



**City of Kingston
Report to Council
Report Number 16-191**

To: Mayor and Members of Council
From: Gerard Hunt, Chief Administrative Officer
Resource Staff: Paul MacLatchy, Director, Environment & Sustainable Initiatives
Date of Meeting: June 21, 2016
Subject: Brownfield Property Tax Financial Assistance 51 – 57 Queen Street, File Number 2016-01BD

Executive Summary:

This report is being brought forward in response to an application by 51-57 Queen Street Holdings Ltd. for financial assistance through the Brownfields Financial Tax Incentive Program (BFTIP), and Tax Increment-Based Rehabilitation Grant Program (TIRGP) of the City of Kingston's Brownfield Community Improvement Plan (CIP).

The applicant's property is located at 51-57 Queen Street and is within Brownfield Project Area 1A of the Brownfield CIP, as approved by Council in March 2013. The project will involve the redevelopment of the property into high density residential and public parking uses and will require the remediation of soils and groundwater that have been contaminated as a result of previous commercial and industrial land uses.

The application has been reviewed by staff and the project is considered to be eligible for financial assistance. This report recommends approval of financial assistance of up to \$3,229,832 to the property owner in the forms of property tax cancellations made under the BFTIP program, property tax rebates made under the TIRGP program, and a previously approved initial study grant.

Analysis of the applicant's proposed remediation and redevelopment plan indicates that environmental remediation costs eligible for rebate are approximately \$3.23 million, that a property tax uplift of approximately \$437,000 per year could be available to fund annual rebates back to the owner, and that the rebate period would be approximately 9 years following project completion.

The Planning Act applications for this proposed development are currently under technical review by staff. The approval of recommendations made within this report do not prejudice

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Council in its ability to make any decisions related to approvals under the Planning Act such as the Official Plan and zoning by-law amendments.

This report is time sensitive in that the developer cannot incur remediation costs eligible for rebate until Council has provided approval of a brownfields application.

Recommendation:

That Council approve the Brownfield Property Tax Financial Assistance Application submitted by 51-57 Queen Street Holdings Ltd., owner of the property at 51-57 Queen Street, for a Brownfields Rehabilitation Grant not to exceed \$3,229,832 subject to the establishment of, and in accordance with, the terms and conditions of a Brownfield Site Agreement; and

That a by-law 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 (TIRGP) subject to a Brownfield Site Agreement between the owner and the City.

That a further by-law be presented to Council for the cancellation of property taxes for Municipal and Education purposes for the duration of the rehabilitation period and the development period for the eligible property under the Brownfield Financial Tax Incentive Program (BFTIP), and

That following the first and second readings of the BFTIP by-law to cancel taxes, said by-law be forwarded to the Ministry of Finance for their approval and once approved, presented to Council for third reading; and

That staff be directed to negotiate a Brownfields Site Agreement with 51-57 Queen Street Holdings Ltd., establishing the terms and conditions governing the payment of the Brownfields Rehabilitation Grant for the redevelopment of 51-57 Queen Street, consistent with the terms set out within report 16-191, and in a form satisfactory to the Director of Legal Services; and

That the Mayor and Clerk be authorized to execute the Brownfields Site Agreement, in a form acceptable to the Director of Legal Services.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Community Services

Denis Leger, Transportation, Facilities & Emergency Services

Jim Keech, President and CEO, Utilities Kingston

Desiree Kennedy, Chief Financial Officer & City Treasurer

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Options/Discussion:**Background**

To support a proposed remediation and redevelopment of the property at 51-57 Queen Street, the owners (51-57 Queen Street Holdings Ltd.) have submitted an application for Brownfield Property Tax Financial Assistance under the City of Kingston's Brownfield CIP. The property was most recently in use as a public surface parking lot, and is proposed to be redeveloped into high density residential and public parking uses.

The redevelopment will require a Record of Site Condition (RSC) attesting to the suitability of soil and groundwater quality for the proposed land use before building permits can be issued. Phase I and II Environmental Site Assessment reports provided by the applicant indicate the need for a substantial environmental remediation program to support the redevelopment plan and the completion of RSCs.

