



Corporation Of The City Of Kingston

Ontario

By-Law Number 2018-13

A By-Law to Adopt the Brownfields Community Improvement Plan

Passed: December 19, 2017

Amending By-Laws:

By-Law Number	Date Passed
2019-23 – Amending Schedule A	February 5, 2019
2020-148- Amending Schedule A and Map 1	October, 6, 2020
2023-13-Administrative Amendments	December 20, 2022

(Office Consolidation)

By-Law Number 2018-13

A By-Law to Repeal and Replace By-Law Number 2005-41, “A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A, 1B, 1C, 1D, and 2” with By-Law Number 2018-13 “A By-Law to Adopt the Brownfields Community Improvement Plan”

Passed: December 19, 2017

Whereas By-Law Number 2005-41, being “A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A, 1B, 1C, 1D, and 2”, was passed by the Council of The Corporation of the City of Kingston on February 15, 2005; and

Whereas the Council of The Corporation of the City of Kingston deems it advisable to repeal and replace By-Law Number 2005-41;

Therefore be it resolved that the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. By-Law Number 2005-41 of The Corporation of the City of Kingston, entitled “A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A, 1B, 1C, 1D, and 2”, as amended, is hereby repealed and replaced with By-Law Number 2018-13, being “A By-Law to Adopt the Brownfields Community Improvement Plan”, including Schedule “A” attached hereto.
2. This By-Law shall come into force and take effect on the day it is passed, subject to and in accordance with the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended from time to time.

This By-Law was given all three readings and passed on December 19, 2017



BROWNFIELDS

Community Improvement Plan



Photo credits for the cover page:



Canadian Locomotive Company (CLC), circa 1919
Source: Archives of Ontario



Block 'D' redevelopment (former CLC), 2010
Source: Homestead Land Holdings Limited

Brownfields Community Improvement Plan

December 19, 2017

City of Kingston
Community Services Group

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1.0 Administration, Interpretation and Plan Overview

1.1 Administration of the 2017 Brownfields Community Improvement Plan (CIP)

The Director of Real Estate and Environmental Initiatives, or their designate, will report to the Commissioner of Community Services for the purposes of the City's Brownfields CIP Programs. The Director of Real Estate and Environmental Initiatives, or their designate, along with the Commissioner of Community Services, will represent the City's Brownfields CIP Programs at the corporate management level in concert with the Chief Administrative Officer.

1.2 Glossary of Key Terms

The terminology associated with the 2017 Brownfields CIP is an important element and is key to understanding the City's Brownfields Redevelopment Strategy, the Brownfields Program components, and the process. A glossary of key terms is included as Appendix A and the key terms are capitalized throughout the document.

1.3 Overview of the 2017 Brownfields CIP

The purpose of the 2017 Brownfields CIP is to facilitate the implementation of the City of Kingston's Brownfields Redevelopment Strategy and to provide financial incentives to encourage private sector investment in the Rehabilitation and redevelopment of Brownfield Sites in the approved Community Improvement Project Areas. The sections of this 2017 Brownfields CIP describe the Legislative and Planning Authority (Section 3), the City's Brownfields Redevelopment Strategy (Section 4), the approved Community Improvement Project Areas (Section 5), the available Financial Incentive Programs (Section 6), the Financial Aspects of the Plan (Section 7), and Plan Implementation (Section 8).

1.4 2017 Brownfields CIP replaces the 2005 Brownfields CIP

The original Brownfields CIP (the 2005 Brownfields CIP, as amended) was approved by Council in 2005 and has been amended as summarized in Section 2.3 of this document. The 2017 Brownfields CIP replaces the 2005 Brownfields CIP, as amended.

1.5 Projects Approved Prior to the 2017 Brownfields CIP

Properties with approved by-laws (Initial Study Grant, Tax Assistance and/or TIRGP Grant), and/or registered Brownfield Site Agreements, which were approved under the 2005 Brownfields CIP, as amended, will continue to receive the financial incentives in accordance with the terms and conditions of those existing by-laws and/or agreements.

2.0 Introduction

2.1 What is a Community Improvement Plan (CIP)?

A Community Improvement Plan (CIP) is a tool that allows a municipality to direct funds and implement policy initiatives toward a specifically defined Community Improvement Project Area. Community Improvement Plans are intended to encourage Rehabilitation initiatives and/or stimulate development. Once implemented, the CIP allows municipalities to provide tax assistance, grants or loans to assist in the Rehabilitation of lands and/or buildings within the approved Community Improvement Project Area.

2.2 What are Brownfield Sites?

Brownfield Sites are abandoned, vacant or underutilized properties where expansion or redevelopment is substantially complicated by real or perceived environmental Contamination as a result of historical commercial or industrial land uses. Brownfield Sites are often characterized by building deterioration, untidy appearance and inadequate infrastructure. While past use of a property may provide an indication of potential contamination, this can only be verified through on-site environmental investigations. Brownfield Sites can vary considerably in size and character and can include properties formerly used for factories, dry cleaners or gasoline stations and lands subjected to unregulated landfilling. Brownfield Sites are often overlooked for redevelopment due to the significant financial costs and liability associated with site rehabilitation. Brownfield Sites are usually located within the core of the urban area where infill redevelopment is desirable from a community sustainability perspective; however, may also be located in other areas within the urban boundary of the City of Kingston.

2.3 Background to the Brownfields Program and the CIP

The City of Kingston has a number of properties that have been or may be impacted by former industrial or commercial uses and may be contaminated as a result of these historical activities. Many of the City's Brownfield Sites are located in the core area with access to existing infrastructure, services and transportation networks. Left abandoned or vacant, Brownfield Sites represent lost property tax revenue, lost residential accommodation, and lost employment opportunities. Vacant and neglected Brownfield Sites can also present serious health and safety issues related to deteriorating buildings and/or surface debris present on the site. Utilizing core areas of the City for development, redevelopment and infill projects helps to mitigate the pressure to expand the urban boundary.

In most cases, Brownfield Sites cannot compete with Greenfield Development. In addition to physical problems often associated with such sites, a variety of legal, financial

and environmental obstacles discourage private sector redevelopment initiatives and reinvestment. If the property is to be rehabilitated and converted to a more sensitive use, such as residential, costly activities such as Phase I and II Environmental Site Assessments, site Rehabilitation, and the submission of a Record of Site Condition (RSC) are required in accordance with provincial standards.

In response to this issue, City Council passed a resolution on June 25, 2002 approving “the formation of a Task Force to review and develop a strategy for the remediation and redevelopment of lands affected by Brownfields”. The Brownfields Program recommended by the Task Force was approved “in principle” by City Council at its meeting of June 10, 2003. In 2005, Council passed by-laws to designate Community Improvement Project Areas 1A & 1B and to adopt the Community Improvement Plan (CIP) for Brownfields Project Areas 1A & 1B. The purpose of the CIP was to facilitate the implementation of the City of Kingston’s Brownfields Program, and its key financial components, through the provision of Tax Assistance and Rehabilitation Grants for environmentally compromised land and/or buildings in accordance with an approved Remedial Action Plan.

Subsequent to the original approval, the Brownfields CIP was amended in May of 2006 to revise the boundary of Project Area 1A and to introduce a number of administrative and housekeeping amendments. Amendments to the CIP were approved by Council in May of 2013 to further revise the boundaries of Project Area 1A, add a new Project Area 1C (Williamsville Main Street Area), and introduce a number of administrative and housekeeping amendments. Project Areas 1D (223 Princess Street) and 2 (700 Gardiners Road) were added to the Brownfields CIP by amendment in 2016.

2.4 Review of the Brownfields Program and the CIP

The City’s Brownfields Program components, implemented through the CIP have been successful in encouraging private sector investment in the Rehabilitation and redevelopment of Brownfield Sites in the City. Notwithstanding that success, it was recognized that there is a need for continual monitoring of the performance and impact of the financial incentives being offered to ensure that the goals of the Brownfields Program and the CIP are being accomplished and remain consistent with Council’s priorities, and that the financial incentive programs do not become a financial challenge for the City. The ability of the City to continue financing brownfield tax rebates at current levels while achieving its one percent tax assessment growth target was identified as a concern.

In 2016 the City undertook a review of the existing components of the Brownfields Program. The key objectives of the review included:

- a. Maintain a meaningful level of financial incentive and focus the benefits of the Brownfields Program and CIP on properties where the environmental

encumbrances are significant and the redevelopment projects have the greatest community benefits;

- b. Improve the clarity and predictability of the Brownfields Program and simplify implementation by including implementation guides in the document; and
- c. Decrease the short-term financial impact on the City from future brownfield financial incentive payments while maintaining effective financial incentives to level the playing field with Greenfield Development.

Following consultation with the community, and further analysis by staff, the City decided to retain the ability to provide up to 100% of the eligible remediation costs as outlined in the Brownfields CIP, and to continue to rebate 80% of the difference between the pre- and post-rehabilitation and development property taxes as part of the Rehabilitation Grant. It was determined that reducing these percentages would have a negative impact on the redevelopment of individual Brownfield Sites, while the short-term benefit to the municipality would be minor. There have been other revisions to the Brownfields CIP that will help mitigate the financial impact to the City and the Brownfields Program, namely: placing a hold on all new applications for Community Improvement Project Area 2 (i.e. Williamsville Main Street); no longer allowing exemptions for development charges and impost fees; and excluding federal and provincial properties from receiving financial incentives. The administration of the Brownfields Program through the continued use of the sliding scale approach, which was approved by Council in 2014, also enables the City to adjust the financial incentives for each application based on demonstrated need.

3.0 Legislative and Planning Authority

3.1 2014 Provincial Policy Statement (PPS)

The 2014 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Under Section 3 of the *Planning Act*, all municipal decisions regarding planning matters “shall be consistent with” applicable provincial policy. This includes municipal plans and policies, such as Community Improvement Plans.

Section 1.1.3.3 states that “Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including Brownfield Sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.” In addition, Section 1.7.1 notes that long-term economic prosperity should be supported by such initiatives as “maintaining and, where possible, enhancing the vitality and viability of downtowns and mainstreets” and “promoting the redevelopment of Brownfield Sites”.

Finally, Section 3.2.2 speaks to the proper Rehabilitation of Brownfield Sites prior to any redevelopment or reuse by indicating that “Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects.”

The Rehabilitation of Brownfield Sites in Kingston will provide renewed areas for both homes and businesses within already developed urban neighbourhoods, thereby fostering economic growth, maximizing the use of existing infrastructure and improving environmental quality, health and safety, all in support of the policies of the PPS.

3.2 The Planning Act and Municipal Act, 2001

The *Planning Act* provides the statutory framework for the development of Community Improvement Plans (CIPs) in the Province of Ontario. A CIP is a tool that allows the City to direct funds and implement policy initiatives toward a specifically defined Community Improvement Project Area. Section 28 of the *Planning Act* allows municipalities, where community improvement policies are set out in their Official Plan, to designate by by-law a Community Improvement Project Area and to prepare a CIP for that Community Improvement Project Area. Section 365.1 of the *Municipal Act, 2001* provides that where a Community Improvement Project Area has been designated and a Community Improvement Plan is in effect in accordance with Section 28 of the *Planning Act*, the CIP may also provide a tax cancellation program specific to brownfield Rehabilitation.

With respect to failed tax sales, Section 354(3) of the *Municipal Act, 2001* authorizes the write off of taxes after a failed tax sale and Section 379(5) authorizes the City to conduct a public sale of lands in tax arrears. For the purpose of assisting municipalities in determining whether or not to acquire lands offered for public sale, Section 386.1 of the *Municipal Act, 2001* provides a period of 24 months for the City to enter on and inspect the property, conduct any environmental testing, take and remove samples, make inquiries about the property of any person, and record or copy information by any method.

3.3 City of Kingston Official Plan (OP)

The City of Kingston Official Plan was adopted by Council on March 7, 2017 and approved by the Ministry of Municipal Affairs and Housing (MMAH) on August 8, 2017. The OP includes the same definition for Brownfield Sites as the PPS.

Section 2.1 of the OP outlines the City's strategic policies for attaining sustainable development in the community. These policies include: rehabilitating polluted areas; limiting the need for undue extension of infrastructure; achieving appropriate densities; maximizing investments in infrastructure and public amenities; revitalizing both neighbourhoods and employment areas; and rehabilitating Brownfield Sites for reuse. Section 2.3 indicates that the focus of growth will be within the urban boundary and that Council intends to increase net residential densities through such strategies as the development of under-utilized properties and Brownfield Sites and through the implementation of area specific policy directives tied to secondary planning areas and specific policy areas such as the North King's Town area, which includes portions of the Old Industrial and Inner Harbour areas located in Community Improvement Project Area 1A, the Princess Street Corridor, and areas identified as "Centres" in the OP.

The City's intent regarding contaminated sites, as set out in Section 5 of the OP, is that such human-made hazards be responsibly managed. The Official Plan identifies the need for Phase I and Phase II Environmental Site Assessments, and the mandatory filing of a Record of Site Condition (RSC) for the change of use of a property from industrial or commercial to residential or parkland or any lands to be dedicated to the City. The clean-up of contaminated sites must be undertaken in accordance with the applicable standards and guidelines of the Ministry of the Environment and Climate Change (MOECC). If Contamination has spread beyond the property boundaries, the City requires an Off-Site Management Plan and Remedial Action Plan to be implemented to the satisfaction of the City and the MOECC.

Section 9.8 of the Official Plan (refer to Appendix B) contains the community improvement policies that enable the creation of CIPs. Schedule 10 of the City of Kingston Official Plan designates the entire urban area of Kingston as a community

improvement area. The community improvement area may be designated, in whole or in part, by by-law, as one or more defined Community Improvement Project Areas, for which detailed Community Improvement Plans may be prepared. The Community Improvement Project Areas for the 2017 Brownfields CIP are discussed further in Section 5.0.

The policies specifically recognize the presence of lands or buildings that may require detailed environmental site assessments and the need for site Rehabilitation as criteria for establishing a Community Improvement Plan. Implementation strategies encourage the redevelopment, conversion and environmental Rehabilitation of Brownfield Sites and the development of an environmental program to assist in the Rehabilitation of environmentally compromised land or buildings. As such, the Official Plan is consistent with the applicable provincial policies with respect to Brownfield Sites.

