



**City of Kingston
Report to Council
Report Number 25-042**

To: Mayor and Members of Council

From: Paige Agnew, Commissioner, Growth & Development Services

Resource Staff: Paul MacLatchy, Environment Director, Business, Real Estate & Environment

Date of Meeting: January 14, 2024

Subject: Brownfield Financial Benefits for Project at 0 Cataraqui Street

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

Goal: 1.1 Promote increased supply and affordability of housing.

Executive Summary:

This report recommends approval of brownfield financial tax rebate benefits of up to \$4,088,883 to the applicant/owners (Inner Harbour Development LP) of the property at 0 Cataraqui Street in exchange for the remediation of environmental contamination and residential redevelopment of the property, and for the approval of by-laws and execution of agreements for that purpose. The applicant's proposed project is within Project Area 1A of the Kingston Brownfield Community Improvement Plan (CIP) and will require the management, remediation and risk assessment of environmental contaminants and involve the redevelopment of the waterside property into a six-storey residential building containing 75 apartment units. The property has been vacant for many years and was historically the location of industrial, transportation and filling activities that have left a legacy of contamination within soil and groundwater. The proposed conversion from previously industrial uses to a new residential use requires clean-up of environmental contamination and registration of a Record of Site Condition (RSC).

The property currently provides a combined municipal and education tax contribution of approximately \$27,397 per year. Using conservative estimates, staff anticipate that when

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completed, the proposed development's estimated annual combined municipal and education property tax uplift would be no less than \$182,648 per year. When 80% of this projected tax uplift is allocated to an annual tax rebate, the Brownfield Financial Benefit is expected to provide no less than \$1,461,185 back to the project over the maximum ten-year rebate period. The actual total amount of rebate provided is likely to be higher as annual tax assessment amounts rise with inflation during the ten-year rebate period; but cannot exceed the approved maximum benefit of \$4,088,883.

Recommendation:

That Council approve the Brownfield Property Tax Financial Assistance Application submitted by Inner Harbour Development LP, owner of the property at 0 Cataraqui Street, for future annual property tax rebates or cancellations that are not to exceed a total of \$4,088,883 over a maximum of ten years subject to the establishment of, and in accordance with, the terms and conditions of a Brownfield Site Agreement; and

That the by-law attached as Exhibit B to Report Number 25-042 be presented to Council for all three readings that establishes the property as eligible to receive future property tax rebates under the Tax Increment Rebate Grant Program subject to a Brownfield Site Agreement between the owner and the City; and

That the by-law attached as Exhibit C to Report Number 25-042 be presented to Council for first and second readings to allow for the cancellation or rebate of property taxes for Municipal and Education purposes for the duration of the assistance periods for the property at 0 Cataraqui Street under the Brownfield Financial Tax Incentive Program By-Laws; and

That following the first and second readings of the Brownfield Financial Tax Incentive Program By-Law to cancel taxes, said by-law be forwarded to the Ministry of Finance for their approval if required and once approved, presented to Council for third reading; and

That staff be directed to negotiate a Brownfield Site Agreement with Inner Harbour Development LP establishing the terms and conditions governing the payment of the Brownfields Rehabilitation Grant for the redevelopment of 0 Cataraqui Street; and

That the Mayor and Clerk be authorized to execute the Brownfield Site Agreement in a form satisfactory to the Director of Legal Services.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Paige Agnew, Commissioner,
Growth & Development Services**

ORIGINAL SIGNED BY CHIEF

ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Jennifer Campbell, Commissioner, Community Services	Not required
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	OK

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Options/Discussion:**Background**

The property at 0 Cataraqui Street has been proposed for residential redevelopment which will, under Ontario law, require the remediation of environmental contamination so that a Record of Site Condition (RSC) can be filed before any above-grade building permits are issued. The property has been vacant for many years and has a long history of industrial use including petroleum storage and metals recycling. These former uses in conjunction with other heavy industrial and transportation uses on adjacent lands, and an unregulated filling have left a legacy of soil and groundwater contamination to the extent that the property is considered a brownfield and requires environmental remediation and ongoing risk management measures if residential uses are to be created.