The owner has filed an application under the City's Brownfield CIP for 51-57 Queen Street, which requests financial benefits from the Brownfields Financial Tax Incentive Program (BFTIP) and the Tax Increment-Based Rehabilitation Grant Program (TIRGP), in order to assist with the remediation and redevelopment of the property. The property is within Project Area 1A of the City of Kingston's Brownfield CIP and is therefore eligible to apply for these benefits.

51-57 Queen Street Holdings Ltd. previously submitted an application for an Initial Study Grant which was approved by City Council on March 1, 2016. The grant amount approved was \$20,000 which was 50% of the estimated cost for supplemental Phase II Environmental Site Assessment (ESA) and Site Specific Risk Assessment work.

Proposed Remediation and Redevelopment

The applicant's property is contaminated with metals, volatile organic compounds and polycyclic aromatic hydrocarbons within the soil and groundwater that are present due to past land uses and historic filling. The applicant is proposing to remediate the contaminated soil and groundwater conditions using a combination of contaminant removal and site specific risk assessment so that the Ministry of Environment and Climate Change (MOECC) standards for residential land use are met and an RSC is obtained.

The proposed remediation plan will include the following major components of work that are eligible for rebate under the City's Brownfield CIP programs:

- Completion of a Supplemental Phase II Environmental Site Assessment;
- Completion of Site Specific Risk Assessment and Risk Management Plan;
- Excavation, removal and disposal of approximately 16,000 tonnes of contaminated soils;
- Collection, storage and disposal of contaminated groundwater during project construction;
- Construction of engineering controls to enable residential occupancy as per a Ministry-approved Risk Management Plan;

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- Collection and treatment of contaminated groundwater for a to be determined period following project completion;
- Monitoring of groundwater and indoor air quality.

The estimated cost to implement the proposed remediation plan is \$3,209,832.

The proposed redevelopment includes up to 180 residential units, consisting of one and two bedroom units within a 21 storey building with 248 parking spaces, and associated amenity and lobby areas. The proposed redevelopment also includes a six storey parking structure with 278 parking spaces that is proposed to be purchased by the City of Kingston for use as a public parking facility as described within [Council Report 15-413](#). The project as proposed is currently under technical review by staff. The recommendations made within this report do not prejudice Council in its ability to make any decisions related to approvals under the Planning Act.

The Brownfields Financial Tax Incentive Program (BFTIP)

The Brownfields Financial Tax Incentive Program (BFTIP) is a component of the City of Kingston's Brownfield CIP and enables the cancellation of municipal and educational portions of property taxes for approved brownfield projects. The cancellation of the education portion of taxes must also be approved by the Ontario Minister of Finance.

The duration of the tax cancellation is for the length of the rehabilitation period and development period or up to 36 months, whichever is less. For the proposed redevelopment it is estimated that property taxes of approximately \$114,500 will be cancelled under the BFTIP program during a 24 month period, which is the estimated length of the rehabilitation and redevelopment period for the project, starting in 2016 or 2017. The cancelled property taxes are deducted from the amount of eligible remediation expenses that can be rebated through the TIRGP program.

This report recommends approval of a brownfields site agreement that will permit the cancellation of approximately \$114,500 in municipal and educational property taxes through the BFTIP program of the Brownfields CIP and the creation of a by-law, attached as Exhibit E, that, if approved by the Minister of Finance will enable the education tax portion of the cancellation.

The Tax Increment Based Rehabilitation Grant Program (TIRGP)

The Tax Increment Rehabilitation Grant Program (TIRGP) is a component of the City of Kingston's Brownfield CIP that enables the rebating of a portion of the municipal property taxes paid to the City, back to the owner once the project has been completed, so that the owner can recover eligible remediation costs. The TIRGP allows for the annual rebating of up to 80% of the difference in the municipal portion of the property taxes between pre and post development. Rebating of the educational portion of property taxes is not permitted. The TIRGP rebates can continue annually for up to 10 years, or until eligible remediation costs have been recovered by the property owner, whichever is less.

