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HAMILTON DOWNTOWN, BARTON AND KENILWORTH MULTI RESIDENTIAL PROPERTY INVESTMENT PROGRAM

PROGRAM DESCRIPTION

The Hamilton Downtown, Barton and Kenilworth Multi Residential Property Investment Program (the “Program”) was developed as a catalyst for stimulating residential development within Downtown Hamilton, the Barton Village Business Improvement Area (BIA) and the commercial corridors along Barton Street, east of the Barton Village BIA and along Kenilworth Avenue North as identified in the Downtown and Community Renewal Community Renewal Community Improvement Project Area. The Program is intended to provide financial assistance for projects that result in predominantly residential development including converting existing commercial space into multiple dwelling units; renovations to existing multiple dwelling units; the creation of a new multiple dwelling on vacant land; together with uses accessory to the residential development.

The Program may also qualify the applicant for additional incentives for the development of new rental units that meet affordability needs, subject to availability. Additional incentives may include any combination of development charge and parkland dedication exemptions, capital funding contributions and any other incentive as may be available from time to time for the purposes of encouraging the development of new affordable rental housing. In order to be eligible for additional affordable housing incentives, rental units must meet the definition and criteria established in the City of Hamilton By-law 03-148 to Adopt a Municipal Housing Facility By-law. When affordable housing is developed in conjunction with this Program, this Program constitutes an affordable housing program for the purposes of the City of Hamilton’s Development Charges By-law 14-153.

Acting as a lender, the City provides financial support for the Program and ensures that development arising from the Program is consistent with the policies, principles and design themes contained within the Urban Hamilton Office Plan, applicable Zoning By-laws, relevant Urban Design Guidelines, the Downtown Hamilton Secondary Plan as well as any other City Council approved policy / regulation.

TERMS OF THE PROGRAM

Hotels including all-suite hotels are not eligible under the Program. Student housing is eligible as long as it meets the definition of a dwelling unit: “a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway.

1. The maximum Loan term is five years and six months (subject to prior termination on default) from the date of the final advance exclusive of holdback. No extension or renewal shall be granted.
2. The Loan interest rate will be at 0 % interest for the first five years. For the last six months of the Loan, interest shall be payable on the principal outstanding at the then prevailing rate established by Council for interest on tax arrears, such interest to be calculated and payable monthly, not in advance.
3. The Loan will be secured by a second mortgage upon the lands to be developed (the “Property”) upon first advance of funds. In addition, the Applicant will enter into a Loan Agreement which includes (but is not limited to) the terms and conditions of this program description. All other security required by the applicant will be in place prior to advancing funds i.e. personal / corporate guarantees.
4. Interest on arrears will be 15% per annum or such tax arrears interest rate as may be established by Council from time to time.
5. Principal is repayable in annual amounts of ten percent, in 12 equal monthly payments, of the principal loan amount. Payments will commence one year following the substantial completion advance, exclusive of any required holdback. The balance outstanding will be paid by a balloon payment at the end of the five year and six month term. Monthly principal payments will continue during the last six months of the repayment term with interest calculated and payable monthly, not in advance, if not paid earlier.
6. If the development is a condominium, the repayment regime is as follows: upon sale of individual condominium units, the City will be repaid upon closing 25% of the sale price of the unit until the total loan amount has been paid in full. In addition to repayment upon sale of individual condominium units, commencing in the second year following the substantial completion advance, ten percent of the principal loan amount is repayable annually in the second, third, fourth and fifth years following substantial completion unless payments made upon sale of the individual condominium units are equal to or greater than ten percent of the principal loan amount in each of the second, third, fourth and fifth years. On the last day of the fifth year, a single payment of the balance outstanding will be required.

7. The loan may be prepaid at any time without notice, bonus or penalty.
8. The maximum loan amount is 25% of the Cost to Construct Budget prepared by an architect / engineer and addressed to the City of Hamilton and dated within 6 months of the date of application. For loans \$1 M or over, a letter addressed to the City from a third-party quantity surveyor approving the Cost to Construct Budget must accompany the application. For all loans the appraisal submitted at time of application is to be addressed to the City of Hamilton and include replacement cost. All of the aforementioned documents are at the expense of the applicant.

The maximum loan amount per development is \$4 M.

The maximum loan amount outstanding under the program to a single developer or related group will not exceed \$10 M at one time.

9. Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.
10. The City will periodically review the terms and the duration of the Program and make appropriate revisions as per the direction of City Council.
11. The City will request security required to secure a commercial loan, that may include the following: loan agreement; and / or personal property security; and / or personal guarantees; and / or corporate guarantees; and / or lien on the property to be improved; and / or collateral mortgage / charge registered on the property to be improved; and / or letter of credit in lieu of a second mortgage charge on the property (subject to City's minimum equity requirements); and / or such other security which may be appropriate or available in the circumstance. In the instance where a personal guarantee is required a personal net-worth statement will also be required.
12. Redevelopment/development will commence no longer than two years following City Council's approval of the loan commitment. The two-year period may be extended by City Council at its absolute discretion.
13. The City's funding will be advanced in three stages, upon completion of 60%, 80% and substantial completion of the project. Upon proof satisfactory to the City that the proposed development is 60% complete based upon the cost of construction and that equity and / or financing required to that stage of completion has been injected into the development then the approved City funds will be made available and released proportionately based upon the approved source of funds (equity / financing / City funds).

The calculation of the proportion to be advanced will reflect that the first 60% of funding is from non-City sources. Advances will be made in conjunction with first mortgage financing advances or after proof of equity injections.

14. Owner applicants shall have no less than 25% equity based upon the appraised value of the property upon completion. The appraisal must be addressed to the City of Hamilton, dated within six months of the date of the

application, include replacement cost, be prepared by an accredited member of the Appraisal Institute of Canada (AIC) and, must accompany the application. The cost of the appraisal is at the total expense of the owner.

15. An application fee of \$339.00 must accompany the application. An administration fee of \$565.00 per unit for developments with under 50 units; \$452.00 per unit for developments between 50 and 100 units and \$339.00 per unit for projects over 100 units is charged to the borrower and is eligible to be paid out of the loan proceeds. The administration fees will be paid out of the first loan advance that flows from the City of Hamilton. 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.
16. All taxes as billed must be paid current and in good standing throughout the development process.
17. Eligible existing buildings / vacant properties must be located in Downtown Hamilton, the Barton Village BIA or Barton Street, east of the Barton Village BIA and along Kenilworth Avenue North, as identified in the Downtown and Community Renewal Community Improvement Project Area By-law. Vacant lands include properties developed as parking lots.
18. Site Concept Plan drawings in a form acceptable to the City must accompany the application.
19. Advances are made by the City, upon proof by a third-party quantity surveyor for loans \$1 M or above confirming the value of the work completed. Loans under \$1 M require an architect / engineer to confirm the value of the work completed.
20. All costs associated with the conversion or renovations are to be borne by the applicant including construction, design, application and administration fees, appraisals, professional services, inspections, legal and registration fees. The City retains the right to assess the reasonableness of costs and which costs are eligible under the terms of the Program.
21. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property all monies outstanding on the loan shall forthwith become due and payable.
22. Change of Corporate Control
Where the Owner is a corporation the Owner covenants and agrees that in the event that:
 - a) the Owner fails to supply the City, in a form satisfactory to the City such information relating to the ownership of its shares as the City may from time to time require: or
 - b) without the written consent of the City first had and obtained:

- i) the Owner issues or redeems any of its shares or transfers any of its shares;
- ii) there is a sale or sales of the shares of the Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or
- iii) the Owner amalgamates, merges or consolidates with any other corporation

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Owner, or the requested information is not provided, then all monies secured by the mortgage together with accrued interest thereon shall forthwith become due and payable at the option of the City and the City's powers of sale hereby given and all other remedies for enforcement shall be exercisable.

- 23. The proposed development must conform to applicable Urban Hamilton Official Plan policies, the Downtown Hamilton Secondary Plan, Urban Design Guidelines and applicable Zoning By-laws, as well as any other City Council approved policy/regulation.
- 24. The City of Hamilton will require specific insurance terms to be met to protect the City's interest.
- 25. Deadlines for the submission and approval of building permits and construction start dates are established following a report to Council for approved applications.
- 26. Without limiting the discretion as set out in paragraph 9, herein, the City Council, may reject any application received from an applicant, whether or not an Applicant satisfies the requirements of the Program, 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).
- 27. Without limiting the discretion as set out in paragraph 9 herein, City Council, whether or not an Applicant satisfies the requirements of the Program, may reject any application received from an applicant where there are property tax arrears owed on the subject property or other properties owned by the Applicant within the City of Hamilton.
- 28. Without limiting the discretion as set out in paragraph 9, herein, 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.

29. Works commenced prior to submitting an application are ineligible. Works commenced after submitting an application but prior to application approval do so at the applicant's risk.
30. Please refer to the Application Form for the documentation required to be submitted as part of an application under this Program.