SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program (PED09263) (Wards 1, 2, 3)

RECOMMENDATION:

a) That the Program Description and Terms for the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program attached as Appendix ‘A’ to Report PED09263 be approved.

b) That staff be authorized to prepare and process the necessary amendments to the respective Community Improvement Plans and hold Public Meetings as required under the Planning Act to implement the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program in the following areas:

   Downtown Hamilton Community Improvement Project Area
   Setting Sail Secondary Plan boundaries

c) That staff report back to the Economic Development and Planning Committee in the Spring of 2011 on the success of the Program and its continuance or expansion.

d) That the General Manager, Planning and Economic Development be authorized and directed to execute any agreements as may be required to deliver the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program in a form satisfactory to the City Solicitor.
Report PED09263 introduces the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program, a Program designed to provide an economic stimulus for the remediation of properties located within the defined areas of Downtown Hamilton and the West Harbourfront. The report also recommends that upon approval of the Pilot Program, amendments to the respective Community Improvement Plans be prepared and processed as required under the Planning Act. Staff is to report back to the Economic Development and Planning Committee in the Spring of 2011 on the success of the Program and its continuance or expansion.

BACKGROUND:

The Downtown and Community Renewal Division introduced the concept of creating a financial incentive Program for the remediation of properties within Downtown Hamilton and the West Harbourfront as part of the 2009 Capital Budget deliberations. At that time, $500,000.00 was identified and subsequently approved as a priority project for funding with the 2009 Downtown Block. The Division’s 2008 Annual Report acknowledged the initiative reporting that the terms and conditions of the proposed remediation Program would be developed as part of the Division’s 2009 Work Plan.

The Program will provide a financial incentive for owners of contaminated properties to move forward with the remediation of their properties for the purpose of developing/redeveloping the property for residential or residential/commercial use within the Downtown Hamilton Community Improvement Project Area and the West Harbourfront as defined by the Setting Sail Secondary Plan boundaries (attached as Appendix ‘B’ to Report PED09263). The Program will be administered through the Economic Development and Real Estate Division and delivered as a component to the Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Program.

The initiative aligns with the mandate of the Downtown and Community Renewal Division which includes fostering the renewal and regeneration of Downtown Hamilton and the West Harbourfront. While staff recognize that the Program will not create sufficient financial incentive for owners of properties requiring millions of dollars of remediation costs, it will provide an incentive for smaller scale projects and, it is these projects that staff will focus the promotion of the Program.

ANALYSIS/RATIONALE:

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program will offer a low interest loan equal to 75% of the cost to remediate a property to a maximum of $100,000.00 per property/project. The annual interest rate on the loan will be 1% below the prime rate as established by the Royal Bank of Canada. Such rate will be established at the time the first installment of the loan is advanced by the City. The loan provided will be subject to a Loan Agreement between the property owner and the City of Hamilton. The loan is to be a ‘bridge’ until such time as the property owner receives ERASE Redevelopment Grant money or Enterprise Zone Grant money. The owner will
assign the grant money to the City of Hamilton for repayment of the loan until such time as the loan is paid in full. The grant will then and only then flow directly to the owner.

In the event that the development/redevelopment of the property has not proceeded within five (5) years of the remediation being completed or, the owner invalidates their qualification under the ERASE Redevelopment Grant, the City will require the loan to be repaid in annual instalments over no longer than a three (3) year period.

The ERASE Redevelopment Grant Program offers a financial incentive in the form of a grant based on the increase in taxes (municipal portion and, if eligible the educational portion) attributable to the remediation/redevelopment of the property. The owner at all times pays their taxes and, at the end of each year the City of Hamilton will reimburse the owner or assignee in the form of an annual grant equivalent to 80% of the increase in taxes that result from the remediation/redevelopment. Under the Pilot Program the grant will be assigned by the owner to the City of Hamilton to repay the loan.

The Enterprise Zone Grant Program (EZ) is offered within the Downtown Hamilton Community Improvement Project Area only. The Program offers a five (5) year grant equal to the increase in taxes attributable to the redevelopment of the property (municipal portion only). The grant is based on 100% of the increase in taxes the first year declining by 20% each year for the next four (4) years. The applicant, if eligible for the EZ, will have the option of assigning the grant to the City of Hamilton to repay the loan.

Eligible costs funded under the Program 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 (ESAs), 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 (only Area 3 of ERASE: west harbour area);
- 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); and,
- 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).

In order to offer the Pilot Program both the ERASE Community Improvement Plan and the Downtown and Community Renewal Community Improvement Plan have to be amended in accordance with the Planning Act. Staff from the Economic Development
and Real Estate and Downtown and Community Renewal Divisions will prepare and process the amendments upon approval of Report PED09263.

Planning and Economic Development staff will work with Legal Services and Finance in the preparation of all documentation required to administer the Pilot Program.