The current value assessment of the lands subject to the redevelopment is \$2.19 million. Upon completion of the proposed development, staff estimates that the post-development valuation to

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increase to approximately \$35 million. The municipal portion of the property taxes is estimated to increase from \$51,000 to \$488,000 annually, providing a pre to post development increment of \$437,000. Eighty percent of the municipal tax increment will be \$350,000 per year which will be the amount available each year for rebate back to the owner until eligible costs have been recovered.

Based on the above, it is estimated that the total amount of eligible remediation costs for the proposed project will be recoverable within the maximum 10 year eligibility period of TIRGP rebates.

The TIRGP rebate is assignable in the event that title to all or portions of the property change from the current owner to a new owner within the period of the rebates. In such an event, 51-57 Queen Street Ltd. must advise the City of Kingston of its intent to assign the benefit to a new owner and must receive the City's consent.

Development Charge and Impost Fee Exemptions

An exemption of all or a portion of development charges or impost fees can be utilized when a proposed brownfield project's eligible remediation expenses are large enough in comparison to the proposed development that they cannot be recovered through tax rebates within the ten year window of the program. The applicant's estimated eligible remediation expenses can be recovered within the ten year window and so development charge and impost fee exemptions are not recommended for this project.

Brownfield Site Agreement and Payment of Rebates

In order 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 rebates are paid out that the owner and/or developer:

- is not in tax arrears;
- is in compliance with all planning approvals granted by the City;
- has paid out one full year of post-development property taxes; and
- has submitted proof of the eligible remediation costs actually incurred with confirmation from third party auditors.

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

Start of Eligibility and an Enabling By-Law

The proponent may not incur remediation costs that will be eligible for rebate until City Council has approved the owner's application for brownfield financial benefits.

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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. The proposed draft brownfield by-law for the subject property is attached as Exhibit D to this report.

Economic Benefits to the Community

The proposed development is estimated to produce \$20 million in direct construction value. During the development of the site, direct and indirect economic benefits to the local economy will be experienced as a result of site remediation and the construction period through payroll, purchased materials, services and equipment rentals.

Approximately \$35 million in new residential and commercial assessment could be added to the property tax assessment roll at full development. Staff estimates that \$437,000 per year in increased municipal property taxes may be expected at the completion of the project, after the rehabilitation grant ends, which would subsequently go to the City's general revenues.

City-Owned Components of the Project (The Parking Structure)

The proposed project includes a parking structure that is intended to be sold to the City once completed. A significant portion of the eligible remediation costs will be incurred on the parking structure portion of the property and future property taxes paid by the parking structure will form a portion of the financial tax rebate. The owner of the parking structure will be entitled to either receive a tax increment rebate based on the brownfield financial benefits recommended by this report, or to assign the rebate back to the developer (Homestead). The agreement of purchase and sale in place between the City and Homestead for the parking structure anticipates a brownfield program benefit, and the City and Homestead will need to determine how to best manage payment of the environmental cost of the parking structure project while incorporating the value provided by the brownfield tax rebates recommended by this report. As the property is currently not owned by the City, the City was not able to participate in the application for brownfield benefits as an applicant.

Existing Policy/By-Law:

Brownfield Community Improvement Plan, Brownfields Project Areas 1A, 1B and 1C.

Notice Provisions:

There are no notice provisions required for this action.

Accessibility Considerations:

Copies of this report are available in alternate formats. There are no other accessibility considerations at this time.

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Financial Considerations:

The Brownfields Financial Tax Incentive Program is to provide a cancellation of the education taxes and municipal taxes during the rehabilitation and development periods. This period is estimated to be 2 years and amount to \$114,500 in property tax cancellation.

It is anticipated that the Tax Increment Based Rehabilitation Grant Program will provide an annual tax rebate of approximately \$350,000 at the completion of the proposed redevelopment project and the total incentives over the estimated 10 year duration will not exceed \$3,229,832 less BFTIP Tax Assistance and Initial Study Grant payments.

