

# ERASE STUDY GRANT (ESG) PROGRAM



## A. PROGRAM

### DESCRIPTION

The ERASE Study Grant (ESG) Program (the Program) is intended to support the undertaking of environmental studies on known or suspected brownfield sites to confirm and describe potential on-site contamination or develop a plan to remove, treat, or otherwise manage the contamination in support of site redevelopment/reuse. Additional studies may also be considered under this Program, in accordance with Section B, which investigate other forms of potential environmental impacts or which further facilitate the potential redevelopment/reuse of eligible sites.

This Program will apply within the Historically Developed Area as defined through the Environmental Remediation and Site Enhancement Community Improvement Project Area (ERASE CIPA) By-law.

Grants under this Program are subject to approval at the absolute discretion of the Manager of Commercial Districts and Small Business, Economic Development Division and subject to the availability of funding.

Grants under this Program shall be provided to the Applicant who is the registered owner of the site, or those provided with written consent of the registered owner to apply to this Program, and who incur the cost of the subject study, but shall not include the consultant hired to undertake the subject study.

The City retains the right to assess the reasonableness of costs via audit as well as the determination of cost eligibility under the terms of this Program.

For the purposes of this Program:

- A 'site' shall mean all properties forming part of the planned study and development area;
- A 'Qualified Person' shall have the same meaning as defined under Ontario Regulation 153/04, as amended; and

- A ‘not-for-profit housing development’ shall mean the development of a building or structure intended for use as a residential rental premise or a residential premise for the homeless to be owned and developed by:
  - a corporation to which the *Not-for-Profit Corporations Act*, 2010 applies, that is in good standing under that *Act* and whose primary object is to provide housing;
  - a corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that *Act* and whose primary object is to provide housing;
  - a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, 2022, c. 21, Sched. 3, s. 4; or
  - CityHousing Hamilton Corporation.

The Economic Development Division will periodically review the terms and availability of this Program and undertake updates from time to time subject to City Council approval and/or direction.

## B. PROGRAM ELIGIBILITY AND GRANT CRITERIA

1. Applications to this Program must meet the goals of the Environmental Remediation and Site Enhancement Community Improvement Plan (ERASE CIP).
2. This Program will apply within the Historically Developed Area as defined through the ERASE CIPA By-law.
3. Notwithstanding paragraph two (2), this Program shall not apply to a site where a designated heritage building has been demolished or on agricultural lands which have been the subject of normal farm practices.
4. A maximum of two (2) Applications may be submitted per site for eligible studies under this Program. Notwithstanding this maximum, sites which have been the subject of applications under this Program for which Grants were provided, may again be eligible to reapply where the subject site has not been remediated or redeveloped in the five (5) years since the last application approval was issued under this Program.
5. The maximum Grant under this Program per site shall be 50% of the cost of an eligible study (excluding HST) to a maximum of:
  - a. \$20,000 for the first study; and
  - b. A combined maximum of \$35,000 for two studies.

6. Notwithstanding paragraph five (5), for sites being investigated for use as a not-for-profit housing development, the maximum Grant provided under this Program per site shall be 100% of the study cost (excluding HST) to a maximum of:
  - a. \$40,000 for the first study; and
  - b. A combined maximum of \$70,000 for two studies.
7. Eligible Program Applicants include the registered owner or those provided with written consent of the registered owner to apply to this Program, but shall not include the consultant hired to undertake the subject study, with grants only payable to the successful Program Applicant and cannot be assigned or directed to any other payee unless otherwise provided for in the Program Administration section herein.
8. To be eligible, Applicants must demonstrate an intent to redevelop the site. Studies undertaken solely for the purposes of purchase/sale due diligence shall not be eligible. Determination of this intent shall be at the sole discretion of the Manager of Commercial Districts and Small Business.
9. Two (2) separate quotes and associated proposed work plans for the subject study shall be required. Grants will be calculated based upon the lowest cost estimate however the Applicant will not be required to use the lowest quoted consultant. A single quote may be accepted in extenuating circumstances at the discretion of the Manager of Commercial Districts and Small Business.
10. Prior to any application approval and/or Grant being provided:
  - a. Any outstanding Building Code, Fire Code or property standards orders or any other order applicable to the site by any judicial, governmental or regulatory authority shall be rectified; and
  - b. Any tax arrears on the subject site shall be paid.
11. Approval and the receiving of financial assistance under this Program shall not preclude eligibility, approval and the receiving of financial assistance under any other available municipal program.
12. A Grant may be reduced or cancelled if the study is not completed, not completed as approved, not completed within two (2) years of the City’s application approval or if the consultant conducting the study is not paid in full.

A one (1) year extension may be granted due to extenuating circumstances outlined in a formal request submitted by the Applicant to the City prior to the lapsing of the above time period and considered at the discretion of the Manager of Commercial Districts and Small Business.

