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## **DOWNTOWN HAMILTON / WEST HARBOURFRONT REMEDIATION LOAN PROGRAM (RLP)**

### **Purpose**

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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**

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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 1 year following City Council's approval of the loan commitment and be completed no longer than 2 years following City Council's approval of the loan commitment. The 1 and 2 year periods may be extended by City Council at its absolute discretion.

Redevelopment/development of the property will commence no longer than 3 years following City Council's approval of the loan commitment and be completed no longer than 4 years following City Council's approval. The 3 and 4 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 1<sup>st</sup> 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 5 year period calculated from the 1<sup>st</sup> 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 5 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 5 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 1 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 5 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.

Without limiting the discretion as set in the paragraph above, the City Council or its delegate, whether or not an Applicant satisfies the requirements of the Program, may reject any application received from an applicant where there is credible information that an applicant has been involved recently or repeatedly in illegal activity supporting the conclusion that he or she will not conduct himself or herself with honesty and integrity in undertaking the activity, operation or business for which the loan/grant is sought. For corporate applicants, it will be the corporation and the principals of the corporation whose illegal activity will be considered.

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**

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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**

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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 \$339.00 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.