4.0 Brownfields Redevelopment Strategy

Kingston's Brownfields Redevelopment Strategy was initially developed in 2003. The City's Brownfields CIP established the legislative, policy and financial framework for the City to promote the Rehabilitation and redevelopment of Brownfield Sites in accordance with that strategy. The initial strategy implemented the general direction of the 2005 Provincial Policy Statement (PPS) and the policies, goals and objectives of the City of Kingston Official Plan. The Brownfields Redevelopment Strategy set out in this 2017 Brownfields CIP is consistent with the 2014 PPS and the policies, goals and objectives of the City's Official Plan. A key component of the City's Brownfields Redevelopment Strategy continues to be the financial incentives offered through the Brownfields Program.

4.1 Goals and Objectives

Council recognizes that successful Brownfield Site Rehabilitation and redevelopment can result in significant environmental, economic and social community benefits. Those benefits include increased tax revenues, neighbourhood revitalization, employment, improved health and safety, new business and housing opportunities and reduced environmental risks. As such, the goals and objectives of the City's Brownfields Redevelopment Strategy include:

- a. Promoting the Rehabilitation, redevelopment and adaptive re-use and overall improvement of Brownfield Sites throughout Kingston in a fiscally responsible and sustainable manner over the long term;

- b. Encouraging private sector investment in the Rehabilitation and redevelopment of Brownfield Sites by “levelling the playing field” with Greenfield Development through the financial incentives of the City’s Brownfields Program and CIP;
- c. Maximizing the use of existing infrastructure, services and facilities by encouraging the redevelopment and intensification of abandoned, underutilized and vacant sites;
- d. Revitalizing the downtown, neighbourhoods and the waterfront;
- e. Increasing tax assessment and property tax revenue;
- f. Improving the physical and visual quality of Kingston;
- g. Increasing employment opportunities, economic activity and investment;
- h. Improving the City’s overall environmental health and public safety in areas where Brownfield Sites are located; and,
- i. Increasing community awareness of the economic, environmental and social benefits of Brownfield Site Rehabilitation and redevelopment.

4.2 Strategic Linkages

Kingston’s Brownfields Redevelopment Strategy is further supported by Council’s Strategic Priorities 2015-2018 with the guiding theme of “A Smart and Liveable 21st Century City”, and the Sustainable Kingston Plan with the vision: “Kingston – Canada’s Most Sustainable City”.

Redevelopment of Brownfield Sites is an identified action related both to Council’s priorities to “Create a Smart Economy” and “Plan a Livable City” and to the environmental responsibility and economic health pillars of the Sustainable Kingston Plan. It is also one of the goals of the City’s Urban Growth Strategy and a cornerstone for implementing Council’s intensification objectives. Council recognizes that Brownfield Sites represent prime redevelopment opportunities within the urban area of the City. Redevelopment of these vacant and underutilized sites achieves a higher and better use of urban lands and the supporting infrastructure and services, resulting in assessment growth and an increase in municipal tax revenues.

Council also recognizes that the concept of livability embraces balancing the four pillars of sustainability and promoting community engagement and pride. The City will continue to target Failed Tax Sale and abandoned properties for redevelopment purposes. Rehabilitating Brownfield Sites rejuvenates abandoned properties and helps to promote neighbourhood stability and pride and further neighbourhood revitalization. Redevelopment or adaptive re-use of Brownfield Sites provides opportunities for economic development that can bring new housing developments to a neighbourhood

and create new businesses or new recreational facilities, thereby improving the quality of life for neighbouring residents and stimulating investments on nearby properties.

Rehabilitating Brownfield Sites also improves the overall environmental quality of soil and groundwater in Kingston. The clean-up of Brownfield Sites removes contaminants from buildings, soils and groundwater and helps restore the environmental quality of neighbourhoods and the community. Site Rehabilitation also removes threats to human health and safety. Environmental restoration of individual properties can have a cumulative positive impact on the environment, including the protection of groundwater resources, wetlands and wildlife habitat.

4.3 “Levelling the Playing Field” with Greenfield Development

As part of this Brownfields Redevelopment Strategy, Council recognizes that Brownfield Sites pose financial challenges to Rehabilitation and redevelopment. These challenges can make Brownfield Sites less attractive from a market perspective and may deter private sector investment. Since 2005, the City has offered financial incentives of the Brownfields Program through the Brownfields CIP to assist in levelling the playing field for brownfield redevelopment projects versus Greenfield Development. Under the financial incentive components of the Brownfields Program, Tax Assistance and Rehabilitation Grants are offered to private sector development proponents to mitigate the costs associated with site Rehabilitation. Through the 2017 Brownfields CIP, the City will continue to offer the financial incentive components of the Brownfields Program for the Rehabilitation and redevelopment of Brownfield Sites located within the Community Improvement Project Areas.

5.0 Community Improvement Project Areas

Only properties that are located in a Community Improvement Project Area (CIPA) will be eligible to apply for funding under the City’s Brownfields Program.

Location of a property within one of the CIPAs does not guarantee eligibility for funding under the Brownfields Program. Not all properties within the CIPAs are contaminated and not all Contamination presents a sufficiently large burden to the redevelopment of a property to justify the approval of municipal financial incentives. While past use of a property may provide an indication of potential Contamination, this can only be verified through on-site investigations. Only properties that are contaminated and require Rehabilitation, and where required by law, submission of a Record of Site Condition, to permit the proposed change in land use in accordance with provincial regulations and standards will be eligible for the Brownfields Program.

The Community Improvement Project Areas approved by Council are described below and are shown on Map 1.

5.1 Community Improvement Project Areas 1A and 1B

Community Improvement Project Area 1A was approved in 2005 and comprises the Old Industrial Area of the former City of Kingston, lands along the Inner Harbour of the Great Cataraqui River, and a portion of the downtown, including a four-and-a-half block area known as the North Block District. CIPA 1A is the largest of the project areas covering approximately 229.3 hectares. The North King's Town Secondary Plan area is located in CIPA 1A and comprises portions of the Inner Harbour and Old Industrial Area. Through the North King's Town Secondary Plan a long-term vision for the revitalization of this area will be developed.

Community Improvement Project Area 1B was also approved in 2005 and includes the property between Lake Ontario and Ontario Street known as Block 'D', as well as a few other parcels of land to the north-west of Ontario Street. This area is the smallest of the CIPAs, covering approximately 5.3 hectares.

CIPAs 1A and 1B are located in the urban core of the City and have been the location of almost all of the City's major historic industrial activity. Heavy industrial uses in these CIPAs included: ship-building; the Canadian Locomotive Works; gas works across from Fort Frontenac; rail yards of both the Canadian National and Canadian Pacific railways; the Anglin lumber yard and sash and door factory; the Woolen Mill; and the Davis Tannery. Both CIPAs, as well as the waterfront areas located within them, have undergone land use transitions over time. While many properties have been redeveloped and the rail lines have been removed, parts of these areas are still considered to be in transition given the number of vacant and underutilized properties that remain.

Many of the properties within CIPAs 1A and 1B are included on the City of Kingston Heritage Register as properties of cultural heritage value and interest. Many properties are also considered to have high archaeological potential due to their proximity to former railways, historic roadways and the Great Cataraqui River, which is part of the Rideau Canal, a UNESCO World Heritage Site, a National Historic Site of Canada, and a Canadian Heritage River.

CIPA 1A will be the priority focus for the financial incentive components of the Brownfields Program due to the history of industrial use in this area, the fact that it was one of the original CIPAs identified through the 2005 Brownfields CIP, and the fact that it still contains the greatest number of properties in the City with known or potential environmental encumbrances.

The financial incentive components of the Brownfields Program outlined in Section 6.0 of this document apply to CIPA 1A and 1B with the following exceptions and/or additions that are reflective of delays experienced by approved Brownfield projects:

- a. The properties, in whole or in part, located at 51-57 Queen Street and 18 Queen Street and 282 Ontario Street may receive financial benefits for a maximum of ten years from the start of brownfield financial assistance or until December 31, 2041, whichever occurs sooner.

(By-Law 2018-13; 2023-13)

5.2 Community Improvement Project Area 2 (Williamsville Main Street)

Community Improvement Project Area 2 (formerly Community Improvement Project Area 1C) was approved in 2013 and comprises the Williamsville Main Street Area along both sides of Princess Street between Division Street and the Bath Road/Concession Street intersection. This area, covering approximately 20.9 hectares, was the subject of the Williamsville Main Street Study. The purpose of the study was to examine the existing land uses and redevelopment potential, create a vision and urban design guidelines that would take into consideration compatibility issues with adjacent neighbourhoods, determine an appropriate scale, massing and height for future development, and provide recommendations for the revitalization of the study area. One of the recommendations was that a Community Improvement Plan be prepared to address clean-up of the Brownfield Sites within the study area and stimulate redevelopment interest.

Since CIPA 2 was approved, five large redevelopment projects have applied for Brownfields CIP funding and four have been approved. These new development projects, expected to create between 1,500 and 2,000 new residential units within this CIPA, have energized the implementation of the Williamsville Main Street Study and continue to stimulate interest in the redevelopment of this area. Given the historical uses within this CIPA, the level of environmental encumbrance identified for the approved redevelopment projects has proven to be relatively small when compared with developments in the CIPAs covering older parts of the City with a more intensive industrial legacy. As such, the financial incentives of the Brownfields Program may be less critical to redevelopment projects in this CIPA.

In keeping with one of the objectives of the 2017 Brownfields CIP, to focus the financial incentives of the Brownfields Program on properties where the environmental encumbrances are significant, namely CIPA 1A, the City is making changes to the administration of the Brownfields Program for CIPA 2. Although the CIPA 2 for the Williamsville Main Street will remain a part of the CIP, **as of the date of approval of the 2017 Brownfields CIP, the City will no longer be accepting applications in CIPA 2 for any of the financial incentive components of the Brownfields Program.** The City will re-visit the issue of accepting applications for CIPA 2 within the context of the next Brownfields Program review.

In accordance with Section 1.5 of this document, those properties within CIPA 2 with approved by-laws (Initial Study Grant, Tax Assistance and/or TIRGP Grant) and/or registered Brownfields Site Agreements that were approved under the 2005 Brownfields CIP, as amended, will continue to receive the approved financial incentives in accordance with the terms and conditions of those existing by-laws and/or agreements.

5.3 Community Improvement Project Area 3 (223 Princess Street)

Community Improvement Project Area 3 (formerly Community Improvement Project Area 1D) was approved in 2016 and comprises the property located on the north side of Princess Street between Montreal and Sydenham Streets and known municipally as 223 Princess Street. This irregularly shaped property, located in the Central Business District, has 9.0 metres of frontage on Princess Street and 41 metres of frontage on Queen Street and comprises an area of 2,538.5 m². This property was formerly used as the Capitol Theatre, the first large-scale movie theatre to be constructed in Kingston (circa 1920). A number of additions and renovations were completed on the property to create the existing structure and building footprint. The theatre closed in 2012. The property is the subject of a proposal for a mixed use development with a combination of commercial and residential uses and a parking structure.

A Phase II Environmental Site Assessment completed in 2014 confirmed that portions of this property were contaminated necessitating site Rehabilitation and proper disposal of contaminated soil and groundwater.

The financial incentives of the Brownfields Program outlined in Section 6.0 of this document apply to CIPA 3 with the following exceptions:

- a. That the eligible Rehabilitation costs shall be capped at \$950,000 or the amount estimated and that may be approved through a complete Brownfields CIP application, whichever is less;
- b. That the annual rebate of eligible Rehabilitation costs shall be based on a maximum of 25% of the pre-development to post-development property tax differential rather than the current 80% which, for the proposed project, is estimated to extend the annual rebate period from 1.5 to 5 years and increase the annual net property tax revenue to the City during the rebate period;
- c. That “financing costs” and “insurance costs” shall not be included as eligible Rehabilitation costs;
- d. That exemptions from Development Charges and Impost Fees shall not be permitted; and
- e. That the date at which the eligible Rehabilitation costs can be incurred shall remain as the date on which City Council approves an application for Brownfields CIP funding submitted by the Property Owner.

5.4 Community Improvement Project Area 4 (700 Gardiners Road)

Community Improvement Project Area 4 (formerly Community Improvement Project Area 2) was approved in 2016 and comprises the property located east of Gardiners Road and south of Taylor-Kidd Boulevard and known municipally as 700 Gardiners Road. This property has an area of approximately 40.75 hectares. The site is bounded by a large retail commercial area to the west and on the other three sides by residential neighbourhoods. This property was formerly used by Northern Telecom for manufacturing wire and cable in a large industrial plant (48,000 m²). Submitted environmental studies have confirmed that portions of this property were contaminated by the historical uses. This property is proposed to be redeveloped for a mix of commercial, institutional, residential and open space uses.

The financial incentive components of the Brownfields Program outlined in Section 6.0 of this document apply to CIPA 4 with the following exceptions:

- a. The rebate of the eligible Rehabilitation costs through the Tax Increment-Based Rehabilitation Grant Program (TIRGP) will be capped at \$3.0 Million within the entire area identified as Community Improvement Project Area 4;
- b. Community Improvement Project Area 4 will not include municipal and education tax cancellations made through the Brownfield Financial Tax Incentive Program (BFTIP);
- c. Community Improvement Project Area 4 will not be eligible for the Initial Study Grant; and
- d. "Financing costs" will not be included as an eligible Rehabilitation cost for Community Improvement Project Area 4.

5.5 Community Improvement Project Area 5 (40 Sir John A. Macdonald Boulevard)

Community Improvement Project Area 5 was approved in [date] and comprises the property of the former Prison for Women, located south of Union Street, west of Sir John A. Macdonald Boulevard and north of King Street West. The property has an area of approximately 3.27 hectares, with the following approximations of frontage: 175 metres on Sir John A. Macdonald Boulevard, 198 metres on Union Street and 73 metres on King Street West. The site is bounded by the west campus of Queen's University to the north, Institutional and residential uses to the east, institutional uses and Lake Ontario to the south and residential uses to the west. The former maximum-security prison was established in 1934 and was decommissioned in 2000. In 2007, the property was sold by Canada Lands Company Limited, on behalf of the Correctional Services of Canada in 2007 to Queen's University.