13. If the study is an eligible Phase II ESA, Remedial Action Plan or Risk Assessment it shall be completed/reviewed by a Qualified Person and completed in accordance with Ontario Regulation 153/04, as amended
14. Completed studies will be reviewed and approved by the City’s Manager of Commercial Districts and Small Business for consistency with the quote and work plan submitted in support of the application and for compliance under the Program terms contained herein. If the study is found to be insufficient by the City’s Manager of Commercial Districts and Small Business, in their sole, absolute and unfettered discretion, the Grant may be reduced or cancelled unless it is resubmitted in a form and content satisfactory to the City’s Manager of Commercial Districts and Small Business, in their sole, absolute and unfettered discretion.
15. The Applicant shall be required to submit, to the satisfaction of the City, one digital copy of the completed study, invoices for the subject study and proof that the study consultants have been paid in full.
16. The City reserves the right to audit the cost of the study prior to advancing the Grant.
17. The City reserves the right to notify any subsequent project proponents or owners of the existence of an environmental study or studies for which the City has provided financial assistance towards under this Program.
18. The City reserves the right to share studies received under this Program within the City of Hamilton as required, but said studies and information contained therein shall not be shared publicly.
19. Grants shall only be payable to the approved Program applicant.
20. Grants under this Program are subject to approval at the absolute discretion of the Manager of Commercial Districts and Small Business and subject to the availability of funding.
21. Without limiting the discretion as set out in paragraph 20 herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where, in the opinion of City Council, or its delegate, 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 shall include but not be limited to the following: the Applicant identified on the application form and, if a corporation, any person or entity with an interest in the corporation or any officer or director of the corporation as determined by the City in its sole, absolute and unfettered discretion.

22. Without limiting the discretion as set out in paragraph 20 herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application without further consideration where due diligence undertaken by the City identifies municipal property tax arrears owed on the subject site, non-compliance with respect to Zoning By-law regulations or there exist outstanding property standards, Building Code or Fire Code orders in respect of the subject site or any other judicial, regulatory or governmental order in respect of the subject site.
23. Without limiting the discretion as set out in paragraph 20, herein, City Council, or its delegate, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where there is credible information that the Applicant has been involved recently or repeatedly in illegal activity supporting the conclusion that they will not conduct themselves with honesty and integrity in undertaking the activity, operation or business for which a Grant under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this paragraph 23, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 23 shall apply jointly and severally to each of them.

### C. ELIGIBLE/INELIGIBLE STUDIES

Studies eligible under this Program consist of the following based on geographic locations as defined in the ERASE CIPA:

1. Within the Historically Developed Area (HDA):
  - a. Phase II Environmental Site Assessments (ESA) (including interim and supplemental studies) where a Phase I ESA has been completed and recommended the need for a Phase II ESA;
  - b. Remedial Actions Plans; or
  - c. Risk Assessments; and
2. Within Sub-Area 1 – Older Industrial Areas of the HDA:
  - a. Designated Substances and Hazardous Materials (DSHM) Survey; or
  - b. Industrial/Office Reuse Feasibility Study; and
3. Sites located within the HDA that either contain a current/closed institutional use, contain a building designated under Part IV or V of the *Ontario Heritage Act*; or are being investigated for use as a not-for-profit housing development:
  - a. DSHM Survey

Ineligible studies shall be any study not identified in this Section or any study identified above which has been initiated prior to the date an application was submitted under this Program and accepted by the City. An Applicant shall assume the risk, and bear the sole responsibility, for any cost incurred after an application has been submitted but prior to approval under this Program being received should the application not be approved for any reason.

#### D. PROGRAM APPLICATION CRITERIA

A complete Program application shall be submitted to the Economic Development Division prior to commencing the subject study (retroactive applications are not permitted). Required documents and information forming a complete application shall be identified within the Program’s application form. The application date for the purposes of the Program will be the date on which City staff have deemed the application complete in their sole discretion.

An application fee is payable upon submission of application. The fee will be authorized through a user-fee by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council and will be identified on the Program’s application form. Application fees are non-refundable including in the event an application is not approved.

#### E. PROGRAM ADMINISTRATION

Economic Development Division staff will review applications for eligibility and completeness in accordance with the ERASE CIPA, ERASE CIP, the Program terms contained herein and in collaboration with other City departments as required. Acceptance of the application by the Economic Development Division in no way implies Grant approval.

The site and Applicant will be the subject of due diligence undertaken by the City prior to any approval being provided or payment of a Grant under this Program. This will include, but may not be limited to, confirmation of the following: all municipal property taxes are paid and current on the subject site, the site is in compliance with Zoning By-law regulations, that there are no outstanding property standards violations or orders, Building Code violations or orders or Fire Code violation or orders, any violations of law or any orders by any other judicial, governmental or regulatory authority, regarding the subject site or the development on the subject site and that the Applicant is not in litigation with the City. Failure to comply with any of the above will result in an application not being approved or, if the application is approved, non-payment of a Grant under this Program.

Grants under this Program are subject to approval at the absolute discretion of the Manager of Commercial Districts and Small Business and subject to the availability of funding.

If an application is approved, the Applicant will be provided an approval letter that outlines the terms and conditions of the Grant.

Upon study completion, paid Invoices for the subject study will be supplied to the City along with a digital copy of the completed study. The eligible Grant payment will be based on the City’s review, satisfaction and acceptance of the study and the aforesaid invoices and all supporting reports and documentation submitted outlining the full scope and cost of the work completed. Any and all of these costs may be subject to audit, at the expense of the Applicant, at the City’s discretion.

The City reserves the right require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the City to ensure the goals and purpose of this Program and the ERASE CIP are met.

Once the terms of the Program have been satisfied, a cheque will be requisitioned and issued, in the approved Program Applicant’s name, in an amount equal to the lesser of: 50% of the lowest quote submitted for the study; the actual cost of the study or the Program maximum as described in Section B. Grant calculation and payment exclude HST.

The City is not responsible for any costs incurred by the Applicant in any way relating to the Program, including without limitation, costs incurred in anticipation of an application approval or Grant being provided.

Applications to this Program not yet approved shall be subject to any changes to the terms of this Program which are approved by City Council prior to the application being approved.

City Council may discontinue this Program at any time. However, Applicants with approved applications will still continue to receive the Grant subject to meeting the Program terms contained herein