**ALTERNATIVES FOR CONSIDERATION:**

There are no alternatives offered for consideration at this time. If the Pilot Program is not approved the ERASE Redevelopment Grant Program will continue to be offered providing a grant based on the increase in taxes attributable to the remediation/redevelopment of contaminated properties; however, a loan towards the remediation costs will not be offered.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial** – As per accounting practice the loans will be set up as loan with concessionary terms with the net present value of the expected loan payments being calculated at the City’s cost of borrowing and expensed to the Division’s operating budget. Each year the provision will then be recalculated for any changes in circumstances. There would be an annual expense when no loan repayments are being made. There will be an annual revenue flowing through the Division’s operating budget when loan repayments are being made. To offset these expenses/revenues so there is no effect to the general levy a revolving capital WIP project will be set up with $500,000.00 transferred from the Hamilton Downtown/West Harbourfront Remediation Capital Project # 8200903900. It will also be available to offset any loan defaults.

The revolving fund balance and any additional increases to the loan Program can be evaluated at the end of the pilot period.

**Staffing** – The administration of the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program can be accommodated within the existing staff complement of the Planning and Economic Development Department and Corporate Services Department.

**Legal** – Section 28 of the Planning Act permits a municipality, in accordance with a Community Improvement Plan, to make loans and grants which would otherwise be prohibited under Section 106(2) of the Municipal Act, to registered/assessed owners and tenants of lands and buildings. A Community Improvement Plan can only be adopted and come into effect within a designated Community Improvement Project Area. Changes to a Community Improvement Plan or Community Improvement Project Area require formal amendments as dictated by the Planning Act.

Through the Brownfields Statute Law Amendment Act, 2001, legislative and regulatory amendments have been made to the following Acts to encourage the revitalization of underutilized and often contaminated land: the Environmental Protection Act; the Ontario Water Resources Act; the Pesticides Act; the Municipal Act, 2001; the Planning Act; and, the Education Act.
Legal Services staff will be involved in the ongoing review and drafting of any agreements as may be required to deliver the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program. Legal will also be responsible for ensuring that the security requirements, as may be required from the proponents, are fulfilled in order to best protect the interests of the City, in accordance with the Program.

**POLICIES AFFECTING PROPOSAL:**

The Program is consistent with the goals and objectives of the ERASE and Downtown and Community Renewal Community Improvement Plans and supports brownfield development as well as residential intensification targets and objectives established by the Province in the Places to Grow Growth Plan and Provincial Policy Statement.

**RELEVANT CONSULTATION:**

Staff consulted with Economic Development, Legal Services, Finance and Administration, Taxation, Finance and Budgets and the Ministry of the Ministry of Municipal Affairs during the preparation of this report.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

**Community Well-Being is enhanced.** ☑ Yes □ No
Partnerships are promoted through implementation of the financial incentive programs.

**Environmental Well-Being is enhanced.** ☑ Yes □ No
The initiatives help to improve the quality of life of residents. The remediation and redevelopment of properties make efficient and effective use of City services and protect human health and safety.

**Economic Well-Being is enhanced.** ☑ Yes □ No
Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases through the remediation and redevelopment of properties.

**Does the option you are recommending create value across all three bottom lines?**

☑ Yes □ No

**Do the options you are recommending make Hamilton a City of choice for high performance public servants?**

☑ Yes □ No

Hamilton continues to lead initiatives related to renewal. Such initiatives are professionally rewarding and attract high performing public servants with an interest in improving community life.

HM:vk
Attachs. (2)
HAMILTON DOWNTOWN/WEST HARBOURFRONT REMEDIATION LOAN PILOT PROGRAM

PROGRAM DESCRIPTION:

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program has been developed to stimulate residential or residential/commercial use development, and/or redevelopment on properties requiring remediation (i.e. brownfield properties) that are located within the 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 will be administered by the Economic Development Division utilizing $1 million in seed funding from Downtown Capital Budgets.

Because it is 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.

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 75% of the cost of remediating a property within the defined areas to a maximum of $100,000.00 per property/project. The loan is to be a ‘bridge’ until such time as the property owner receives their ERASE Redevelopment Grant money.

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.

TERMS OF THE PROGRAM:

The Program is offering financial assistance for qualifying projects through a low interest loan equal to 75% of the remediation costs of the property, up to a maximum loan per property/project of $100,000.

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.
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 75% 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. In the event that the development/redevelopment of the property has not proceeded within 5 years of the remediation being completed or, the owner invalidates their qualification under ERASE Redevelopment Grant, the loan will be required to be repaid in annual instalments over no longer than a 3 year period. The owner has the option of securing the loan by an assignment of the grant payments under the City of Hamilton’s Enterprise Zone Grant Program (EZ) if eligible. Note: The ERASE Redevelopment Grant may be transferable to new property owners. City Council at its sole discretion may cease grants under the EZ Program if property ownership changes. The EZ Program shall not be transferred if the development/redevelopment of the property is incomplete.

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 instalment of the loan is advanced by the City.

The loan, together with interest can be repaid 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.

**ELIGIBILITY REQUIREMENTS:**

Qualifying owners are owners of properties who qualify for financing under the ERASE Redevelopment Grant Program and/or the Enterprise Zone 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. 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 (ESAs), 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 of ERASE CIP);
- 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 of ERASE CIP); and,
- 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 of ERASE CIP).
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 Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program is administered by the Economic Development Division of the Planning and Economic Development Department.

An application fee of $250.00.00 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.

TIMING:

The Program is being introduced as a pilot program. Staff will review the success of the pilot program and report back to the Economic Development and Planning Committee recommending its continuance or expansion in Q1/11.