The owner of the subject property has made an application to the City of Kingston for brownfield financial benefits that will offset some or all the costs associated with the proposed environmental remediation work.

In 2023 the property received approval for a \$20,000 brownfield initial study grant. The amount of the grant payment will be deducted from the total amount of financial benefits being recommended in this report.

Proposed Environmental Remediation and Redevelopment

The 0 Cataraqui Street property is contaminated with petroleum hydrocarbons, heavy metals, and polycyclic aromatic hydrocarbons (PAHs) within the soil at concentrations that exceed the applicable Ontario Site Condition Standards for residential or parkland use. These contaminants are present due to unregulated landfilling within the industrial inner harbour area in the 19th and 20th centuries and the legacy of commercial, industrial and transportation uses on and adjacent to the property prior to the emergence of regulations and best practices designed to reduce pollution.

In accordance with Ontario Regulation 153/04 (RSC), the proponent must undertake remediation of environmental risks and submit a Record of Site Condition (RSC) before construction that would change the land use from its current vacant state to residential or parkland use. The applicant has submitted a remediation concept for the project that proposes to undertake a hybrid remediation approach consisting of different approaches on the building and utility corridor parcels and the waterfront parcel. Contaminated soil removal within the parcels associated with the proposed building and utilities infrastructure will be undertaken to achieve conformance with provincial soil standards and a Record of Site Condition. The waterfront parcel that will be redeveloped into outdoor amenity space will utilize a Tier 3 Risk Assessment with risk mitigation measures to address soil contamination and achieve a Record of Site Condition.

Staff have reviewed the remediation plans and associated cost estimates provided by the applicant and believe they are reasonable based upon the information provided within the

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Phase II Environmental Site Assessment report for the property. The estimated maximum costs to implement the proposed remediation plan is \$4,088,883 and is deemed eligible for recovery through brownfield financial incentive rebates. This amount includes a deduction of \$20,000 already provided to the project through an Initial Study Grant ([Report Number 23-167](#)). The nature and amounts of estimated eligible remediation costs are shown below in Table 1.

Table 1: Estimated Eligible Environmental Remediation Costs

Remediation Cost Category	Estimated Cost (2024)
Contaminated soil removal and disposal, sampling and verification testing. Groundwater management.	\$3,022,790
Placement of clean backfill	\$497,042
Additional Phase II ESA work and Tier 3 Risk Assessment	\$356,404
Preparation and submission of Records of Site Condition (RSC)	\$22,522
Construction of Risk Management Measures required by Tier 3 Risk Assessment and Certificates of Property Use (CPU)	\$210,125
Total Eligible Remediation Costs	\$4,108,883
Less previously approved Initial Study Grant payments	-\$20,000
Maximum Remediation Costs eligible for future tax rebates	\$4,088,883

The applicant is proposing to redevelop the property through the construction of a six-storey waterfront residential building containing approximately 75 dwelling units, an outdoor amenity space and surface parking. The existing waterfront public pathway will remain.

The location of the property subject to this application is shown on Exhibit A to this report.

The Tax Increment Based Rehabilitation Grant Program

To support the proposed remediation and redevelopment of the property at 0 Cataraqi Street the owner has submitted an application for Brownfield Financial Assistance (TIRGP & BFTIP) via the City of Kingston’s Brownfield Community Improvement Plan (CIP). The property is contaminated and is within Project Area 1A of the City of Kingston’s Brownfield CIP and is therefore eligible to apply for these benefits. Furthermore, the property contains contamination

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from industrial and land filling activities prior to the appearance of regulations and practices designed to limit pollution and that likely pre-date the most recent chain of ownerships.

Staff have reviewed the details of the application and confirmed that the proposed remediation approach and estimated remediation quantities and costs are reasonable and consistent with local market conditions. This report recommends approval of the 0 Cataraqui Street property for brownfield funding through future tax increment rebates (TIRGP & BFTIP) so that estimated costs for environmental remediation may be fully or partially recovered by the property owner.