As per the Brownfield CIP, the City will credit the remaining 20% of the incremental property tax increase resulting from the redevelopment to the City's Environmental Reserve Fund during the same period as the grants are being paid, resulting in approximately \$782,000 expected to be generated toward the Environmental Reserve Fund over the duration of the Tax Increment Based Rehabilitation Grant Program tax rebate period.

Contacts:

Paul MacLatchy, Director, Environment & Sustainable Initiatives 613-546-4291 extension 1226

Other City of Kingston Staff Consulted:

Nathan Richard, Project Manager, Brownfields

Jeff Walker, Manager, Taxation and Revenue

Alan McLeod, Senior Legal Counsel

Kim Brown, Manager, Infrastructure and Development

Marnie Venditti, Senior Manager, Client Relations & Development Services

Sheila Kidd, Director, Transportation Services

Exhibits Attached:

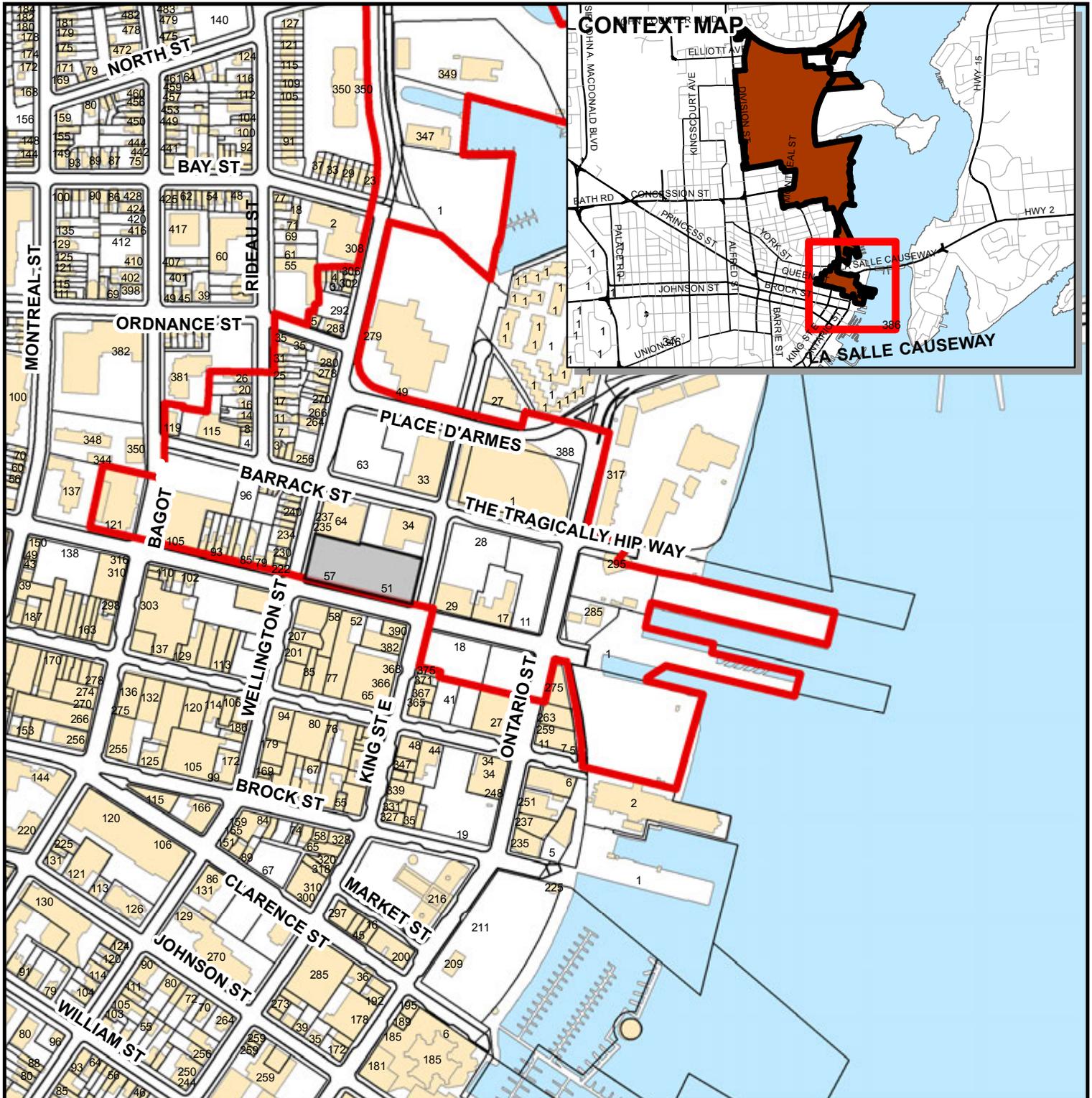
Exhibit A – Site Location Map for 51 – 57 Queen Street