The property was sold by Queen's University in 2018 to Siderius Developments Limited. Siderius Developments Limited has informed the City that due to past uses on the property, the site and existing building would require environmental clean-up to facilitate future re-development. In 2018, City Council directed staff to consider the property as a new Project Area within the Brownfield Community Improvement Plan upon receipt of the requisite *Planning Act* application from the property owner to amend the Plan.

5.6 Community Improvement Project Area 6 (The Former Davis Tannery Property)

Community Improvement Project Area (CIPA) 6 was approved in 2017 and is approximately 13.44 hectares in size. It is comprised of the former Davis Tannery property, currently identified as 2 River Street and 50 Orchard Street, and includes all lands internal to the block bounded by River Street, the K&P trail, the northern extent of the former Davis Tannery Property and the Great Cataraqui River, including associated water lot(s), as shown on Map 1.

The bulk of the property within CIPA 6 was formerly used by the Davis Tanning Company from approximately 1903 through to 1973 and the North American Smelting Company (a.k.a., the Frontenac Lead Smelter) between the late 1800s and 1915.

Phase 11 Environmental Site Assessment reports have confirmed the widespread presence of legacy soil, sediment, and groundwater contamination at concentrations exceeding residential and commercial standards. As of August 1, 2020, the property was the subject of active planning applications to permit a mixed-use development of medium to high density residential uses and some ground level commercial uses.

The financial incentive components of the Brownfields Program outlined in Section 6.0 of this document apply to CIPA 6 with the following exceptions and/or additions that are reflective of the need for increased levels of financial benefit to support the feasibility of any remediation and redevelopment of the subject lands:

- a. The property, in whole or in part, is eligible to apply for brownfield financial assistance until December 31, 2035 and, if approved, may receive financial benefits for a maximum of ten years or until December 31, 2045, whichever occurs sooner.
- b. The property may be provided with separate approvals and brownfield site agreements for separate phases of redevelopment, and the phases of redevelopment and brownfield site agreements may be governed by a master brownfield site agreement.
- c. The rebate of the Eligible Rehabilitation costs through the Tax Increment-Based Rehabilitation Grant Program (TIRGP) will be calculated using 90% of the pre to post development municipal tax uplift amount.
- d. Short term financing costs associated with the implementation of a remediation program until achievement of a Record of Site Condition (RSC) are included as Eligible Rehabilitation costs.
- e. A redevelopment project may be exempted from up to 50% of applicable Development Charges (DCs).

Additionally, in accordance with the approvals of City Council received pursuant to Report 20-002 made on December 17, 2019, a redevelopment project within CIPA 6 may be provided with the following benefits:

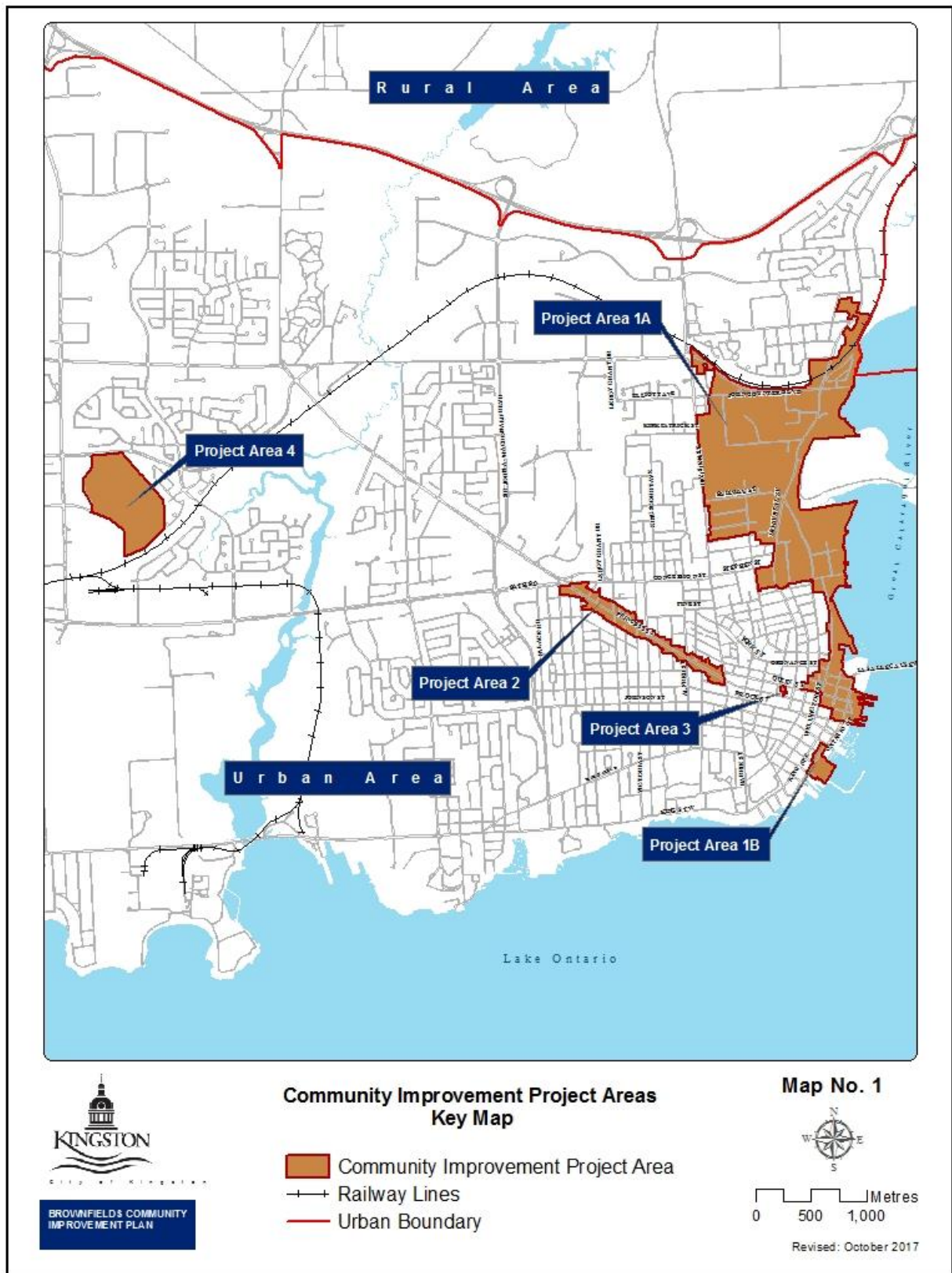
- a. A redevelopment project may be exempted from the requirement to obtain a Tree Permit under the City's Tree By-Law (By-Law Number 2018-15) for the injury or destruction of trees.
- b. A redevelopment project may be exempted from the requirement to provide Community Benefits.

(By-Law 2018-13; 2020-148)

5.7 Amendments to the Community Improvement Project Areas

Formal amendments to the 2017 Brownfields CIP will be required in accordance with Section 28(5) of the *Planning Act* and Section 8.1 of this document for revisions to the boundaries of an existing Community Improvement Project Area or to define a new Community Improvement Project Area.

(By-Law 2018-13; 2020-148)



6.0 Brownfields Program – Financial Incentives

The original premise of the City's 2005 Brownfields CIP was to provide a suite of tax-based benefits that "levelled the playing field" with respect to the redevelopment of Brownfield Sites compared with Greenfield Development. The key financial incentive components of the Brownfields Program are Tax Assistance and Rehabilitation Grants. The property Tax Assistance (referred to as the Brownfield Financial Tax Incentive Program, or BFTIP) includes the cancellation of both the municipal and education portions of the property taxes during the Assistance Period. The Rehabilitation Grants are based on the approved eligible Rehabilitation costs and are offered as financial incentives designed to promote the Rehabilitation and redevelopment of Brownfield Sites. For the purposes of the 2017 Brownfields CIP, the grants operate similar to a rebate. All fees and annual property taxes must be paid in full, and then the grant(s) will be paid back to the Property Owner in accordance with the details of the Brownfields Program as outlined in this CIP.

(By-Law 2018-13; 2023-13)

The financial incentive components of the Brownfields Program will be administered by the City and are intended to run:

- a. For CIPA 1A, 1B, 3, 4 and 5; until December 31, 2025 . The grants may be paid out over a 10 year period for each brownfield site agreement approval that may run as late as December 31, 2035, or until all approved eligible Rehabilitation costs have been recaptured by the Property Owner, whichever occurs first, and
- b. For CIPA 6; until December 31, 2035. The grants may be paid out over a 10 year period for each brownfield site agreement approval that may run as late as December 31, 2045, or until all approved eligible Rehabilitation costs have been recaptured by the Property Owner, whichever occurs first.

It is specifically noted that the maximum amount of Tax Assistance and Rehabilitation Grants cannot exceed the approved eligible costs of site Rehabilitation. As a result, the approved eligible Rehabilitation costs (refer to Section 6.4) are a central component of the Brownfields Program and are key to the amounts of the Tax Assistance and/or Rehabilitation Grant that may be available. It should be noted that each application for one of the financial incentive components will be considered on its own merits and all properties may not be eligible for 100% of the financial incentives offered. Prior to the issuance of any Rehabilitation Grant payments, the Eligible Property must be rehabilitated in accordance with the applicable provincial legislation, regulations and guidelines and, where required by law, a Record of Site Condition (RSC) must be submitted to the Ministry of the Environment and Climate Change (MOECC).

(By-Law 2018-13; 2020-148)

The financial incentive components of the Brownfields Program are directed at the private sector and are designed to encourage private sector investment and reinvestment, development, and construction activity on contaminated properties and within contaminated buildings in the Community Improvement Project Areas (CIPA). As such, properties within a CIPA that are owned, or that were owned within the previous 10 years (from the date of submission of an application for the City's Brownfields Program), by an upper level of government, their agencies or crown corporations, are **not** eligible for funding under the Brownfields Program.

6.1 Brownfields Program and the Planning Process

The implementation of the Brownfields Program is an integral part of the development process of a site. It is therefore, directly linked to the land use planning process. The Rehabilitation of a property or building is expected to be undertaken as part of the site preparation component of a development project.

The planning component of an application may involve an extensive land use review as in the case of either an Official Plan or a zoning by-law amendment. Alternatively, the review may be site intensive in its focus as in the case of a site plan analysis. It may also be subject to a plan of subdivision, a plan of condominium or a severance approval, with applicable development conditions and agreements.

In addition to the planning process and approvals, there is also the question of the Remedial Work Plan and the level of Contamination. The level of environmental standard attained for the site through the Remedial Work Plan has a direct bearing on the future land uses that may be permitted. These standards, and the land uses permitted, are set out in *Ontario Regulation 153/04*.

The land use limits imposed by the environmental standards affect both the planning process and the financial incentive components of the Brownfields Program. The range of land uses proposed for a site may not be feasible in light of the environmental constraints imposed on the site by past uses and practices. The eventual land use(s) permitted on the site have a direct bearing on the assessment value of the land and therefore, the value of the Tax Assistance and Rehabilitation Grant components of the Brownfields Program.

An application for financial assistance through the Brownfields Program for a property located within any of the defined Community Improvement Project Areas (CIPA) of the CIP shall be reviewed on a site-specific basis. It is expected that most of the Brownfields Program applications will be processed in conjunction with a planning application(s). In the case of a request to create a new CIPA or expand an existing CIPA, the policies of Section 8.1 of this CIP also apply.

6.2 Administration of the Brownfields Program

6.2.1 Priority Focus of the Brownfields Program

As noted in Section 5.1, CIPA 1A will be the priority focus for the financial incentive components of the Brownfields Program due to the history of industrial use in this area, the fact that it was one of the original CIPAs identified through the 2005 Brownfields CIP, and the fact that it still contains the greatest number of properties in the City with known or potential environmental encumbrances.

Due to the focus on CIPA 1A, sites within this project area will receive priority for financial incentives associated with the Brownfields Program. Consideration of an application for financial incentives for other properties, either for sites in existing CIPAs other than CIPA 1A or as part of a proposal to expand an existing CIPA or create a new one, will be at the sole discretion of the City. Properties will be evaluated by the City on a site-by-site basis using the following considerations:

- a. The submitted environmental studies have confirmed that the degree of site Contamination and encumbrance by other liabilities is extreme to the degree that Rehabilitation and redevelopment is clearly not feasible without financial assistance;
- b. The site is a “stigmatized” site, to the extent that the use or sale of the property, even if cleaned up, is unlikely to be successful, but the clean-up and redevelopment of which will likely act as a major catalyst for improvement/revitalization of the neighbourhood in which it is located;
- c. The site is causing major land use compatibility issues and is surrounded in whole or in part by residential or other sensitive land uses;
- d. The proposed project will attract significant private sector investment resulting in exceptional increases in property tax revenues, employment and/or residential opportunities;
- e. The proposed project will showcase innovative site Rehabilitation approaches, technologies or risk assessment approaches;
- f. The site is a failed tax sale property; acquired by the applicant through the City’s Failed Tax Sale process; and/or
- g. The site, or liability for the site, is owned by the municipality and has been or will be divested in whole or in part to the applicant and significant Contamination or other encumbrances are present.

As noted in Section 5.2, as of the date of the approval of the 2017 Brownfields CIP, the City will no longer be accepting applications for CIPA 2 for the Williamsville Main Street. The City will re-visit the issue of accepting applications for CIPA 2 within the context of the next Brownfields Program review.

6.2.2 Sliding Scale for Financial Incentives

Brownfield Sites can vary considerably in size, character, location and the degree of environmental Contamination. The City's ongoing monitoring of the Brownfields Program since 2005 has noted that some properties for which applications had been submitted were relatively less environmentally encumbered than other properties. Those properties were located within the Community Improvement Project Areas and redevelopment furthered the goals of the 2005 Brownfields CIP, as amended, with respect to site Rehabilitation, intensification and infill. However, it was recognized that properties with lesser degrees of environmental encumbrance may not require full application of the Brownfields Program benefits in order to achieve the objective to "level the playing field" between Brownfield Sites and Greenfield Development.

In June 2014, Council approved changes to the Brownfields Program, which authorized staff to enhance the administration of the Brownfields Program using a sliding scale approach to each eligible application so that the financial incentives would be proportional to:

- a. The degree of environmental encumbrance relative to the value of the proposed redevelopment project; and
- b. The area of the property that requires Rehabilitation as a percentage of the total property area.

