincial direction to build 1.5 million more homes over the next decade it is important to view housing as a community benefit, in and of itself.³ When a developer chooses to build housing in a space that will remediate historically contaminated lands, this is delivering on two of the City's needed community priorities—that being the cleanup of an environmental hazard and the delivery of new intensification housing units. WE HBA members are already challenged to deliver new housing at attainable prices. The layering on of additional community priorities to access ERASE grant funding would place an additional cost burden on the development. This will either increase the price for the purchaser or, given current market uncertainty, result in projects not moving forward. The Hamilton market will not bear cost increases at this time.

An alternative approach is that additional incentives on top of the ERASE program could be given for helping the City achieve these additional priorities. This could take the form of increasing the grant from 80% to 100%, or increasing the repayment timelines for affordable or non-for-profit housing. Any potential additional goals should be focused and targeted on only the most important and immediate needs—one of which is increasing overall housing supply.

Staff are considering establishing a per project dollar cap on tax grants. Are there areas of the city or types of developments/uses where a cap should not be applied?

WE HBA believes that there should not be a cap to the per project tax grants. As previously mentioned, the sites being redeveloped now are some of the more heavily contaminated sites. They have higher costs attached to their redevelopment. This is especially true for residential redevelopments, as they require a higher standard of soil remediation. Projects where the grant does not cover the cost of remediation may be delayed or abandoned, as developers would choose other locations to invest. When looking back to the goal of the ERASE Grant Program—to level the playing field between greenfield costs versus brownfield costs—the financial costs

³ Bohmee Kim, Rachel Long, Maryam Sheikh, Anastasija Zecevic and Rhea Saini, "Unlocking Municipal Land: Exploring Tools for Affordable Housing," CityLab Hamilton, December 2022.

to redevelop must be kept as close to equal as possible. If costs rise, especially in the housing market, they may be too high for the Hamilton area to support.

Are there remediation-related costs that should be added/removed from eligibility under the programs?

WE HBA does not recommend removing any current items from the program eligibility. In terms of items that should be added, our members have noted there are significantly rising costs for moving and testing of excess soil/fill. For residential development, the testing of excess fill is a requirement that should be considered as an addition to the program. A further idea is that an incentive could be given depending on the technology used for soil remediation, WE HBA might recommend the City of Hamilton look to the ClimatSol Plus program run by the Quebec government.

How could the City better support remediation and redevelopment of potentially contaminated commercial properties like current/former gas stations, dry cleaners etc.?

WE HBA would recommend the City provide a larger percentage for the grant portion of the loan on these sites or utilize funds from the MAPP program to support these projects. It was suggested that if these areas or types of properties in the City of Hamilton are a priority, they could incentivize those projects for redevelopment.

The Remediation Loan Program has not been well utilized. Why? What changes could be made to make it more useful?

Reasons for little success for this program seems to be due to banks having a more attractive loan process than the City of Hamilton, as banks do not require Letters of Credit. That said, low interest rates may have contributed to developers using banks rather than using the City program. There is some speculation that with the rise in interest rates, more use of the program may occur. Members also voiced concerns that the funding caps are too low for the types of projects the City is trying to capture. It was suggested that MAPP funds could be combined with this program to target and incentivize affordable housing and non-for-profit housing projects.

Conclusion

The ERASE program is a vital program for the redevelopment and intensification in the City of Hamilton. It helps the revitalization of Hamilton continue, and supports the completion of projects that would not otherwise be feasible when a site has been historically contaminated. As the continued intensification of the City of Hamilton occurs, this program will become even more integral to the future growth of our City as the "easy" or most cost effective remediation sites have already been redeveloped. The program supports a number of the City of Hamilton's identified priorities including the provision of enough housing for the community, the remediation of contaminated sites, and achieving high levels of intensification. WE HBA therefore submits this letter of support for the program for the City's consideration.

Sincerely,



Michelle Diplock, RPP, MPI

Manager of Planning and Government Relations
West End Home Builders' Association