
Subject: Non-conforming Smarter Niagara Incentive Program Requests

Report to: Corporate Services Committee

Report date: Wednesday, August 7, 2019

Recommendations

That this report **BE RECEIVED** for information; and

That a copy of this report **BE CIRCULATED** to the City of St. Catharines.

Key Facts

- The purpose of this report is to inform Council of requests from the City of St. Catharines (City) for the Region to provide new and amended tax incentive funding for two properties located at 51 Lake Street and 136 James Street.
- Niagara Region partners with local municipalities to provide matching funding for eligible grants through a variety of programs, in this case through a suite of incentives included in the Region's Smarter Niagara Incentive Program. Local municipalities are eligible to apply for Regional matching funding for grants for locally approved projects in this incentive suite. Regional funding is based on eligibility, conformity to program parameters and is subject to budgetary approval.
- In 2014 the City, which had sold these properties to a private developer, approved tax increment grants (TIGs), residential grants, and municipal application/permit fee grants for these properties. The Region allocated matching funding through the two eligible programs (TIGs and residential grants) for each property, and provided in addition Regional development charge reduction grants for each of them.
- When contamination was subsequently discovered on these properties, the City retroactively designated these properties brownfields in 2016 and approved them for the higher brownfield TIG incentive rate. The City also approved new Brownfield Tax Assistance Program (BTAP) grants for each property under its 2015 Community Improvement Plan (CIP), for which it also has requested Regional matching funding.
- The intent of TIGs and BTAP grants is to provide incentives to remediate and develop sites that may not otherwise be rehabilitated. The City's requests to change the previously approved TIG amounts and add BTAP grants for the properties were made after remediation and construction had been completed on these projects.
- The Region has committed a total of \$1,302,497 for incentives for the two properties. The City is requesting an additional \$421,527 in Regional funding, which is not budgeted. Once the Region approves funding for these incentives they are

budgeted through assessment growth and there is no precedent for changing them. Details of approved funding and revised requests are provided in Appendix 3.

- Regional participation in these incentives is discretionary; there is no liability to the Region if it does not participate in any revised incentive funding requests.
- Regional Staff can not approve the request as it is retroactive and falls outside staff's delegated authority.

Financial Considerations

Niagara Region through the Smarter Niagara Incentive Program approved matching funding for tax increment grants (TIGs) for two properties in the City of St. Catharines, at 51 Lake and 136 James Streets in 2014. TIG incentives provide a grant based on a percentage of the increased assessment value of a development, usually over a 10-year period, and they are funded through assessment growth. The Region matched the two TIGs at the City's 45% rate for non-brownfield projects over ten years.

Two years after this approval, the City retroactively designated the properties as brownfields and approved both properties to receive the higher brownfield TIG incentive rate of 80% over 10 years. In addition, the City approved a new grant for each property, a Brownfield Tax Assistance Program (BTAP) grant. BTAPs provide a freeze or cancellation of municipal taxes on properties during a specified period of redevelopment.

The City has requested the Region match both the revised TIG grant levels and the new BTAP grants for each property which would result in an additional \$421,527 in Regional funding on top of the existing Regional incentive payments/commitments of over \$1.3 million. This figure includes Regional residential and development charge grants as well as the original TIG commitment for each property. Details are outlined in Appendix 3.

While funding at the original 45% TIG rate for each property is accommodated in the current Regional budget, there is no funding for the revised 80% TIG funding level request or for the new BTAP grants. The Region would match the local municipal program, a key part of which as outlined in the City's report on these requests, "one of the foundations of the program is that incentives are not provided retroactively for projects that already have commenced or are completed" (PBS 054-2016, Appendix 1). Any action to revise existing incentive levels for these properties would be non-conforming, require Regional Council action, and would have to be prospective, i.e., funding would have to be allocated in future Regional budgets.

Analysis

In 2014 through report PDS 189-2014, the City approved TIGs for properties located at 51 Lake Street and 136 James Street. These TIGs, for seven-story apartment buildings with 67 and 53 units respectively, were to be paid over 10 years at a 45% increment over the term of the grant. In the same report, these two properties were also each approved for residential grants. The Region approved matching funding for both TIGs and residential grants for both properties.

Contamination was subsequently discovered on the two properties. There did not appear to be a Record of Site Condition for either property, which sets out the environmental condition of a property based on environmental site assessments, prior to issuing of a building permit and work commencing. Total soil remediation costs for 51 Lake Street and 136 James Street were \$1,633,261.06 and \$1,425,960.57 respectively. In March 2016 City Council voted to reconsider and ultimately reversed its initial approval of the report on this request (PBS-054-2016) which did not recommend the new funding levels (Appendix 2).

In 2016 the City submitted a funding allocation request to the Region for these properties based on the retroactive brownfield designation rates for the TIGs, and for new BTAP grants for each property. Though the purpose of these incentives is to encourage remediation and redevelopment on land that may otherwise not be developed without such incentives, in response to a subsequent Regional inquiry the City notified the Region that work on both properties was complete. The Region matches project funding approved under eligible local programs, within the parameters of the Smarter Niagara Incentive Program. Following the City's program as outlined in its report on these projects (Appendix 1), the Region would not fund retroactive incentives. A request to do so is considered non-conforming, and must be brought by the local municipal partner before Council for consideration. This report represents that request.

Alternatives Reviewed

This is a report for information only. If Council takes no action, the Region allocated in the existing budget for TIGs at 45% on both properties will be paid out upon submission of complete invoicing packages. Regional funding for residential grants totalling \$250,000 and development charge grants/exemptions totalling \$537,000 have already been paid out.

Alternatively Council may consider approving the City's request for revised and new grants totalling \$421,527. This funding is not available in the 2019 budget. As these grants are funded through assessment growth any addition funding can be accommodated prospectively through future Regional budgets.

Relationship to Council Strategic Priorities

This report is for information and though its subject matter relates to Council Strategic Priorities, particularly fiscally sustainable government and responsible infrastructure planning, there is no recommendation that realizes any specific priority.

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Appendices

- Appendix 1 PBS 054-2016 Community Improvement Plan – Request for Approval of Applications, City of St. Catharines (February 22, 2016)
- Appendix 2 Corporation of the City of St. Catharines Regular Council Minutes (March 7, 2016)
- Appendix 3 Estimated Grant Costs for 51 Lake and 136 James Streets