TO: Mayor and Members of Council
FROM: Cynthia Beach, Commissioner Sustainability & Growth
RESOURCE STAFF: Speros Kanellos, Director, Real Estate & Construction Services
DATE OF MEETING: January 19, 2010
SUBJECT: Approval of the Brownfields Tax Increment Based Redevelopment Grant for the Building at 300 Wellington Street

EXECUTIVE SUMMARY:

The City has received the audit report for the rehabilitation costs for the building at 300 Wellington Street from Bajus Consulting Inc. The findings comply with our Brownfields Site Agreement with the owner. Council is being asked to approve the Tax Increment Based Redevelopment Grant By-law (attached as Exhibit A) to initiate the grant program as previously approved by Council.

RECOMMENDATION:

THAT Council give all three readings to the by-law to establish the Tax Increment Based Redevelopment Grant for the Brownfields Site Agreement for the building at 300 Wellington Street.
AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER
Cynthia Beach, Commissioner, Sustainability & Growth

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER
Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

| Commissioner Beach, Sustainability & Growth | N/R |
| Commissioner Thurston, Community Development Services | N/R |
| Commissioner Leger, Corporate Services | N/R |
| Jim Keech, President and CEO, Utilities Kingston | N/R |

(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

Council at its meeting on January 10, 2006 approved the following resolution:

Brownfields project areas 1A and 1B – 300 Wellington Street – Bajus Consulting Inc. – Financial Assistance under Community Improvement Plan

THAT Council approve the application and deem Plan OS, Part Lot C; RP 13R-8115 (Parts 1 & 14), as property eligible to receive Brownfields Financial Tax Incentive Program (BFTIP) and Tax Increment Based Rehabilitation Grant Program (TIRGP) assistance; and further,

THAT a by-law be forwarded to Council for the cancellation of property taxes for Education and Municipal purposes for the duration of the rehabilitation period and the development period for the eligible property. Following first and second reading of the by-law to cancel taxes, it will be forwarded to the Ministry of Finance for their approval and, once approved, presented to Council for third reading; and further,

THAT staff be directed to negotiate the Brownfields Site Agreement with the developer in a form satisfactory to the Legal Services Division and that the Mayor and Clerk be authorized to execute the Agreement; and further,

THAT Council exempt Plan OS, Part Lot C; RP 13R-8115 (Parts 1 & 14), from payment of Development Charges under By-Law 2004-256 and from Impost Fees under By-Law 2004-257 for the remediation and redevelopment of this parcel contemplated by the current application.

At the same meeting, Council gave first and second readings to By-Law 2006-22 to cancel municipal and education taxes for 300-302-304-306 Wellington Street. The by-law was given third reading and passed on August 22, 2006.

Bajus Consulting Inc. has executed the Brownfields Site Agreement and has complied with all the requirements necessary to receive the TIRGP grant on an annual basis for the 300-302-304-306 Wellington Street property. The annual grant shall continue until such time as all the rehabilitation costs have been granted back to the owner or a period of ten years has expired, whichever occurs first.

The BFTIP authorized the cancellation of property taxes for both the Municipal and Education portion of property taxes. These were cancelled during the rehabilitation and development stages of the site and totaled $5,214.94. These taxes are no longer being cancelled.

The TIRGP provides grants for the planning and development fees charged at time of application and a grant back for the rehabilitation costs for the site rehabilitation. The value of both the BFTIP and the TIRGP cannot exceed the total cost of rehabilitation of $175,326.20. The annual grant is calculated as 80% of the increase in Municipal taxes compared to the Municipal property taxes prior to rehabilitation. In this case, the grant is calculated at $5,393.79 for 2009 municipal tax levies. The value will change each year based on changes for tax increases. The base tax rate is also adjusted to ensure that the incremental tax paid is consistent with our Community Improvement Plan. Regardless of any changes to assessed value or tax rate, the total amount payable under this program is fixed at a maximum of $175,326.20 (the total rehabilitation costs), and may be less if the incremental taxes for each property do not add up to the total within the ten year payback period.