In accordance with Council's direction to use the sliding scale approach, at the time of application for one of the financial incentive components of the Brownfields Program offered under this CIP, staff will review the following criteria to assess the level of financial incentive that may be recommended for approval:

- a. The property's relative degree of environmental encumbrance;
- b. The percentage of the total property area that requires Rehabilitation;
- c. Whether the property is or has been unused or underutilized for an extended period of time (greater than 5 years);
- d. Whether recent real property transactions may have already discounted the site's environmental liabilities; and

- e. Whether the recent or current Property Owner contributed to the Contamination and has liability for those actions and responsibility for clean-up.

6.3 General Program Requirements

The following is a list of general eligibility criteria and requirements applicable to **all** of the financial incentive components of the Brownfields Program:

- a. With the exception of the Phase II Environmental Site Assessment, Remedial Action Plan, and/or Site Specific Risk Assessment costs not covered by the Initial Study Grant, the financial incentive components of the Brownfields Program are not offered retroactively. Only those Rehabilitation or development activities undertaken or costs incurred after the date of approval of the 2017 Brownfields CIP, or after the effective date of any approved amendments to the 2017 Brownfields CIP (including amendments to the Community Improvement Project Areas), will be eligible for funding.
- b. The total of all Rehabilitation Grants and Tax Assistance provided in respect of an Eligible Property under the financial incentive components of the Brownfields Program cannot exceed the total of the approved eligible Rehabilitation costs with respect to that property or building.
- c. Although eligible Rehabilitation costs may be applicable to more than one of the financial incentive components of the Brownfields Program offered through this CIP, no two components can be used to repay the same cost. Also, where other sources of government and/or non-profit organization funding (federal, provincial, municipal, Federation of Canadian Municipalities, etc.) are anticipated or have been secured, these must be declared on the applicable application(s) and cannot be used to reimburse the same costs.
- d. Eligible Properties must be located in a Community Improvement Project Area.
- e. Properties within a Community Improvement Project Area that are owned, or that were owned within the previous 10 years (from the date of submission of an application for the City's Brownfields Program), by an upper level of government, their agencies or crown corporations, are **not** eligible for funding under the Brownfields Program.
- f. The recent or current Property Owner cannot be responsible for causing the on-site Contamination that requires Rehabilitation.
- g. The City reserves the right to audit the cost of project feasibility studies, environmental studies, and/or environmental Rehabilitation works that have been

approved under the financial incentive components of the Brownfields Program, at the expense of the Property Owner.

- h. The City is not responsible for any costs incurred by the Property Owner in relation to any of the financial incentive components of the Brownfields Program, including without limitation, costs incurred in anticipation of receipt of a Rehabilitation Grant and/or Tax Assistance.
- i. City staff, officials, and/or agents of the City may inspect any property that is the subject of an application for any of the financial incentive components of the Brownfields Program.
- j. If the Property Owner is in default of any of the general or program specific requirements, or any other requirements of the City, the City may delay, reduce or cancel the approved Rehabilitation Grant and/or Tax Assistance.
- k. The City may discontinue any of the financial incentive components of the Brownfields Program at any time and at its sole discretion, but Property Owners with approved Rehabilitation Grants and/or Tax Assistance will still receive said Rehabilitation Grant and/or Tax Assistance, subject to conformity with the applicable general and program specific requirements of this CIP.
- l. Eligible Properties for the BFTIP and/or TIRGP must have a Phase II Environmental Site Assessment (ESA) completed that indicates environmental Rehabilitation of lands or buildings is required to obtain a Record of Site Condition (RSC) to allow a change to a more sensitive land use, or to enable the proposed redevelopment where a RSC is not required by provincial law. Only properties that are contaminated with respect to Ministry of the Environment and Climate Change standards as to the proposed use of the property will be eligible for the financial incentive components of the Brownfields Program. The Property Owner shall release all environmental information about an Eligible Property to the City.
- m. Outstanding work orders, and/or orders or requests to comply issued by the City or Utilities Kingston, and/or other charges from the City (including any tax arrears and local improvement charges) must be satisfactorily addressed prior to the payment of any Rehabilitation Grant or Tax Assistance.
- n. Only the Property Owner of an Eligible Property can apply for and receive the Tax Assistance and/or Rehabilitation Grant. Written authorization shall be required from the Property Owner for any agent acting on their behalf.
- o. Property Owners shall declare if the subject property is designated under Part IV or Part V of the *Ontario Heritage Act*, or is adjacent to a property that is designated under the *Ontario Heritage Act*.

- p. The Property Owner or their agent shall submit the applicable completed application(s) with the required supporting documentation, including a development proposal and concept plan for the Eligible Property. Only complete applications will be processed.
- q. Property Owners for the BFTIP and/or TIRGP will be required to enter into a Brownfield Site Agreement with the City that will specify the terms and conditions of Council's approval of any of the financial incentive components of the Brownfields Program, the relevant conditions of any associated planning and/or environmental approvals, and the specifics of the property Tax Assistance and/or Rehabilitation Grant to be received.
- r. Proposed developments or redevelopments that will result in uses that are completely or partially exempt from payment of municipal property taxes are not eligible for the financial incentive components of the Brownfields Program of this CIP.
- s. Each application will be considered on its own merits and may not be eligible for 100% of the benefits offered under the financial incentive components of the Brownfields Program.

6.4 Eligible Rehabilitation Costs

The eligible costs required to rehabilitate an Eligible Property are central to the financial incentive components of the Brownfields Program of this CIP. These items all relate to the environmental Rehabilitation of the property and the implementation of the Remedial Action Plan. The eligible Rehabilitation costs include the following:

- a. Up to 100% of the cost of environmental Rehabilitation: The eligible Rehabilitation costs shall only include those costs incurred over and above normal construction work, due to environmental contaminants that must be removed or managed in order to achieve the provincial soil, groundwater or sediment standards required for a Record of Site Condition;
- b. Up to 100% of the costs of placing clean fill and grading in the areas where excavation was required for site Rehabilitation: The eligible costs for placement of clean fill and grading shall only include those costs incurred over and above normal construction work, due to environmental contaminants that must be removed or managed in order to achieve the provincial soil, groundwater or sediment standards required for a Record of Site Condition;

- c. Up to 100% of the cost of a Phase II Environmental Site Assessment, Remedial Action Plan, and/or Site Specific Risk Assessments not covered by the Initial Study Grant or other sources of government or non-profit funding;
- d. Up to 100% of the cost of preparing a Record of Site Condition (RSC);
- e. Up to 100% of the cost of demolishing abandoned, underutilized or derelict buildings on the property;
- f. Up to 100% of the cost of establishing an Environmental Monitoring Program, and the cost of operating and maintaining the environmental technologies, where said technologies are directly related to the Rehabilitation of the site, as specified in the Remedial Action Plan and Certificate of Property Use (CPU). The cost may be based on either the present value of future costs or the pro-rated costs, for a maximum period of twenty (20) years; and
- g. Up to 100% of the cost, or the shared portion of the cost, of the following Leadership in Energy and Environmental Design (LEED) Program components:
 - 1) Fees paid to the Canada Green Building Council (CaGBC) for registration of the project within any of the LEED rating systems supported by the CaGBC; and,
 - 2) Fees paid to the Canada Green Building Council (CaGBC) for certification of the project within any of the LEED rating systems supported by the CaGBC.

6.5 Initial Study Grant (ISG)

6.5.1 Purpose

The purpose of the Initial Study Grant (ISG) is to promote the undertaking of environmental studies that result in a more complete understanding with respect to the type, concentration and location of Contamination that exists on a Brownfield Site, the potential costs of Rehabilitation, and development of a plan to remove, treat or otherwise manage the Contamination found on the property. This will also assist the Property Owner in acquiring the environmental information needed to determine if the property will be eligible for other financial incentive components of the Brownfields Program.

6.5.2 Duration

Applications for an Initial Study Grant will be received until **December 31, 2025** for projects within CIPA 1A, 1B, 3, 4 or 5, and until **December 31, 2035** for projects within CIPA 6.

(By-Law 2018-13; 2020-148)

6.5.3 Eligible Properties

Only properties located in a Community Improvement Project Area are eligible to apply for an ISG.

6.5.4 Grant Requirements

Property Owners or their agents are eligible to apply for funding under the ISG, subject to meeting the General Program Requirements set out in Section 6.3 of this CIP, the requirements outlined in this Section 6.5, and the availability of funding as approved by Council. Further details with respect to eligibility requirements are contained in the “Initial Study Grant Implementation Guide”.

A Phase I ESA does not provide detailed information with respect to the type of Contamination and the costs of site Rehabilitation, therefore Phase I ESAs are **not** eligible for funding under the ISG Program. To be eligible to apply for an ISG, a Phase I Environmental Site Assessment (ESA) must have been completed on the property and must show that the property is suspected to be contaminated.

6.5.5 Grant Description

The ISG will provide a matching grant of 50% of the cost of eligible environmental studies to a maximum total grant of \$20,000 and two studies per property or project.

Eligible studies include:

- Phase II Environmental Site Assessment (ESA);
- Remedial Action Plans; and
- Site-Specific Risk Assessment (SSRA).

The foregoing studies shall be for the purposes of:

- a. confirming and describing Contamination on the property; and/or
- b. surveying designated substances and hazardous materials on the property; and/or
- c. developing a plan to remove, treat or otherwise manage the Contamination found on the property.

An ISG will only be offered on Eligible Properties where there is the potential for Rehabilitation and/or redevelopment of the property.

6.5.6 Application Process

Applications will be processed and approved subject to the availability of funding as approved by Council. Only complete applications will be processed. An ISG application may be submitted in advance of any other Brownfields Program application(s) being filed or filed concurrently with any other application(s). ISG applications must include a detailed study work plan, a cost estimate for the study, and a description of the planned development, including any planning applications that have been submitted and/or approved. Where other sources of funding for the conduct of environmental studies are anticipated or have been secured, these must be declared as part of the ISG application. Further details with respect to the application requirements and process are contained in the “Initial Study Grant Implementation Guide”.

Review and evaluation of an application and supporting materials against the ISG Program eligibility requirements will be undertaken by the Real Estate & Environmental Initiatives Department. A staff report will be prepared for submission to Council with a recommendation to approve or reject the ISG application. The Property Owner will be notified in writing of Council’s decision. If Council approves the application, an Initial Study Grant By-law will be passed confirming the approval and outlining any associated conditions for the ISG.

6.5.7 Initial Study Grant By-law

The Initial Study Grant By-law sets out the terms of the grant including, but not limited to, the following:

- a. the total funding to be granted to the Property Owner for the preparation of the study or studies;
- b. a clear description of the final study product;
- c. the conditions and schedule for the release of the ISG funds to the Property Owner; and,
- d. the administrative submissions required from the Property Owner or their agent regarding completion of the study or studies and proof of invoicing, billing and payments.

6.5.8 Grant Payments

Grants approved under the ISG component of the Brownfields Program will be provided to the Property Owner following submission and City review of the final completed study together with the original invoice confirming that the study consultants have been paid in full. The Property Owner or their agent shall submit one electronic copy and one hard copy of all studies to the City. The Property Owner shall also provide the City with permission to circulate the studies to internal City departments, and to advise other project proponents that a study or studies exist. However, the study or studies will not be released by the City, unless required by law.

The ISG amount will be the lesser of the cost estimate provided by the consultant conducting the study or the actual cost of the study. The ISG may be reduced or cancelled if the study is not completed, not completed as approved, or if the consultant that conducted the study is not paid. The ISG will lapse if not claimed within two years of the approval of the application, unless a request for an extension is submitted in writing and approved prior to the grant lapsing.

6.5.9 Grant is Not Retroactive

The ISG is not offered retroactively for any study undertaken, or costs incurred, prior to the Property Owner receiving Council approval for the ISG.

6.6 Brownfields Financial Tax Incentive Program (BFTIP)

6.6.1 Purpose

The purpose of the BFTIP (Tax Assistance) is to encourage private sector Rehabilitation of Brownfield Sites for future redevelopment purposes by cancelling all or a portion of the municipal property taxes to offset the approved eligible Rehabilitation costs incurred by the Property Owner.

6.6.2 BFTIP Duration

Applications for the BFTIP will be received until **December 31, 2025** for projects within CIPA 1A, 1B, 3, 4 or 5, and until **December 31, 2035** for projects within CIPA 6 .

(By-Law 2018-13; 2020-148)

6.6.3 Eligible Properties

An Eligible Property for the BFTIP must be located in a Community Improvement Project Area. The property must have an approved Phase II Environmental Site Assessment that, as of the date the Phase II ESA was completed, confirmed that the property was

contaminated and did not meet the standards of the *Environmental Protection Act* to permit a Record of Site Condition to be filed in the Environmental Site Registry.

6.6.4 BFTIP Requirements

Property Owners or their agents are eligible to apply for funding under the BFTIP, subject to meeting the General Program Requirements set out in Section 6.3 of this CIP and the requirements outlined in this Section 6.6. Further details with respect to eligibility requirements are contained in the “BFTIP and TIRGP Implementation Guide”.

6.6.5 BFTIP Description

The BFTIP allows for the cancellation of up to 100% of municipal property taxes. Tax Assistance will only apply during the Assistance Period of the project in accordance with the provisions of the *Municipal Act, 2001*. The maximum Tax Assistance available shall be equal to or less than the total of the approved eligible Rehabilitation costs (refer to Section 6.4 for a description of the eligible costs). The municipal portion of the property Tax Assistance will terminate when the total Tax Assistance provided (municipal and education) equals the total approved Rehabilitation costs, OR, on the date that the Assistance Period ends (refer to Appendix A for definition), OR such earlier period otherwise stipulated in the Tax Assistance By-Law.

(By-Law 2018-13; 2023-13)

The Minister of Finance may match the municipality’s BFTIP Tax Assistance through the cancellation of the education portion of the property tax. This exemption may run concurrently with the Assistance Period. The education portion of the property Tax Assistance will terminate when the total Tax Assistance provided (municipal and education) equals the total approved eligible Rehabilitation costs, OR after ten years (for residential developments), OR after six years (for business developments), OR such earlier period otherwise stipulated in the Tax Assistance By-Law. The education portion of the Tax Assistance will also terminate if the property approved for Tax Assistance is severed, subdivided, sold or conveyed. Any conditions imposed by the Minister of Finance with respect to the cancellation of the education portion of the property tax will be included in the Tax Assistance By-law.