The TIRGP is the component of the City of Kingston’s Brownfield CIP that enables the rebating of a portion of the future (post-redevelopment) municipal property taxes back to the owner once the project has been completed, so that the owner can recover eligible remediation costs over time. Within CIP Project Area 1A, the TIRGP allows for the annual rebating of up to 80% of the difference in the municipal and education portions of the property taxes between pre and post development. Rebating of the educational portion of property taxes through TIRGP is enabled through recent changes to the BFTIP made by the province. The TIRGP rebates can continue annually for up to 10 years, or until the approved eligible remediation costs have been recovered by the property owner, or until 2035, whichever occurs first. If approved, staff will make an application to the province to allow for a rebate of education taxes at a percentage proportional to the municipal share. If approved by the province, this could allow a greater share of the total brownfield financial support to come from the province and reduce the municipal share accordingly.

Based on the proposed redevelopment, the increase in municipal and education property taxes from current pre-development to post development is estimated to be no less than \$182,648 per year. Based on this, it is expected that an 80% rebate of the post-development municipal and education tax increment over the maximum 10-year rebate period would provide a total rebate of no less than \$1,461,185 back to the project. Table 2, below, shows how incremental taxes and future rebates are estimated.

Table 2: Estimated Tax Increments and Future Rebate Amounts

Current municipal + education taxes on vacant property (2024)	\$27,397
Estimated annual taxes after redevelopment	\$210,045
Pre to Post development estimated annual tax increment	\$182,648
80% of increment is eligible for annual rebate	\$146,118
Potential min. tax increment rebate over 10 years	\$1,461,185
20% contribution to Environmental Reserve Fund over the 10-year rebate period	\$365,296

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The tax assessment estimates are considered conservative and future increments and rebate amounts will likely be larger due to expected inflationary increases over the ten-year period of rebate eligibility. Regardless of whatever inflationary increases in taxation may occur, the maximum amount of rebate that would be provided is \$4,088,883.

The brownfield financial benefits recommended within this report are assignable if title to all or portions of the property changes from the current owner to a new owner(s) within the period of the incremental tax rebates. In such an event, Inner Harbour Development LP must advise the City of Kingston of its intent to assign the benefit to a new owner and must receive the City's consent to any such assignment.

Brownfield Site Agreement and Payment of Rebates

To set out and bind the applicant to the terms of an approved brownfield benefit program, a Brownfield Site Agreement will be executed between the City and the property owner. The Brownfield Site Agreement will require among other things, that before any tax rebates are paid out in any given year, the owner and/or developer must satisfy the City that the following conditions have been met:

- The subject property is not in tax arrears;
- The subject property is in compliance with all planning and heritage approvals granted by the City;
- The Owner has submitted a completed RSC attesting to the success of the environmental remediation and the RSC has been posted on the Province's RSC registry;
- The Owner has paid one full year of post-development property taxes;
- The Owner has submitted confirmation of the eligible remediation costs incurred along with verification of payment; and
- The Owner has provided a confirmatory opinion of the eligible expense submission by a third-party financial auditor.

Once the redevelopment has been completed and the owner has demonstrated they have met the terms of the Brownfield Site Agreement, Council will be asked to authorize the start of rebates through the approval of a further tax rebate by-law.

Start of Eligibility and an Enabling By-Laws

Other than those costs associated with a Phase II Environmental Site Assessment and Risk Assessment work not recovered by an Initial Study Grant (ISG) or grants from other organizations (i.e. Federation of Canadian Municipalities), the owner may not incur remediation costs that will be eligible for tax rebate until Council has approved the owner's application for brownfield financial benefits.

If Council approves the owner's application for brownfield financial benefits, the approval is enacted through the passing of a brownfields by-law for the subject property, and the aforementioned Brownfield Site Agreement. The proposed draft brownfield by-law for the subject

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property is attached as Exhibit B. Three readings of the by-law are requested to expedite the ability of the applicant to proceed with remediation work and incur eligible remediation costs.

To make an application to the province for educational tax increment rebates, submission of a draft by-law is required. This report recommends first, and second readings be provided for a draft by-law that sets out the terms by which cancellation or rebate of the educational portion of the property's tax increment will be made. If two readings are provided, the draft by-law will be sent to the Ministry of Municipal Affairs and Housing for their review and approval before being brought back to Council for third and final reading. The draft by-law is attached as Exhibit C to this report.