The Development Charges and Impost by-laws further permitted the City to exempt the properties subject to remediation and redevelopment from development charges and impost fees, which was done pursuant to By-laws 2004-256 and 2004-257. The development charges and impost fees reserve fund will be reimbursed the value of these exemptions after the rehabilitation grant has been paid back to the developer.
It is noted that the developer is no longer the owner of the lands; however Bajus Consulting Inc. has provided the City with copies of the sale agreements, all of which indicate that the purchaser assigns to the developer all tax grants under this program. The by-law sets out the requirements for the tax grant, which includes that taxes must be paid by October 1 and that taxes will be rebated.

A brief cash flow outlines the financial assistance provide by this program as follows:

**CASH FLOW PROJECTIONS**

**Costs**

Eligible Program Cost, as per statements submitted. $175,326.20

**Grants or Cancellation to date**

BFTIP Program Tax Cancellation $5,214.94
2009 Tax Increment Based Rehabilitation Grant (TIRGP) $5,393.79

Total Grants or Cancellation to date $10,608.73

Balance remaining eligible for grants $164,717.47

Estimated duration of grant program including 2009 grant: 10 years

*based on 2009 tax rates and assessment. These may change annually but the maximum funds granted to the owner will not exceed $175,326.20.

**EXISTING POLICY/BY LAW:**

By-Law 2006-125 and By-Law 2006-126 give approval of Brownfields Project Areas 1A & 1B as Community Improvement Areas and a by-law to amend By-Law No. 2005-41 to adopt the Community Improvement Plan for Brownfields Project Areas 1A & 1B. The City of Kingston received notice of decision from the Ministry of Municipal Affairs and Housing dated July 26, 2006 giving approval of Amendment #1 of the City’s Community Improvement Plan effective August 16, 2006.

**NOTICE PROVISIONS:**

There are no notice provisions required for this report.

**ACCESSIBILITY CONSIDERATIONS:**

N/A
FINANCIAL CONSIDERATIONS:

It is anticipated that the TIRGP will run for the full 10 year period, from 2009 to 2018 inclusive, and will not cover all the costs associated with rehabilitation that the developer has incurred on this project. The repayment of the development charges and impost fees, totaling $32,116.00, will commence once all TIRGP grants have been paid to the developer (i.e., beginning 2019) and will continue until the costs are reimbursed to the DC and Impost Reserve Funds. Also, as per the CIP, the city will credit the remaining 20% of the tax increase to the city’s Environment Reserve Fund during the same period as the grants are being paid, resulting in approximately $18,500.00 of reserves for this account.

CONTACTS:

Speros Kanellos, Director, Real Estate & Construction Services 613-546-4291 ext. 3133
Debra Krakow, Project Manager, Real Estate & Construction Services 613-546-4291 ext. 3120

OTHER CITY OF KINGSTON STAFF CONSULTED:

Stephen Dickey, Deputy Treasurer
Pat Carrol, Manager, Taxation and Revenue
Alan McLeod, Senior Legal Counsel, Legal Services

EXHIBITS ATTACHED:

Exhibit A – By-law to approve Tax Increment Based Rehabilitation Grant – 300 Wellington Street
BY-LAW NO. 2010-

A BY-LAW TO PROVIDE ANNUAL GRANTS PURSUANT TO THE COMMUNITY IMPROVEMENT PLAN FOR BROWNFIELDS FOR THE PROPERTY KNOWN AS 300 WELLINGTON STREET, PLAN OS, PART LOT C, R.P. 13R-8115 (PARTS 1 AND 14).

PASSED:

WHEREAS By-Law No. 2005-40, being “A By-Law to Designate Brownfields Project Areas 1A & 1B 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 No. 2005-41, being “A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A & 1B” was passed by Council on February 15, 2005;

AND WHEREAS By-law no. 2006-22, being “A By-law to Cancel Municipal and Education Taxes for 300-302-304-306 Wellington Street, was passed by Council on August 22, 2006;

AND WHEREAS the sale agreements for these properties indicate that the purchasers have assigned to the developer any and all tax grants and/or savings arising from the Community Improvement Plan applications affecting the Real Property;

AND WHEREAS Bajus Consulting Inc., as of the date of this by-law, has fulfilled the terms of the Brownfields Site Agreement entered into with the City and has paid applicable property taxes and is therefore eligible for repayment of a portion of said property taxes in accordance with the Community Improvement Plan and the Brownfields Site Agreement;

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 106(3) of the Municipal Act, 2001 S.O. 2001, c. 25, as amended, ENACTS AS FOLLOWS:

1. In this By-law,
   a) “Brownfields Site Agreement” means the agreement entered into by the Owner and the City dated August 22, 2006 governing the remediation and redevelopment of the Eligible Property and establishing the mechanism for reimbursing the Owner for eligible rehabilitation costs.
   b) “Developer” means Bajus Consulting Inc.
   c) “Eligible Property” means the properties at 300, 302, 304 and 306 Wellington Street, as listed on Schedule A of this by-law;
   d) “Owner” means the owners of the Eligible Properties;
   e) “Tax Increment” means the increase in municipal property taxes realized on the Eligible Property that results from the rehabilitation and redevelopment of said property. The Tax Increment shall be
calculated as the difference between the municipal portion of property taxes levied on the Eligible Property on January 1, 2007 (as increased for budget requirements) and the municipal portion of property taxes levied on the Eligible Property after rehabilitation and development, as assessed by the Municipal Property Assessment Corporation in each year in which an annual Tax Increment Based Rehabilitation Grant is payable.

f) “Tax Increment Based Rehabilitation Grant” means the payment to be made pursuant to the Brownfields Site Agreement and the Community Improvement Plan for Brownfields Project Areas 1A & 1B. The Tax Increment Based Rehabilitation Grant shall be calculated by multiplying the Tax Increment for any applicable tax year by 0.8.

2. The total of all annual Tax Increment Based Rehabilitation Grants that may be paid by the City of Kingston for 300-302-304-306 Wellington Street shall not exceed one hundred and seventy thousand one hundred and eleven dollars and twenty-six cents ($170,111.26), calculated as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total approved costs per Brownfields Site Agreement</td>
<td>$175,326.20</td>
</tr>
<tr>
<td>Less: Tax Cancellation during remediation and redevelopment</td>
<td>(5,214.94)</td>
</tr>
<tr>
<td>Total amount available for Tax Increment Based Rehabilitation Grant</td>
<td>$170,111.26</td>
</tr>
</tbody>
</table>

3. The annual Tax Increment Based Rehabilitation Grant shall be calculated based upon the Tax Increment directly related to the rehabilitation and redevelopment of the Eligible Property as defined in the Brownfields Site Agreement. Changes in taxes or assessment based on occupancy shall not be included in this calculation.

4. The annual Tax Increment Based Rehabilitation Grant shall not include any increase in assessment that results from additional construction that is not part of the original application for Brownfields Assistance, as defined in the Brownfields Site Agreement.

5. The City shall pay to the Developer a Tax Increment Based Rehabilitation Grant for the 2009 tax year in the amount of five thousand three hundred and ninety-three dollars and seventy-nine cents ($5,393.79).

6. The City shall pay to the Developer additional Tax Increment Based Rehabilitation Grants annually, calculated in accordance with this By-law, and provided that the municipal property taxes for any year in which a grant is paid have been paid in full by the Owner of the respective property by October 1st.

7. The City shall pay no more than ten (10) annual Tax Increment Based Rehabilitation Grants, starting for the 2009 taxation year and ending with the final payment no later than 2018, for the 2018 tax year, provided that the total of all annual Tax Increment Based Rehabilitation Grants shall not exceed one hundred and seventy thousand one hundred and eleven dollars and twenty-six cents ($170,111.26).

8. The Developer shall comply in all material respects with the Brownfields Site Agreement as a precondition to receiving any annual Tax Increment Based Rehabilitation Grant under this By-law. In the event that the Developer is not in compliance with the Brownfields Site Agreement, the City shall
withhold the annual Tax Increment Based Rehabilitation Grant until such time as the Developer is in compliance with the Brownfields Site Agreement.

9. This by-law shall come into force and take effect on its passing.

GIVEN ALL THREE READINGS -

CITY CLERK

MAYOR
## Schedule “A”

### Eligible Properties

<table>
<thead>
<tr>
<th>Property Address</th>
<th>Assessment Roll No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>306 Wellington Street</td>
<td>10.11.030.110.07700.0000</td>
</tr>
<tr>
<td>304 Wellington Street</td>
<td>10.11.030.110.07710.0000</td>
</tr>
<tr>
<td>302 Wellington Street</td>
<td>10.11.030.110.07720.0000</td>
</tr>
<tr>
<td>300 Wellington Street</td>
<td>10.11.030.110.07730.0000</td>
</tr>
</tbody>
</table>