(By-Law 2018-13; 2023-13)

In accordance with the provisions of the *Municipal Act, 2001*, Tax Assistance will be suspended where the Property Owner has not paid all of the taxes for the previous years during the Rehabilitation and Development Periods (subject to any specific exceptions provided for in the Tax Assistance By-Law or in the Brownfield Site Agreement). Where the Property Owner defaults on the provisions of the Tax Assistance By-law or the Brownfield Site Agreement, all Tax Assistance granted during the Rehabilitation and Development Periods will become due for repayment in full, with interest.

6.6.6 Application Process

Applications will be processed and approved on a first come, first served basis. Property Owners and their agents should pre-consult with the City to confirm BFTIP eligibility. Applications for the BFTIP may be filed concurrently with applications for one or more of the other financial incentive components of the Brownfields Program, as outlined in this CIP, and must include, among other matters:

- a. A description of the development concept, concept plans, total project construction value, phasing and timing, and a summary of any planning applications that have been submitted and their status;
- b. Details of any Initial Study Grant received;
- c. A detailed description of the eligible Rehabilitation works to be completed together with a cost estimate for each of the eligible works;
- d. The current property assessment and an estimate of future assessment based on the development proposal;
- e. Supporting technical studies and reports including Phase I or II ESA's and/or a SSRA; the Remedial Action Plan; the Rehabilitation approach under consideration (i.e. full-depth, stratified, or risk assessment); the Environmental Monitoring Program; and, any eligible LEED Program cost estimates.

The City, upon request from and on behalf of the Property Owner, will forward an application for matching educational Tax Assistance under the BFTIP to the Province for their review and consideration. Only complete BFTIP applications will be processed. Further details with respect to the application requirements and process are contained in the "BFTIP And TIRGP Implementation Guide. Review and evaluation of the BFTIP application and supporting materials against Program eligibility requirements will be undertaken by the Real Estate & Environmental Initiatives Department. The application may be circulated to other City departments for review and comment (e.g. Planning, Building & Licensing Services, Engineering, Utilities Kingston, Financial Services and Legal Services). A staff report will be prepared for submission to Council with a recommendation to approve or reject the BFTIP application, together with the draft Tax Assistance By-law, where applicable. If the application is approved by Council, City staff will negotiate a Brownfield Site Agreement with the Property Owner or their agent in which the financial elements of the BFTIP may be linked with the components of the Remedial Action Plan and any applicable conditions and/or requirements of any associated planning, building or engineering approvals. If the application is approved, the Property Owner and their agent will be notified about the start date of the eligibility of costs and the next steps in the process.

(By-Law 2018-13; 2023-13)

6.6.7 Tax Assistance By-law

Only one by-law is required to provide Tax Assistance to an Eligible Property under the BFTIP. If the By-law includes matching provincial Tax Assistance for the education portion of the property taxes, the by-law may be divided into two parts dealing with the specifics of each portion of the tax cancellation. The by-law will include, but not be limited to, the following:

- a. the current assessment value and tax levy on the property;
- b. the anticipated duration of the Assistance Period;
- c. the obligations of the Property Owner to repay the Tax Assistance in certain prescribed circumstances; and
- d. an acknowledgement that the City is not becoming a partner in the project and is not assuming any management, care or control of the project by virtue of providing municipal property Tax Assistance (BFTIP).

(By-Law 2018-13; 2023-13)

6.6.8 Tax Cancellation

The cancellation of property taxes commences after Council's approval of the Tax Assistance By-law and the execution of the Brownfield Site Agreement and may continue through the Assistance Period, or such other period as stipulated in the by-law.

(By-Law 2018-13; 2023-13)

6.6.9 BFTIP is Not Retroactive

With the exception of eligible study costs not fully covered by the Initial Study Grant or other sources of funding, the BFTIP funding is not offered retroactively for any Rehabilitation and/or redevelopment activities undertaken, or costs incurred, prior to Council passing the Tax Assistance By-law and/or the Property Owner entering into a Brownfield Site Agreement with the City.

6.7 Tax Increment-Based Rehabilitation Grant Program (TIRGP)

6.7.1 Purpose

The purpose of the TIRGP is to encourage private sector Rehabilitation and adaptive reuse of Brownfield Sites by providing an annual grant to help pay for eligible site Rehabilitation costs incurred by the Property Owner that are not fully covered by the BFTIP. The TIRGP is used to fund the Rehabilitation Grant and the Municipal Brownfield Reserve Fund (MBRF).

6.7.2 TIRGP Duration

For Projects within CIPA 1A, 1B, 3, 4, and 5, applications for the TIRGP will be received until **December 31, 2025**. Rehabilitation Grants that are approved by Council will continue to be paid after December 31, 2025, until the approved eligible Rehabilitation costs have been recovered, or until December 31, 2035, whichever occurs first.

For projects within CIPA 6, applications for the TIRGP will be received until **December 31, 2035**. Rehabilitation Grants that are approved by Council will continue to be paid after December 31, 2035, until the approved eligible Rehabilitation costs have been recovered, or until December 31, 2045, whichever occurs first.

(By-Law 2018-13; 2020-148)

6.7.3 Eligible Properties

An eligible property for the TIRGP must be located in a Community Improvement Project Area and must require environmental Rehabilitation and/or risk assessment/management.

6.7.4 TIRGP Requirements

Property Owners and their agents are eligible to apply for funding under the TIRGP, subject to meeting the General Program Requirements set out in Section 6.3 of this CIP, the requirements outlined in this Section 6.7, and the availability of funding as approved by Council. Further details with respect to TIRGP eligibility requirements are contained in the “BFTIP and TIRGP Implementation Guide”.

Each property selected to participate in the TIRGP will be eligible for a maximum of one Rehabilitation Grant. In addition, the Eligible Property shall be rehabilitated and developed such that the amount of work undertaken is sufficient, at a minimum, to result in an increase in the assessed value of the property.

6.7.5 TIRGP Description

The Rehabilitation Grant is designed to help Property Owners of Brownfield Sites in the Community Improvement Project Areas offset the majority of the costs of Rehabilitation and redevelopment in order to level the financial playing field between Brownfield Sites and Greenfield Development. The grant is also intended to pay for other brownfield related costs, such as building demolition and the placing of clean fill and grading. The maximum amount of the Rehabilitation Grant is based on the increase between the pre-development taxes and post-development taxes for the property and is calculated by taking the value of the approved eligible Rehabilitation costs and subtracting the Initial Study Grant amount and the municipal and education portions of the Tax Assistance.

The amount of municipal taxes ("Base Rate") will be determined before commencement of the project. The increase in the municipal portion of the property taxes will be calculated as the difference between the Base Rate and the amount of municipal taxes levied as a result of re-evaluation by the Municipal Property Assessment Corporation (MPAC) following project completion and occupancy. The Rehabilitation Grant does not exempt Property Owners from an increase/decrease in municipal taxes due to a general tax rate increase/decrease, or a change in assessment for any other reason. The TIRGP does not exempt Property Owners from paying the education portion of the property taxes.

The Rehabilitation Grant is paid to the Property Owner on a "pay-as-you-go" basis; i.e., the Property Owner pays for the costs of the Rehabilitation and development up-front and pays all property taxes each year. The Property Owner (current or future) is then reimbursed through an annual grant once the project is complete and occupied. The annual grant to the Property Owner equals up to 80% (up to 90% for projects within CIPA 6) of the pre- and post-development tax difference. Twenty percent (10% for projects within CIPA 6) of the tax difference will be directed by the City to the Municipal Brownfield Reserve Fund (MBRF) to provide for City participation in the Brownfields Redevelopment Strategy (refer to Section 6.9).

(By-Law 2018-13; 2020-148)

The Rehabilitation Grant will lapse if the development has not been started within five years and completed within seven years of the signing of the Brownfield Site Agreement.

For approved projects, the amount of the Rehabilitation Grant will be set out as a maximum amount within a Brownfield Site Agreement. If, during the course of the work, the scope of the work changes, or actual costs are greater or less than the estimated costs, the total amount of the Rehabilitation Grant shall not be increased

6.7.6 Application Process

Applications will be processed and approved on a first come, first served basis. Property Owners and their agents should pre-consult with the City's Real Estate and Environmental Initiatives Department to confirm TIRGP eligibility. Applications for the TIRGP may be filed concurrently with applications for one or more of the other financial incentive components of the Brownfields Program, as outlined in this CIP, and must include, among other matters:

- a. A description of the development concept, concept plans, total project construction value, phasing and timing, and a summary of any planning applications that have been submitted and their status;
- b. A detailed description of the eligible Rehabilitation works to be completed together with a cost estimate for each of the eligible works;
- c. The current property assessment and an estimate of future assessment based on the development proposal (the estimated post-project assessed value will be used to calculate the estimated annual and total grant, and the estimated duration of grant payments);
- d. Supporting technical studies and reports including Phase I or II ESA's and/or a SSRA; the Remedial Action Plan; the Rehabilitation approach under consideration (i.e. full-depth, stratified, or risk assessment); the Environmental Monitoring Program; and, any eligible LEED Program cost estimates.

Only complete TIRGP applications will be processed. Further details with respect to the application requirements and process are contained in the "BFTIP And TIRGP Implementation Guide".

Review and evaluation of the TIRGP application and supporting materials against Program eligibility requirements will be undertaken by the Real Estate & Environmental Initiatives Department. The application will be circulated to other City departments for review and comment (e.g. Planning, Building & Licensing Services, Engineering, Utilities Kingston, Financial Services and Legal Services). A staff report will be prepared for Council with a recommendation to approve or reject the TIRGP application together with the draft by-law to approve financial incentives, where applicable, which will establish the maximum amount of financial incentives and the start date of eligible costs and approval to enter into a Brownfields Site Agreement (refer to Section 6.7.9). The TIRGP Grant By-law (refer to Section 6.7.8) will also be presented with this report to Council. The Property Owner and their agent will be notified in writing of Council's decision. If the application is approved, the Brownfields Financial Incentives By-law will be given three readings and the TIRGP Grant By-law will be given first and second readings only, and

the Property Owner and their agent will be notified about the start date for the eligibility of costs and the next steps in the process.

Once the site Rehabilitation works are complete, the Property Owner or their agent files a Record of Site Condition (RSC), as per *Ontario Regulation 153/04*, with the Ministry of Environment and Climate Change (MOECC) and provides the City with a copy of the MOECC acknowledgement of receipt of the RSC. Once an Occupancy Permit has been issued, the property has been re-assessed by MPAC, and one year of property taxes have been paid, the Property Owner or their agent notifies the Real Estate & Environmental Initiatives Department. Staff will present a report to Council confirming the amount and duration of the Rehabilitation Grant payments and requesting third and final reading of the TIRGP Grant By-law.

6.7.7 Brownfield Financial Incentives By-law

A Brownfield Financial Incentives By-law is prepared for each application to establish the maximum amount of financial incentives and the start date of the eligible costs for the project. It is intended that each Brownfield Financial Incentives By-law will address the following:

- a. the property identification;
- b. the value of the Rehabilitation Grant;
- c. an acknowledgement that a decision on the Financial Incentives By-law will not constrain the City's decisions on any other matter related to the property;
- d. the Eligibility Date, which is the start date of the eligible Rehabilitation costs; and
- e. an acknowledgement that the City is not becoming a partner in the project and is not assuming any management, care or control of the project by virtue of providing the financial incentives.

The Brownfield Financial Incentives By-law will be given three readings and adopted by Council, provided that Council approves the application.

6.7.8 TIRGP Grant By-law

A TIRGP Grant By-law is prepared for each TIRGP application in order to establish the site-specific financial details of the grant components of the TIRGP to be applied to the project. It is intended, in general terms, that each TIRGP Grant By-law will, at a minimum, address such matters as the following:

- a. the property identification;
- b. the Remedial Action Plan and approved eligible Rehabilitation costs;

- c. the value of the Rehabilitation grant;
- d. the value of the TIRGP to be used to deliver the grant monies;
- e. the detailed duration and schedule of the Rehabilitation Grant payments; and
- f. an acknowledgement that the City is not becoming a partner in the project and is not assuming any management, care or control of the project by virtue of providing the Rehabilitation Grant (TIRGP).

The TIRGP Grant By-law cannot be given third and final reading and adopted by Council until the property Rehabilitation is complete and the Property Owner has submitted all invoices for the approved eligible Rehabilitation costs and satisfied all other conditions for receipt of the TIRGP grants as set out within a Brownfield Site Agreement.

6.7.9 Brownfield Site Agreement

The Brownfield Site Agreement must be executed by the Property Owner prior to Council approval of the BFTIP or TIRGP application. The agreement shall be executed by the City upon receipt of Council approval of the BFTIP or TIRGP application. The agreement shall establish the financial elements of the Brownfields Program and the obligations of the Property Owner and the City. The agreement will be modified, as required, to recognize the uniqueness of each Brownfield Site and the associated environmental constraints and development challenges. The timing of the project, as well as any phasing, or staging, and performance requirements, may also be addressed in the agreement.

Without limiting its generality, the Brownfield Site Agreement may include such matters as the following:

- a. The term of the agreement;
- b. Any Development Period phasing and/or timing;
- c. The Property Owner's representations and obligations;
- d. Monitoring and audit of eligible Rehabilitation cost details;
- e. The City's representations and obligations;
- f. Grant calculation and payment;
- g. Defaults and remedies and indemnity; and
- h. An acknowledgement that the City is not becoming a partner in the project and is not assuming any management, care or control of the project by virtue of providing

Tax Assistance (BFTIP) or a Rehabilitation Grant (TIRGP) or an Initial Study Grant (ISG).

Once executed by all parties, the Brownfield Site Agreement must be registered against the title of the Eligible Property to which it applies. Approval and execution of the agreement is not a guarantee that funding will be provided. All conditions and obligations, as set out in the agreement, must be complied with by the Property Owner in order to be entitled to the Rehabilitation Grant or any other financial incentives set out within the agreement.