Public Engagement

Public engagement is an important and required part of the approval or amendment of the Brownfield Community Improvement Plan (CIP). Approval of individual brownfield projects made under the CIP do not require public consultation. Any land use planning approvals required to support the proposed development are subject to the normal planning approvals processes and related opportunities for public notifications and comment.

Climate Risk Considerations

Brownfield redevelopment projects are an important component in mitigating growth in community greenhouse gas emissions by targeting infill style growth that can be less dependent on personal automobile use and reduce the need to construct new municipal servicing infrastructure.

Existing Policy/By-Law

The recommendations made within this report are guided by the following municipal policy:

Brownfield Community Improvement Plan (CIP)

Notice Provisions

There are no notice provisions applicable to applications for brownfield funding.

Financial Considerations

This report recommends an annual rebate of 80% of incremental property taxes for the redeveloped property for up to ten years that will not exceed the maximum amount of eligible remediation cost estimate of \$4,088,883. During the 10 years of annual rebate period the City will retain the current municipal portions of pre-development taxes while the 20% of post-development taxes will be directed to the Environment Reserve Fund. After the completion of the rebate period, the City will retain all municipal taxes collected.

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The sale of the property from its previous owner to the current owner occurred in 2024 at what appears to be fair market value. If any significant abatement of the purchase occurred due to the contamination of the property, the estimated amount of that price abatement may be subtracted from the amount of eligible remediation expenses submitted for future tax rebate by the applicant.

There are no development charge exemptions recommended within this report.

Contacts:

Paul MacLatchy, Environment Director, 613-546-4291 extension 1226

Other City of Kingston Staff Consulted:

Jeffrey Walker, Manager of Taxation and Revenue, Financial Services

Alan McLeod, Deputy Director of Legal Services

Exhibits Attached:

Exhibit A Location and proposed redevelopment of the subject property

Exhibit B Enabling By-Law for Brownfield Financial Benefits for 0 Cataraqui Street

Exhibit C BFTIP Program By-Law for 0 Cataraqui Street

City of Kingston By-Law Number 2025-XX

A By-Law to Approve Brownfields Financial Assistance for the Property Known as 0 Cataraqui Street

Passed: January 14, 2025

Whereas By-Law Number 2005-40, being “A By-Law to Designate Brownfields Project Areas 1A, 1B & 1C as Community Improvement Project Areas”, pursuant to Section 28(2) of the *Planning Act*, R.S.O. 1990, c. P.13 was passed by Council on February 15, 2005; and

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

Whereas By-Law Numbers 2006-125 and 2006-126, being Amendment Number 1 to the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C, were passed by Council on May 23, 2006; and

Whereas By-Law Numbers 2013-63 and 2013-064, being Amendment No. 2 to the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C, were passed by Council on March 5, 2013; and

Whereas By-Law Number 2018-13, being “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” was passed by Council on December 19, 2017; and

Whereas By-Law Number 2020-147, being “A By-Law To Amend By-Law Number 2005-40 “A By-Law to Designate Brownfields Project Areas 1A, 1B, 2, 3, 4 and 5 as Community Improvement Project Areas” (Former Davis Tannery - 2 River Street & 50 Orchard Street)” was passed by Council on October 6, 2020; and

Now Therefore the Council of The Corporation of the City of Kingston, pursuant to Section 28 of the *Planning Act*, R.S.O. 1990, c. P.13 and Section 106(3) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, enacts as follows:

1. That upon fulfillment by the owners of all terms and conditions of a Brownfields Site Agreement to be made between the City and the owners of the property known as 0 Cataraqui Street, more specifically described as:

PIN Number: 36001-0658

SRO PART FARM LOT A, CONCESSION WEST OF THE GREAT CATARAQUI RIVER AND PART CATARAQUI ORDNANCE WATER LOT BEING PARTS 1, 2 & 3 PLAN 13R23126 AND PARTS 6, 7 & 8 PLAN 13R22814 SUBJECT TO AN EASEMENT OVER

PARTS 6, 7 AND 8 PLAN 13R22814 AS IN RF661353 SUBJECT TO AN EASEMENT OVER PART 3 PLAN 13R23126 AS IN FR737885 TOGETHER WITH AN EASEMENT OVER PARTS 7 AND 8 PLAN 13R23126 AS IN FC388637 TOGETHER WITH AN EASEMENT OVER PARTS 4, 5 AND 6 PLAN 13R23126 AS IN FC388637 TOGETHER WITH AN EASEMENT OVER PART 9 PLAN 13R23126 AS IN FC388637 SUBJECT TO AN EASEMENT AS IN FR597908 CITY OF KINGSTON, COUNTY OF FRONTENAC

2. That this By-Law shall not fetter the discretion of the City in its role as approval authority under applicable legislation, including, but not limited to, the *Planning Act*, in relation to any planning applications submitted for the property, and the *Building Code Act*; and
3. That remediation costs eligible for rebate or recovery pursuant to the Brownfields Site Agreement may be incurred by the owners as of the date of passing of this By-Law, and
4. That this By-Law does not constitute approval of any future application to the Brownfields Community Improvement Plan Program by the owners; and
5. That this By-Law and the associated approval or payment of the Brownfields Assistance does not constitute a municipal partnership in the redevelopment and the City is not assuming any management, care or control of the project by virtue of providing any Brownfields Assistance to the owners; and
6. That this By-Law may be amended from time to time to incorporate other aspects of the Brownfields Community Improvement Plan Program that may become applicable to the subject property; and
7. That this By-Law shall come into force and take effect on the date of its passing.

Given All Three Readings and Passed: January 14, 2025

Janet Jaynes
City Clerk

Bryan Paterson
Mayor

City of Kingston By-Law Number 2025-XX

A By-Law to Cancel Municipal and Education Taxes for the Property Known as 0 Cataraqui Street

Passed: [Meeting Date]

Whereas By-Law Number 2005-40, being “A By-Law to Designate Brownfields Project Areas 1A, 1B & 1C as Community Improvement Project Areas”, pursuant to Section 28(2) of the *Planning Act*, was passed by Council on February 15, 2005; and

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

Whereas By-Laws Numbers 2006-125 and 2006-126, being “Amendment Number 1 to the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C” was passed by Council on May 23, 2006; and

Whereas By-Laws Numbers 2013-63 and 2013-064, being “Amendment Number 2 to the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C” was passed by Council on March 5, 2013; and

Whereas By-Law Number 2018-13, being “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” was passed by Council on December 19, 2017; and

Whereas Inner Harbour Development LP, the registered owner of the property known as 0 Cataraqui Street, more specifically described as:

PIN 36001-0658

SRO PART FARM LOT A, CONCESSION WEST OF THE GREAT CATARAQUI RIVER AND PART CATARAQUI ORDNANCE WATER LOT BEING PARTS 1, 2 & 3 PLAN 13R23126 AND PARTS 6, 7 & 8 PLAN 13R22814 SUBJECT TO AN EASEMENT OVER PARTS 6, 7 AND 8 PLAN 13R22814 AS IN RF661353 SUBJECT TO AN EASEMENT OVER PART 3 PLAN 13R23126 AS IN FR737885 TOGETHER WITH AN EASEMENT OVER PARTS 7 AND 8 PLAN 13R23126 AS IN FC388637 TOGETHER WITH AN EASEMENT OVER PARTS 4, 5 AND 6 PLAN 13R23126 AS IN FC388637 TOGETHER WITH AN EASEMENT OVER PART 9 PLAN 13R23126 AS IN FC388637 SUBJECT TO AN EASEMENT AS IN FR597908 CITY OF KINGSTON; THE COUNTY OF FRONTENAC

has applied to the City of Kingston to cancel the property taxes for this property, in accordance with the Community Improvement Plan and section 365.1 of the *Municipal Act*; and

Whereas the property is located within the Community Improvement Project Area 1A and is eligible for Tax Assistance pursuant to section 365.1 of the *Municipal Act*; and

Whereas the Minister of Finance has approved the education tax assistance provided for in this By-Law as required by the *Municipal Act*;

Now therefore the Council of The Corporation of the City of Kingston, pursuant to Section 28 of the *Planning Act*, R.S.O. 1990 and section 365.1 of the *Municipal Act*, 2001 S.O. 2001, c. 25, as amended, **ENACTS** as follows:

1. In this By-Law,
 - a) “Assistance Period” means, with respect to the Eligible Property, the period of time starting on the date that Tax Assistance begins to be provided under this By-Law for the Eligible Property and ending on the earlier of:
 - i) for residential portions of the Eligible Property, the date that is 10 years after the date that the Tax Assistance begins to be provided, and for commercial portions of the property, the date that is 6 years after the date that the Tax Assistance begins to be provided, or
 - ii) the final expiry date set out within the Community Improvement Plan, which for this Eligible Property shall be December 31, 2035, or
 - iii) the date that the Brownfield Financial Benefits provided for the Eligible Property equals the Eligible Remediation Costs;
 - b) “Brownfield Financial Benefits” means the sum of financial benefits provided to the Eligible Property and consists of grants, tax deferrals, tax cancellations and/or tax rebates;
 - c) “Community Improvement Plan” means the Community Improvement Plan of the City of Kingston, approved by City Council and adopted by By-Law Number 2018-13, as amended or re-enacted from time to time;
 - d) “Eligible Property” means the property known as 0 Cataraqui Street, Kingston, Ontario, being ARN – Assessment Roll Number 1011.040.020.00802;
 - e) “Eligible Remediation Costs” means the cost of any action taken to reduce the concentration of or manage contaminants on, in or under the Eligible Property to permit a record of site condition (RSC) to be filed in the

Environmental Site Registry under section 168.4 of the Environmental Protection Act and the cost of complying with any certificate of property use issued under section 168.6 of the Environmental Protection Act, and as further specified in the Community Improvement Plan;

- f) “Incremental Taxes” means the difference between pre-development and post-development municipal, or education taxes levied in any given year of Tax Assistance where the pre-development taxes are those that were levied in the year prior to the issuance of a record of site condition;
 - g) “Owner” means Inner Harbour Development LP, the owner of the Eligible Property;
 - h) “Tax Assistance” means the deferral or cancellation of taxes for municipal and education purposes levied on the Eligible Property during the Assistance Period pursuant to this By-Law. In the period before the Owner’s obligations under this By-Law have been met, Tax Assistance shall take the form of a deferral of taxes. Once the City of Kingston has confirmed that the Owner’s obligations under this By-Law have been met, Tax Assistance shall take the form of a cancellation of taxes.
2. The City of Kingston shall provide Tax Assistance for the Eligible Property subject to the provisions of this By-Law and subject to confirmation that the Owner has paid all property taxes owing with respect to the Eligible Property for all years prior to the year in which this By-Law is passed.
 3. The Tax Assistance may commence as of the date this By-Law receives third reading and shall be effective only after completion and permit of occupancy of the proposed redevelopment, and a tax increment has been created, and for the duration of the Assistance Period.
 4. The Tax Assistance available shall be a maximum of 80 % of the Incremental Taxes for municipal purposes and 80% of the Incremental Taxes for education purposes levied during the Assistance Period. The City of Kingston may revise the level of Tax Assistance based on the Municipal Tax Roll as returned in any given year and said revision shall not require an amendment to this By-Law, but the percentage of education taxes deferred or cancelled shall match the percentage of municipal taxes deferred or cancelled and the maximum percentage of Tax Assistance shall be 80% of the Incremental Taxes. The City of Kingston shall notify the Minister of Finance forthwith of any revision to the level of Tax Assistance.
 5. Where Tax Assistance is provided for a portion of any year, or where Tax Assistance represents only a portion of the taxes levied on the Eligible Property,

the Owner is responsible for payment of all property taxes levied during the portion of the year when Tax Assistance is not provided, and for all taxes not subject to Tax Assistance.