6.7.10 Grant Payments

When the benefits of the Tax Assistance (BFTIP) end, the Rehabilitation Grant (TIRGP) may begin, with a request from the Property Owner, provided that the requirements of the Brownfield Site Agreement have been met and an Occupancy Permit has been issued by the City, reassessment of the property has taken place by the Municipal Property Assessment Corporation (MPAC), and the Property Owner has paid the property taxes in full for the year in which the grant is to be provided. The City may make the grant payments for up to 10 years following the effective date for the new assessment, or up to the value of the approved eligible Rehabilitation costs, whichever occurs first. The total value of the Rehabilitation Grant, the BFTIP tax assistance (both municipal and education) and the Initial Study Grant cannot exceed the total value of the approved eligible Rehabilitation costs.

TIRGP grant payments will only begin to be paid in the year that the TIRGP request is made by the owner and the third reading of the TIRGP by-law has been passed by Council. TIRGP grant payments are not retroactive and previous year's municipal property taxes will not be held by the City and paid out when the TIRGP payments start.

If a building(s) erected on an Eligible Property is demolished during the Occupancy Period, the remainder of the monies to be paid out under the grant shall be forfeited.

6.7.11 TIRGP Eligible Costs Are Not Retroactive

With the exception of eligible study costs not fully covered by the Initial Study Grant or other sources of funding, the TIRGP funding is not offered retroactively for any Rehabilitation and/or redevelopment activities undertaken, or costs incurred, prior to Council approving the TIRGP application and the Property Owner entering into a Brownfield Site Agreement with the City.

6.8 Municipal Brownfields Reserve Fund (MBRF)

6.8.1 Purpose

The Municipal Brownfield Reserve Fund (MBRF) is intended to facilitate direct City financial involvement in the Rehabilitation and redevelopment of Brownfield Sites in the Community Improvement Project Areas.

6.8.2 MBRF Duration

When the TIRGP ends with the last grant payments paid out possibly as late as December 31, 2035, (December 31, 2045 for projects within CIPA 6) the MBRF may also end. However, if the City wishes to continue the MBRF beyond the life of the TIRGP, it may do so by continuing to direct up to 20% of the tax increment assigned to former Brownfield Sites into the fund, without amendment to the CIP. Alternatively, the City may conclude the MBRF and return any funds remaining in it to general revenue.

(By-Law 2018-13; 2020-148)

6.8.3 MBRF Description

The MBRF will receive 20% of the municipal tax increment that is retained by the City as a result of properties participating in the TIRGP Rehabilitation Grant, and other monies as may be allocated by Council. The MBRF may be included as a component of the City's broader Environmental Reserve Fund. As funds accrue in this account, the City can use these funds to rehabilitate and develop key strategic parcels or publicly held lands in the Community Improvement Project Areas. The MBRF will function as a revolving fund with any surplus monies deposited back into it. Funds in the MBRF will be utilized only for municipal involvement in Brownfield Sites located within the Community Improvement Project Areas.

The Real Estate & Environmental Initiatives Department and Financial Services will administer the MBRF, in consultation with other City departments as necessary. It is intended that the cost of administering the MBRF portion of the Brownfields Program may be drawn, as required, from the fund.

6.9 Tax Arrears Cancellation – Program for Failed Tax Sale Properties

6.9.1 Purpose

The purpose of this program is to stimulate the Rehabilitation and redevelopment of properties in tax arrears by third parties. The program allows the City to cancel the taxes owing on a property after a Failed Tax Sale as an incentive to a potential purchaser to acquire and redevelop the property. The cancellation of property taxes after a failed tax sale is authorized by the *Municipal Act, 2001*.

6.9.2 Background

In 2004, Council approved a Failed Tax Sale Properties Policy to deal specifically with properties that had gone through the tax sale process and not been sold. The policy was intended to assist in determining whether the City would Vest (take ownership of) the property or how to deal with the property if Vesting was not in the interests of the City. That policy was incorporated into the Brownfields CIP as another implementation strategy to put more potential brownfield redevelopment properties on the market.

The City's strategy for putting Failed Tax Sale properties back into productive use has been successful. Several Failed Tax Sale properties have been acquired by the City for municipal purposes. The City also took a proactive approach to issue requests for proposals for the other Failed Tax Sale properties deemed surplus to City needs whereby, in exchange for a commitment to take ownership, rehabilitate and redevelop the property, the City provided private sector developers with title to the properties, cancellation of back taxes and access to environmental information reports. Where the Failed Tax Sale property was located within one of the Community Improvement Project Areas and identified as being contaminated, the Property Owner was encouraged to apply for one or more of the financial incentive components of the Brownfields Program.

6.9.3 Program Description and Process

The *Municipal Act, 2001* authorizes the City to conduct a public sale of properties in tax arrears. The City will, as soon as a property is eligible, place the property up for tax sale to maximize the prospects of a successful sale. Where there is no successful purchaser in response to the public sale, the Act authorizes the City, for a period of 24 months, to enter upon a Failed Tax Sale property for the purpose of inspecting the lands and conducting environmental investigations and testing as deemed necessary. During this period the City can decide if it wishes to exercise the option of taking ownership or deem the property to be surplus to City needs and offer it for sale.

If the decision is made to **acquire the property for municipal purposes**, the City would undertake the following:

- a. Identify the proposed use for the property;
- b. Undertake the appropriate Environmental Site Assessments and/or Risk Assessments to determine the cost of rehabilitating the property (these studies could be funded through the MBRF);
- c. If the ESAs are acceptable, prepare a report to City Council recommending acquisition of the property for municipal purposes;
- d. If approved by Council, the City Vests the property and cancels the tax arrears; and
- e. The property is rehabilitated, if necessary, and then developed for municipal purposes. The cost of site Rehabilitation could be funded through the MBRF.

If the property is **deemed to be surplus to City needs**, the City would undertake the following:

- a. Undertake Environmental Site Assessments and/or Risk Assessments to determine the cost of rehabilitating the property (these studies could be funded through the MBRF);
- b. Determine the market value for the property (the City may requisition an appraisal at this time the cost of which could be funded through the MBRF);
- c. Initiate a request for proposals (RFP) process. This process will include a requirement that the property must be rehabilitated within five years of City vesting (taking ownership). Responses to the RFP must include the following:
 - 1) A description of the proposed redevelopment plan including floor areas, land use, unit breakdown, height, timing and any proposed phasing;
 - 2) A Rehabilitation plan that provides an overview of the Rehabilitation approach if a Record of Site Condition (RSC) is required;
 - 3) A financial plan that includes proposed purchase price, cost of the redevelopment and detailed estimate of Rehabilitation costs;
 - 4) A description of the proposed community benefits (e.g. jobs created, affordable housing units, post-development tax revenue for the City); and
 - 5) A description of the proponent's experience, qualifications and understanding of the project;
- d. Award the RFP to the successful proponent;

- e. Enter into an Agreement of Purchase, Sale and Redevelopment with the proponent;
- f. Submit a report to City Council with recommendations to Vest the property, cancel the tax arrears and declare the property to be surplus to City needs;
- g. The Agreement of Purchase, Sale and Redevelopment with the proponent specifies the proponent's obligations, default provisions, and any other requirements specified by the City. Agreement conditions may include, but not be limited to, the following:
 - 1) The proponent agrees to complete all required Environmental Site Assessments or Risk Assessments by Qualified Persons and in accordance with provincial standards;
 - 2) The Proponent agrees to carry out site Rehabilitation to permit the filing of a Record of Site Condition and to comply with any Certificate of Property Use issued under the *Environmental Protection Act* or agrees to carry out an adaptive reuse project on the property in conformity with applicable environmental guidelines;
 - 3) The proponent agrees to complete site Rehabilitation within five years of the City Vesting (taking ownership of) the property;
 - 4) The proposed use of the property will generate tax revenues for the City; and
 - 5) The proponent agrees to indemnify the City for any legal claims or regulatory orders associated with the property;
- h. Transfer title to the property to the proponent.

Prior to finalizing the sale, the potential for funding under the Brownfields Program would be discussed with the proponent. This discussion could be conducted as part of a pre-application consultation where the options for a development proposal could be explored. If the preliminary discussions indicate that the property meets the eligibility criteria outlined in Sections 6.3 through 6.7 of this CIP, the proponent would be encouraged to submit the appropriate application(s).

6.10 Development Charges & Impost Fee Assistance

The City's existing Development Charge and Impost Fee By-laws include provisions that allow the City to provide exemptions to the charges and fees for properties that are within the designated "Community Improvement Area" as shown on Schedule 10 of the Official Plan and that are subject to an approved Community Improvement Plan.

Although the 2005 Brownfields CIP recognized these exemptions as a complement to the financial incentive components of the Brownfields Program, other than for projects within CIPA 6, such exemptions are **not** included within the terms of the 2017 Brownfields CIP.

(By-Law 2018-13; 2020-148)

Relief from development charges and impost fees, either in whole or in part, is at the sole discretion of Council. Any charges and fees exemptions previously approved for Brownfield Sites under the 2005 Brownfields CIP, as amended, would still have to be paid into their respective funds. Once the Rehabilitation Grant has been paid to the Property Owner, the tax differential would then continue and be used to pay any development charges and impost fees that were exempted.

7.0 Financial Aspects

7.1 General Budget Size Descriptions

The fiscal health of the City of Kingston is a priority of Council, embedded in its Strategic Plan and Official Plan. Strategies have been introduced over the past several years to improve the City's financial situation, including the use of a 15 year capital expenditure forecast and a multi-year approach to managing operating budgets and expenditures. The City continues to build capital reserve funds in support of funding capital replacement and renewal investments using a "pay as you go" approach and to execute strategies that will limit future reliance on debt. Kingston's 2017 municipal operating budget was approved in the amount of \$359 million. The 2017 municipal capital budget was approved at \$43 million, not including the \$137 million previously approved for the 2015-2018 multi-year capital budgets for engineering and other public works initiatives. At December 31, 2016, the City's consolidated financial results included \$247 million in reserves and reserve funds, a net book value of capital assets of \$1.47 billion, and long-term debt of \$293 million.

The City's annual Operating Budget contains assessment growth projections that include estimates for the incremental property tax increases that result from the approved brownfield projects. The related costs of the annual Rehabilitation Grant (TIRGP) payments to Property Owners are also included in the annual operating budget estimates.

7.2 Brownfields CIP Program – Financial Aspects

7.2.1 Program Expenses

The expenses that are required to support the Brownfields Program include:

- a. **Staffing:** A full-time staff person is required to coordinate the Brownfields Program (review and processing of applications, monitoring the program, providing status reports to Council, etc.). While funding for the one full time staff is included in the budget, it must also be recognized that there are also staff costs associated with the role of various staff members in other City departments in the review of applications, and the clerical processing and administrative support required to run the program.
- b. **Promotional:** The Brownfields Program will be promoted in accordance with the City's marketing strategy (refer to Section 8.3).
- c. **Studies:** These costs are associated with the Initial Study Grant and are limited to a maximum of two studies per Eligible Property with a maximum grant of \$20,000 per property. The current municipal budget total is \$40,000 per year.

- d. Miscellaneous expenses: These include costs incurred to assist with further environmental research, specialized GIS system mapping, and data implementation.

7.2.2 Financial Benefits of the Brownfields Program

There are financial benefits to the City associated with the Brownfields Program. One of the principal benefits is the increased property assessment and associated tax revenues that result from the Rehabilitation and redevelopment of Brownfield Sites (refer to Section 7.2.3 below). For each Eligible Property proposed for Rehabilitation and development, the Municipal Property Assessment Corporation (MPAC) may be asked to provide an estimate of the reassessed value anticipated once site Rehabilitation and development are complete. This estimated assessment value is used to determine the annual Rehabilitation Grant payment amount and the duration of the grant payments. Once the site is developed and occupied, the grants paid to the Property Owner will be based on the actual assessed value of the property as confirmed by MPAC.

A portion of the incremental municipal tax differential between the pre-development and post-development taxes is initially allocated to pay the approved Rehabilitation Grant. After the approved eligible Rehabilitation costs are paid to the Property Owner and any development charge or impost fee exemptions are paid into the respective funds, that portion of the incremental tax differential then becomes part of the City's annual tax revenues. These long-term tax revenues for the property result from the short-term financial incentives invested in the Rehabilitation and redevelopment of Brownfield Sites through the Brownfields Program.

Another financial benefit is derived from the portion of the incremental increase in tax revenue which is transferred into the Municipal Brownfield Reserve Fund (MBRF). The MBRF is intended to fund the municipality's participation in the Brownfields Program. This fund allows the City to rehabilitate and to offer for sale Brownfield Sites with future development potential. The realization of this future development potential within the Community Improvement Project Areas will help to stimulate growth and encourage land use intensification.

A less tangible financial benefit is the compounding appreciation effect in the areas surrounding brownfield redevelopments. Redevelopment of a property that has been vacant or underutilized for many years and stigmatized due to site Contamination for new residential, commercial or industrial land uses, can have a positive effect on surrounding properties. The value of the surrounding properties may increase due to the improved environmental and aesthetic quality of the urban environment leading to further private sector investment in the revitalization of neighbourhoods, employment areas and the downtown.

In addition to the significant environmental, economic and social community benefits articulated in Section 4 of this CIP, an additional benefit to the City is that the Rehabilitation of a contaminated property will help to ensure its future marketability and reduce the likelihood of the property falling into tax arrears. It is difficult to market or secure mortgages/loans on contaminated land due to unknown risk. Rehabilitating these properties could reduce tax arrears and the possibility of a tax sale registration that could culminate in a Failed Tax Sale that potentially results in the tax arrears being cancelled by the City.

7.2.3 Financial Performance of the Brownfields Program (2005-2016)

Since 2005, 14 properties received approval for an Initial Study Grant (ISG). The total amount of ISGs approved is \$221,000. Council also approved 16 brownfield projects for tax-based financial incentives that included pre-development tax cancellation under the BFTIP and post-development property tax rebates under the TIRGP.

The 16 approved projects range in tax rebate value from \$175,000 to \$4.4 million per project and constitute a total tax rebate commitment of approximately \$27 million. Based on these approved projects, there is a projected net incremental tax revenue to the City of \$7 million annually commencing in 2030, the first year in which there are no expected rebates to be paid for the currently approved projects.