6. As of the date of passing of this By-Law, the City of Kingston may,
 - a) Refund the taxes to the extent required to provide the Tax Assistance in the year this By-Law is passed, if the taxes for the Eligible Property have been paid; or
 - b) Credit the amount to be refunded to an outstanding tax liability of the Owner with respect to the Eligible Property, if the taxes have not been paid in the year that this By-Law is passed.
7. The Treasurer of the City shall alter the tax roll in accordance with the Tax Assistance to be provided for the Eligible Property.
8. The Owner shall, within 18 months of the anniversary of the commencement of Tax Assistance (or such later date agreed to in writing by the City of Kingston and the Minister of Finance), file a record of site condition (RSC) with respect to the Eligible Property in the Environmental Site Registry under section 168.4 of the Environmental Protection Act. The Owner shall, within 30 days, notify the City of Kingston of the filing. Within 30 days after receiving the notice from the Owner, the City of Kingston shall advise the Minister of Finance of the filing.
9. The Owner shall provide to the City of Kingston an annual report within thirty (30) days of the anniversary of the commencement of Tax Assistance for each year or part thereof that Tax Assistance is provided. The annual report shall include:
 - a) An update of the concentration and location of contamination on the Eligible Property;
 - b) The status of remediation work completed to date;
 - c) Costs expended to date and an estimate of costs not yet incurred; and
 - d) Time estimates to complete the remedial and redevelopment work.
10. The requirement for an annual report may be waived by the City after a Record of Site Condition has been filed by the Owner.
11. Within 30 days of receiving the annual report from the Owner, the City of Kingston shall provide a copy to the Minister of Finance.
12. Tax Assistance shall be suspended, and either or both the municipal and education portions of the Tax Assistance may be terminated, where any one of the following occurs:

- a) The Owner is in default of any obligation pursuant to this By-Law;
 - b) The Owner is in default of any provision of the Brownfield Site Agreement entered into between the Owner and the City of Kingston; or
 - c) The Owner fails to commence or ceases remediation for any reason.
13. The municipal portion of the Tax Assistance shall be suspended, and may be terminated, where any one of the following occurs:
- a) The Eligible Property has been severed and the severed parcels have each been assigned roll numbers and one of the severed parcels is subsequently sold, the by-law shall only be canceled on the parcel(s) that has been sold; or
 - b) Tax Assistance has been provided for ten (10) years.
14. The education portion of the Tax Assistance shall be terminated where any one of the following occurs:
- a) The Eligible Property has been severed and the severed parcels have each been assigned roll numbers and one of the severed parcels is subsequently sold, the by-law shall only be canceled on the parcel(s) that has been sold; or
 - b) Tax Assistance has been provided for ten (10) years in the case of a residential property or six (6) years in the case of a commercial property.
15. The Tax Assistance shall be terminated where the Tax Assistance equals or exceeds the Eligible Remediation Costs.
16. The Owner shall notify the City of Kingston forthwith if any of the events in Sections 12 to 15 occur. The City of Kingston shall then forthwith notify the Minister of Finance.
17. If Tax Assistance has been suspended or terminated under subsections 12 to 14 of this By-Law, the City of Kingston may:
- a) Provide the Owner with notice that the Tax Assistance is suspended or terminated; or
 - b) Provide the Owner with notice that it may cure the default within such period and on such terms as the City specifies in writing, and that the failure to do so will result in termination of the Tax Assistance.
18. A notice under clause 17(b) is not effective with respect to education taxes unless it has been agreed to in writing by the Minister of Finance.
19. In the event that Tax Assistance is terminated pursuant to section 12 to 14 above, the City of Kingston shall provide notice to the Owner under subsection 365.1(3.1)

of the *Municipal Act* that the conditions under this By-Law have not been met and order the Owner to repay all of the education taxes which were subject to the Tax Assistance, and all or a portion of the municipal taxes which were subject to the Tax Assistance.

20. Where the City makes an order under subsection 19, interest is payable on the taxes which become payable under the order calculated at the standard rates of the Municipality, as if the Tax Assistance had not been provided.
21. In the event that the Tax Assistance provided pursuant to this By-Law exceeds the actual Eligible Remediation Costs for the Eligible Property, the amount that the Tax Assistance exceeds the Eligible Remediation Costs shall be repaid by the Owner, failing which the amount to be repaid shall be added to the Tax Roll for the Eligible Property and collected as property taxes.
22. This By-Law shall come into force and take effect on the date of its passing.

Given first and second readings January 14, 2025

Given third reading and passed [Meeting Date]

**Janet Jaynes,
City Clerk**

**Bryan Paterson
Mayor**