Under the 2005 Brownfields CIP, the incremental tax differential (difference between the pre-development taxes and post-development taxes) was split 80/20, with 80% being rebated on an annual basis to the Property Owner and the remaining 20% being allocated annually to the City's Municipal Brownfields Reserve Fund (MBRF). The 16 brownfield projects approved to date (2005-2016) have generated the following tax performance:

- a. Total property taxes rebated by the City (2005 – 2016) = \$8.3 million;
- b. Total tax revenue allocated to the MBRF (2005 – 2016) = \$2.0 million;
- c. Remaining tax rebate commitment to existing projects (2017 – 2030) = \$18.7 million;
- d. Remaining tax revenue to be directed to the MBRF (2017 – 2030) = \$4.5 million.

7.3 Fiscally Responsible Financial Incentive Programs

Based on an analysis of the Brownfields Program from 2005 to 2016 for the approved and pending projects, it was projected that current operating budget estimates for repayment of remediation costs may need to increase beginning in 2018 if the financial incentive components of the Brownfields Program were to remain unchanged. The ability of the City to continue financing brownfield tax rebates at current levels was also identified as a concern. Applications for the Brownfields Program can be submitted until December 31, 2025 (until December 31, 2035 for projects within CIPA 6) and it is anticipated that the Property Owners of other Brownfield Sites may apply for financial assistance between now and 2025.

(By-Law 2018-13; 2020-148)

As discussed in Section 2.4 of this CIP, staff undertook a review of the Brownfields Program in 2016. One of the key objectives of the review was to decrease the short-term financial impact on the City from future tax assistance and Rehabilitation grant payments while maintaining effective financial incentives to level the playing field with Greenfield Development. Council's priority to "Plan a livable city" includes the commitment respecting brownfields to "target failed tax sale and abandoned properties for redevelopment purposes". As such, the 2017 Brownfields CIP maintains a suite of financial incentives as outlined in Section 6 that are intended to encourage and facilitate private sector Rehabilitation and redevelopment of Brownfield Sites and thereby create new opportunities for development and assessment growth.

While the Brownfields Program has been successful, the analysis of the approved projects to date indicated that the financial incentive components of the program may not be sustainable in the longer-term without changes to the scope of financial assistance being offered by the City. In accordance with Council's commitment to conduct business in a fiscally responsible manner, and as outlined in Section 6, the 2017 Brownfields CIP reduces the number of financial incentives being offered, the number of Community Improvement Project Areas where the financial incentives are offered, the eligible Rehabilitation costs that may be recovered, and the types of properties that may apply for financial incentives under the CIP.

These changes will only apply to projects that are approved after the date of approval of the 2017 Brownfields CIP, and as a result, the impact of these changes on the City's Brownfields Program will not be realized immediately. This package of changes to the financial incentive and eligibility components of the Brownfields Program should achieve the City's goal of fiscal responsibility and contribute to the sustainability of the Brownfields Program in the longer-term while minimizing any negative impact on the City's overall budgets.

8.0 Implementation

The administration of the Brownfields Program is carried out in accordance with the policies in Section 6 of this CIP. The following sub-sections here provide additional information about the implementation of other components of the Brownfields Program, including: amendments to the CIP; monitoring of the Brownfields Program; the marketing strategy for the Brownfields Program; and the implementation guides.

8.1 Amendments to this 2017 Brownfields CIP

Amendments may be made to this CIP in accordance with the following:

- a. Council may discontinue any of the components of the Brownfields Program, without an amendment to this CIP, if, in the opinion of Council, the goals of this CIP are not being met.
- b. Council may vary the components of the Brownfields Program, without an amendment to this CIP, if, in the opinion of Council, the goals of this CIP are not being met, provided that the variation does not exceed the maximum amount of Tax Assistance and Rehabilitation Grants permitted through the Brownfields Program and this CIP.
- c. Council may discontinue the Rehabilitation Grant component of the TIRGP at any time. However, Property Owners entitled to receive Rehabilitation Grants prior to the closing of the TIRGP, will continue to receive the grants as determined through the approved TIRGP Grant By-law and/or Brownfield Site Agreement with the City.
- d. Council may discontinue the Initial Study Grants at any time. However, Property Owners entitled to receive the Initial Study Grant prior to the closing of the grants component of the program, will receive any Initial Study Grant that had already been approved upon completion of the approved study.
- e. When the Rehabilitation Grants end with the last grant payments paid out, possibly as late as December 31, 2035 (December 31, 2045 for projects within CIPA 6), the Municipal Brownfield Reserve Fund (MBRF) will also end. At that time, if Council wishes to continue the MBRF, it may do so by continuing to direct 20% of the tax increment assigned to former Brownfield Sites into the fund, without amendment to this CIP. Alternatively, the City may conclude the MBRF and return any monies remaining in the MBRF account to general revenue.

(By-Law 2018-13; 2020-148)

- f. Any additions to the financial incentive components of the Brownfields Program will require a formal amendment to the Brownfields CIP in accordance with Section 28(5) of the *Planning Act*, requiring notice of a public meeting, at least one public meeting hosted by the Planning Committee, and adoption by Council.
- g. In the case of a property and/or building that meets the eligibility criteria but is not located within a Community Improvement Project Area (CIPA), the Brownfields CIP will require a formal amendment in accordance with Section 28(5) of the *Planning Act* to include the property or area as a new CIPA or as an addition to an existing CIPA. The following policies apply to applications to amend or create a CIPA:
 - 1) All new or expanded CIPAs will be subject to all provisions of the 2017 Brownfields CIP, unless expressly varied on a site-specific or area-specific basis.
 - 2) Applications to revise an existing CIPA or add a new CIPA will be subject to the following general process:
 - i. The proponent arranges a pre-consultation meeting with City staff in order to discuss the rationale for the proposed amendment;
 - ii. The proponent must complete and submit an application to the City. Only complete applications will be processed;
 - iii. The following information should be included with the application:
 - The existing land use and property history (where known);
 - The current Official Plan designation and zoning;
 - A description of the proposed land use development concept;
 - A summary of any planning applications that have been submitted and their status;
 - Supporting technical studies and reports including Phase I or II ESA's and/or a Remedial Action Plan and the Rehabilitation approach under consideration (i.e. full-depth, stratified, or risk assessment);
 - A planning justification report outlining the rationale for the proposed amendment; and
 - The current property assessment and an estimate of future assessment based on the development proposal;

- iv. The application will be circulated to the relevant internal City departments and outside agencies for review and comment;
 - v. City staff will prepare a public meeting report and at least one public meeting will be hosted by the City's Planning Committee;
 - vi. Notice of the public meeting(s) will be provided in accordance with the *Planning Act*;
 - vii. A comprehensive report will be prepared by City staff together with a recommendation and forwarded to the Planning Committee for consideration together with the required draft by-law(s) to amend the Brownfields CIP;
 - viii. The Planning Committee will make a recommendation to City Council;
 - ix. If the application is approved by Council, the by-law(s) will be passed and public notice provided in accordance with the *Planning Act*;
 - x. If the application is not approved the proponent will be notified of Council's decision;
 - xi. Council's decision may be appealed to the Ontario Municipal Board within 20 days of the date that notice is given.
- h. The final decision on whether to create a new CIPA or expand the boundary of an existing CIPA will be solely at the discretion of Council. In determining whether or not to permit the creation or expansion of a CIPA, the application will be assessed in accordance with all of Section 6.2 of this CIP, and the City will be satisfied that **both** of the following conditions are met:
- i. The City is able to afford to offer the financial incentive components of the Brownfields Program to the additional site or area, and be able to continue to implement and administer the overall Brownfields Program in a financially responsible manner; and
 - ii. The development that is proposed as part of the overall Rehabilitation and redevelopment of the subject site or area complies with the policies of the Official Plan, including the land use compatibility principles and any applicable secondary plan policies, and meets the intent of any applicable urban design guidelines.
- i. If an Official Plan amendment and/or zoning by-law amendment is required to permit the development that is proposed as part of a new or expanded CIPA, then those planning approvals must be obtained prior to the approval of the CIP

amendment, or applied for in conjunction with the application for the CIP amendment.

- j. Minor changes to the Brownfields CIP will not require Council approval or an amendment in accordance with Section 28 of the *Planning Act*, provided the change(s) conform to the Official Plan, applicable provincial legislation, and meet the intent and purpose of the Brownfields CIP. These minor changes may include, but are not necessarily limited to:
 - 1) Minor changes that arise as a result of amendments to legislation or the Official Plan;
 - 2) Minor changes to application requirements, eligibility and evaluation criteria, and process;
 - 3) Changes to the appendices of this CIP.

8.2 Monitoring of the Brownfields Program and CIP

The City of Kingston Brownfields Redevelopment Strategy, Brownfields Program, and Community Improvement Plan will be evaluated from time to time by staff and City Council. The purpose of the monitoring will be:

- a. To determine the overall effectiveness and relevance of the financial incentive components of the Brownfields Program and the related policies, procedures, processes and funding levels;
- b. To identify any required modifications to the Brownfields Redevelopment Strategy, Brownfields Program or CIP; and,
- c. To assist City Council in determining the continuation of the Brownfields Program.

Staff will provide Council with a Brownfields Program overview report on an annual basis which will include information with respect to:

- a. The number of Initial Study Grant applications submitted/approved and the total value of the grants;
- b. The number, nature and extent of projects for which BFTIP and TIRGP applications have been submitted;
- c. The number of BFTIP and TIRGP applications approved;
- d. The value of City contributions through the financial incentive components of the Brownfields Program and the corresponding private sector investment;
- e. The changes in property assessment values on redeveloped Brownfield Sites;

- f. Any non-financial benefits resulting from the financial incentive components of the Brownfields Program; and
- g. Any issues or concerns that may necessitate amendments to the Brownfields Redevelopment Strategy, the Community Improvement Project Areas, and/or the Brownfields Program.

8.3 Marketing Strategy

The financial incentives of the Brownfields Program are designed to make development opportunities in the Community Improvement Project Areas more attractive. Therefore, it is important to the successful implementation of the Brownfields Redevelopment Strategy and Community Improvement Plan that the City's financial incentive components of the Brownfields Program and the redevelopment opportunities available in the City be effectively communicated to Property Owners, the development industry, and potential investors and their consultants.

The marketing strategy should be designed to provide guidance and assistance to the City in undertaking the following:

- a. Actively promoting the redevelopment or adaptive re-use of vacant or underutilized former commercial and industrial properties;
- b. Marketing the financial incentive components of the Brownfields Program and redevelopment opportunities for Brownfield Sites and Failed Tax Sale properties;
- c. Providing information on obtaining assistance and advice from the City; and
- d. Educating the public and other stakeholders on Environmental Site Assessment and site Rehabilitation processes.

The City's marketing strategy is a multi-faceted approach that contains any or all of the following:

- a. Actively promoting, through appropriate media, the financial incentive components of the Brownfields Program that are available to encourage redevelopment or reuse of Brownfield Sites;
- b. Marketing the Community Improvement Project Areas as new development opportunities in conjunction with the Kingston Economic Development Corporation staff;
- c. Maintaining up to date information on the City's website along with Implementation Guides that describe the eligibility criteria and how to apply for the financial incentive components of the Brownfields Program;

- d. Making presentations on the City's Brownfields Redevelopment Strategy, Brownfields Program, and Community Improvement Plan to the development community, real estate, environmental and planning consultants, and finance, insurance and legal professionals;
- e. Attending or presenting at brownfields conferences to obtain the latest information on brownfields redevelopment in other communities and/or to proactively market the City's Brownfields Program and opportunities; and
- f. Issuing press releases and profiles of successful brownfields redevelopment projects and initiatives.

8.4 Implementation Guides

Detailed Implementation Guides for the administration of the Initial Study Grant, the BFTIP Tax Assistance, and TIRGP Rehabilitation Grant have been prepared and are included as part of the Brownfields Program application packages. The Implementation Guides set out general and specific requirements for each component of the program and outline the application and approvals processes.

Appendix A: Glossary of Key Terms

The following terms are defined for the purposes of this Brownfields CIP:

Assistance Period: Means with respect to an eligible property, the period of time starting on the date on which the by-law providing Tax Assistance for the property is passed and ending on the earliest of:

- a) the date specified in the by-law, and
- b) the date that the Tax Assistance provided for the property equals the sum of,
 - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*.

(By-Law 2018-13; 2023-13)

Base Rate: Means the municipal tax assessment of an Eligible Property prior to the commencement of Rehabilitation and/or redevelopment.

Brownfield Financial Tax Incentive Program (BFTIP): Means the financial mechanism, established pursuant to Section 365.1(1) of the *Municipal Act, 2001*, which is used by the municipality to cancel the municipal portion of the property tax and to apply to the Minister of Finance for cancellation of the education portion of the property tax during the Assistance Period of the Brownfields CIP Program, subject to specified time limits.

(By-Law 2018-13; 2023-13)

Brownfield Sites: Means undeveloped or previously developed properties that may be contaminated. They are usually, but not exclusively, former industrial or commercial properties that may be underutilized, derelict or vacant.

Brownfield Site Agreement: Means an agreement entered into between the City and the Property Owner and registered against the title of an eligible property that establishes the amount and duration of the Rehabilitation grant payments and the obligations of the Property Owner and the City.

Brownfields Program: The program that the City uses to offer Tax Assistance and Rehabilitation Grants to the owners of Eligible Properties for the Rehabilitation and redevelopment of Brownfield Sites.

Brownfields Redevelopment Strategy: Means the City's plan to promote the Rehabilitation and redevelopment of Brownfield Sites in accordance with provincial regulations, the City's Official Plan, and the City's Brownfields CIP.

Certificate of Property Use: Means a Certificate issued under the *Environmental Protection Act* that requires the Property Owner to do any of the following:

- a. Take any action that is specified in the Certificate to prevent, eliminate or ameliorate any adverse effect that has been identified in the Risk Assessment, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose;
- b. Refrain from using the property for any use specified in the Certificate or from constructing any building specified in the Certificate on the property.

City: Means The Corporation of the City of Kingston.

Community Improvement Plan (CIP): Means a tool under the *Planning Act* that allows a municipality to direct funds and implement policy initiatives towards a specifically defined Community Improvement Project Area.

Community Improvement Project Area (CIPA): Means a municipality, or an area within a municipality, where in the opinion of Council, community improvement is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings, or for any other environmental, social or community economic development reason.

Contamination or Contaminated: Means a chemical which is present in soil, groundwater or sediment at a concentration greater than background levels, or which exceeds the concentration established in *Ontario Regulation 153/04* for the existing or proposed land use.

Council: Means the Council of The Corporation of the City of Kingston.

Development Period: Deleted in its entirety see By-Law 2023-13

Eligibility Date: Means the date after which eligible remediation costs intended for the tax cancellation through the Brownfield Financial Tax Incentive Program (BFTIP) and rebate through the Tax Increment-Based Rehabilitation Grant Program (TIRGP) can be incurred by the Property Owner. The Eligibility Date will be the date that City Council approves the application provided to the City by the Property Owner and approval of the Brownfield Financial Incentives By-law for the property.

Eligible Property: Means property for which a Phase II Environmental Site Assessment has been conducted and that:

- a. is included under Section 28 of the *Planning Act* in a Community Improvement Project Area for which a Community Improvement Plan is in effect containing provisions for Tax Assistance; and,
- b. as of the date the Phase II Environmental Site Assessment was completed, did not meet the standards that must be met under Subparagraph 4 i of Subsection 168.4(1) of the *Environmental Protection Act* to permit a Record of Site Condition to be filed under that Subsection in the Environmental Site Registry; and,

- c. that meets the eligibility criteria and requirements as set out in the 2017 Brownfields CIP.

Environmental Monitoring Program: Means a program of work designed to monitor environmental conditions within the air, soil, groundwater or sediment of a property that is normally undertaken during and after Rehabilitation to assess the performance of environmental Rehabilitation work over time. Environmental Monitoring Programs are often required to support risk-based Rehabilitation approaches.

Failed Tax Sale: Means when there is no successful purchaser in response to a public property tax sale, the *Municipal Act, 2001* authorizes the City, for a period of 24 months, to enter into a Failed Tax Sale process on a property.

Greenfield Development: Means the creation of planned communities within an urban area on previously undeveloped land with no or limited constraints imposed by previous uses, buildings or infrastructure.

Initial Study Grant: Means a grant to promote the undertaking of environmental studies that result in a more complete understanding of the type, concentration and location of Contamination that exists on a Brownfield Site.

Municipal Brownfield Reserve Fund: Means the fund established by the City in accordance with the provisions of the 2017 Brownfields CIP into which a portion of the incremental tax increase generated by approved development on an eligible property is directed annually to enable the City's direct participation in the Rehabilitation and redevelopment of publicly-owned Brownfield Sites in the Community Improvement Project Areas.

Occupancy Permit: Means a permit issued by the City's building department certifying that a building or part of a building is in compliance with the applicable building codes and other laws and indicating that the building or part thereof is in a condition suitable for occupancy by the use or intended use.

Occupancy Period: Means the time period that begins when the Development Period is complete and an occupancy permit has been issued by the City for all or a portion of the building(s) on an Eligible Property. The Occupancy Period may continue for up to a maximum of 10 years or until the approved eligible Rehabilitation costs have been recaptured by the Property Owner.

Off-Site Management Plan: Means a plan that monitors a known, off-site impact from a source property that has moved onto an adjacent property. It generally contains detailed monitoring and sampling plans for soil and groundwater, fluid levels and organic vapour concentrations on a regular basis to maintain an audit of the subsurface conditions.

Phase I Environmental Site Assessment (ESA): Means an assessment of property conducted in accordance with the applicable regulations, by or under the supervision of a Qualified Person, to determine the likelihood that one or more contaminants have affected any land or water on, in or under the property. Generally, a Phase I ESA gathers information on a property from an historical use perspective. The investigation usually

includes a site visit, a records review, and interviews with individuals who have specific knowledge of the property.

Phase II Environmental Site Assessment (ESA): Means an assessment of property conducted in accordance with the applicable regulations, by or under the supervision of a Qualified Person, to determine the location and concentration of one or more contaminants in the land or water on, in or under the property. The Phase II ESA is undertaken to confirm the presence or absence of potential Contamination identified during the Phase I ESA. The Phase II ESA utilizes soil and groundwater samples to identify contaminants and the level of Contamination relative to Provincial standards, and to locate the contaminated areas on site. The Phase II ESA may also begin to develop some possible Rehabilitation measures and begin to assess any potential land use limitations.

Property Owner: Means the person or persons or corporation registered as the owner of the eligible property on title in the Land Registry Office.

Qualified Person: Means an individual with qualifications and/or credentials related to a field of study and who is therefore appropriate for conducting a study and/or providing an expert opinion that has been required by the City. The qualifications and credentials of the Qualified Person must be to the satisfaction of the City, or where appropriate, are defined by relevant legislation, regulation and standards.

Record of Site Condition (RSC): Means a record that sets out the environmental condition of a property at a particular point in time, based on environmental site assessments conducted by a qualified person. An RSC must be filed in the provincial Ministry of Environment and Climate Change registry before the change of use of a property from industrial or commercial to residential or parkland or any lands to be dedicated to the City.

Rehabilitation: Means any actions or efforts taken to reduce the concentration of contaminants on, in or under an Eligible Property that result in the productive reuse of lands or buildings within the Community Improvement Project Areas.

Rehabilitation Grant: Means an annual grant to the Property Owner based on the increase between the pre-development and post-development taxes. The maximum amount of the grant is calculated by taking the value of the approved eligible Rehabilitation costs and subtracting the Initial Study Grant amount and the tax assistance amount. The Rehabilitation Grant payments are paid by the City for up to 10 years or up to the value of the approved eligible Rehabilitation costs, whichever occurs first.

Rehabilitation Period: Deleted in its entirety see By-Law 2023-13

Remedial Action Plan: Means the plan that focuses on the Rehabilitation strategy (full-depth, stratified, risk assessment) for the clean-up of a property, the work plan, the uses proposed for the property and the level of environmental standard to be attained, and the costs associated with implementation. The Remedial Action Plan is based on the results

of the Phase II ESA investigation and analysis and is formally recognized as a Phase III ESA. The Remedial Action Plan and the development proposal are closely linked.

Restoration: Means improving the quality of, rehabilitating, cleaning up or managing soil, groundwater or sediment, so that the property will be suitable for its intended use.

Risk Assessment: Means the scientific examination of the nature and magnitude of risk to define the effects on both human and other receptors of the exposure to contaminants, as prescribed by law, which is prepared in accordance with the applicable regulations by or under the supervision of a Qualified Person.

Risk Management: Means the implementation of a strategy or measures to control or reduce the level of risk estimated by the Risk Assessment.

Site Specific Risk Assessment (SSRA): Means a study that is adopted as a component of the Remedial Action Plan and may affect building type, building location, park areas, excavation potential and parking lots. These elements of the development concept may be designed in such a manner that they effectively seal any contaminants without any unnecessary disturbance. As a result, the Remedial Action Plan and the development proposal are closely linked.

Tax Assistance: Means, with respect to an Eligible Property, the cancellation or deferral of all or a portion of the taxes for municipal and education purposes pursuant to a by-law passed by Council as part of the BFTIP Program.

Tax Assistance By-law: Means a by-law passed by Council pursuant to the provisions of the *Municipal Act, 2001* to provide Tax Assistance to an Eligible Property on such conditions as Council may determine, and said by-law may apply during the Rehabilitation Period, the Development Period, or both.

Tax Increment-Based Rehabilitation Grant Program (TIRGP): Means the financial mechanism that takes the post-development municipal portion of the property taxes paid by the Property Owner and uses the calculated difference between the pre-development tax levy and the post-development tax levy to pay to the Property Owner the annual Rehabilitation Grant, and to contribute monies to the Municipal Brownfield Reserve Fund (MBRF), for a maximum period of 10 years, or until the value of the approved eligible Rehabilitation costs has been recovered by the Property Owner, whichever occurs first.

Vest or Vesting: Means to give an absolute right to title or ownership, including to real property, and is the term used in the applicable portions of the *Municipal Act, 2001* and the *Planning Act*. Applicants are encouraged to seek legal advice to confirm the correct understanding of this and other aspects of the processes set out in this CIP and applicable law.

Appendix B: Excerpt from City of Kingston Official Plan

9.8 Community Improvement

General Purpose

- 9.8.1. Council recognizes the importance of revitalizing various residential, commercial and industrial sections of the City and intends to continue and enhance the established processes of renovation, rehabilitation, revitalization, environmental remediation and energy improvement. To this end, it is intended that *community improvement project areas* will be identified and appropriate strategies for their revitalization detailed by Council through the adoption of *community improvement plans*.

Community Improvement Area

- 9.8.2. The community improvement policies of this Plan are enabling policies under the *Planning Act*. It is the intent of Council that the Community Improvement Area shown on Schedule 10 to this Plan may be designated, in whole or in part, by by-law, as one or more defined *community improvement project areas* for which detailed *community improvement plans* will be prepared.

New Plans at Council's Discretion

- 9.8.3. *Community improvement plans* are created for various situations where there is an identified community need. Therefore, the designation of a *community improvement project area*, and the creation of a *community improvement plan*, will be entirely at the discretion of Council.

Financial Support Discretionary

- 9.8.4. The provision of financial assistance in a community improvement plan will be entirely at the discretion of Council. The City shall be satisfied that its participation in community improvement activities will be within the financial capabilities of the City.

Criteria for Establishing

- 9.8.5. The Community Improvement Area shown on Schedule 10 illustrates the existing *Urban Boundary* of the City. A *community improvement plan* may be established for any portion of the Community Improvement Area that conforms to one or more of the following criteria:
- a. the presence of building stock or housing units that do not meet minimum occupancy standards as set forth in the City's Property Standards By-law;
 - b. the presence of unused or underutilized land or buildings that could be developed, redeveloped, renovated or converted to another use;

- c. the presence of buildings or lands of cultural heritage value or interest and sites of archaeological significance or interest;
- d. the presence of deficiencies, including accessibility considerations, in hard services including roads, sidewalks, curbs, gutters, storm and sanitary sewers, and water service;
- e. the presence of lighting or other public utilities that fail to meet municipal standards, or that are not energy efficient;
- f. inadequate community services such as public indoor/outdoor *recreation* facilities, and public open space;
- g. inadequate social facilities such as day care facilities;
- h. a lack of adequate off-street parking facilities;
- i. limited traffic circulation or poor access to residential, commercial or industrial areas;
- j. excessive building vacancies within the area;
- k. the presence of incompatible land uses;
- l. the overall streetscape or aesthetics of an area require upgrading;
- m. the presence of special visual amenities (e.g. waterfront), which could benefit from protection or enhancement;
- n. the presence of points of interest, and amenities that provide an opportunity for tourism;
- o. the presence of lands or buildings that may require detailed environmental site assessments or designated substances surveys and the implementation of appropriate and necessary remediation;
- p. the prevalence of building stock or housing units at a neighbourhood scale that is energy inefficient as determined through energy mapping or other means;
- q. the opportunity to support *development* that would intensify vacant or underutilized lots in the Community Improvement Area; and
- r. the opportunity to support *development* that would decrease carbon emissions or improve energy efficiency.

Boundary Adjustments

- 9.8.6.** Minor adjustments to the boundary of the Community Improvement Area shown on Schedule 10 do not require an amendment to this Plan.

Objectives for Community Improvement Areas

- 9.8.7.** Within the Community Improvement Area, the City of Kingston intends to:

- a.** encourage improvement activities that contribute to a strong economic base including tourism, cultural and industrial *development*;
- b.** establish and maintain the physical *infrastructure* required for residential, commercial and industrial *development* within the Community Improvement Area;
- c.** ensure the maintenance of the existing building stock where appropriate and encourage rehabilitation, renovation and repair of older buildings;
- d.** preserve *cultural heritage resources* and facilitate the restoration, adaptive re-use and improvement of these resources;
- e.** provide a mix of housing types to accommodate all segments of Kingston's population, including the construction of *affordable* housing;
- f.** improve parking for vehicles and *active transportation* devices and traffic patterns and enhance *compatibility* with surrounding uses;
- g.** promote the continued *development* and revitalization of the Central Business District and strengthen its role as the primary service and commercial centre within the *Urban Boundary*;
- h.** encourage appropriate *development* along the lakefront and riverfronts in accordance with the policies of this Plan;
- i.** provide and maintain adequate social, cultural, community and *recreational* facilities and services;
- j.** improve energy efficiency and reduce carbon emissions where feasible; and,
- k.** encourage the rehabilitation of environmentally compromised land and buildings through appropriate remediation.

Implementation Strategies

9.8.8. In order to implement its community improvement policies, the City may:

- a. designate by by-law *community improvement project areas*, and prepare *community improvement plans* for the project areas in accordance with the *Planning Act*;
- b. integrate community improvement projects with other public works and City programs and initiatives;
- c. continue to support and encourage Business Improvement Areas (BIAs) in their efforts to maintain strong and viable business areas;
- d. continue the enforcement of the Property Standards By-law with respect to residential, commercial and industrial building stock and lands;
- e. continue to make applications to participate in all appropriate senior level government programs;
- f. continue to support Heritage Kingston and heritage conservation programs and initiatives;
- g. continue to encourage private initiatives regarding the rehabilitation, *development*, conversion and environmental remediation of lands or buildings and, where appropriate, support *infill development*;
- h. develop an environmental program designed to assist private interests in undertaking the remediation of environmentally compromised land or buildings;
- i. where feasible, acquire buildings and lands to carry out community improvement objectives;
- j. consider a more flexible approach to zoning where community improvement objectives are supported; and,
- k. develop energy programs designed to assist private interests in undertaking actions that reduce carbon emissions or increase energy efficiency from buildings.

9.8.9. The City will continue to monitor and implement the existing Community Improvement Plan Brownfield Project Areas for the purpose of implementing the City's Brownfields Program, and its key financial components of tax assistance and grants for the rehabilitation of environmentally-compromised land and buildings through an appropriate remedial work plan.

Amended by OPA Number 16 (By-Law Number 2013-98) and
OPA Number 50 (MMAH approval date: August 8, 2017)