Exhibit B – Redevelopment Rendition

Exhibit C – Tax Increment Cash Flow Projections

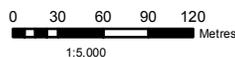
Exhibit D – Draft Brownfields TIRGP Program By-Law for 51 – 57 Queen Street

Exhibit E – Draft Brownfields BFTIP Program By-Law for 51 – 57 Queen Street



THE CORPORATION OF THE CITY OF KINGSTON
Brownfield Project Areas

Address: 51 & 57 Queen Street



LEGEND

-  Subject Property
-  Property Boundaries
-  Brownfield Project Area
-  Project Area 1A



Exhibit B – Redevelopment Concept Plan for 51 – 57 Queen Street



Exhibit C – Tax Increment Cash Flow Projections for 51 – 57 Queen Street

The following brief cash flow outlines the financial assistance anticipated should brownfield benefits be provided as recommended within this report:

CASH FLOW PROJECTIONS

Eligible Costs

Eligible Rehabilitation Costs, as per statements submitted	\$3,229,832
Total Approved or Cancelled Grants to date (Initial Study Grant)	-\$20,000
Balance remaining eligible for grants and/or rebates	\$3,209,832
Balance remaining prior to BFTIP	\$3,209,832
BFTIP Program Tax Cancellation (2 years)	-\$114,530
Balance remaining post BFTIP (if 2 years are applied)	\$3,095,302

Property Tax Increment per year (TIRGP)

Post-development estimated municipal property taxes in 2019	\$487,777
Less Pre-development municipal property taxes in 2016	-\$51,189
Tax Incremental per year (Pre to Post)	\$436,588

TIRGP Grant/Rebate per year

Annual amount available for rebate through brownfields program = 80%*	\$349,271
Annual amount directed to Municipal Brownfield Reserve Fund = 20%*	\$87,318
	\$436,588

Estimated duration of TIRGP program (years)	8.9
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*based on an estimate of 2016 tax rates and assessment.

The rebates may change annually but the maximum funds granted (after Initial Study Grant) are not to exceed this amount:	\$3,209,832
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All amounts shown above are estimates. An audit of actual costs incurred by the developer will be performed prior to the presentation of a final by-law authorizing the payment of annual grants.

By-Law Number. 2016-XX

A By-Law To Approve Brownfield Financial Benefits and Associated Brownfield Site Agreement Pursuant to the Requirements Of The City Of Kingston's Brownfield Community Improvement Plan Program For the Property Known As 51 - 57 Queen Street, Plan OS Lots 92, 101, 104, 113 & 116; Part Lots 91 & 102, Original Survey, Part Lots 7 - 8 Plan A6 Kingston City; Part 1 13R-13986

Passed: XX, 2016

WHEREAS By-Law No. 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;

Whereas By-Law No. 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 No. 2006-125 and 2006-126, being "Amendment No. 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 No. 2013-63 and 2013-064, being "Amendment No. 2 to the Community Improvement Plan for Brownfields Project Areas 1A , 1B & 1C" was passed by Council on March 5, 2013;

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. That upon fulfillment of the terms of a Brownfield Site Agreement to be made between the City and the owner the owner of the property known as 51 – 57 Queen Street; Plan OS Lots 92, 101, 104, 113 & 116; Part Lots 91 & 102, Original Survey, Part Lots 7 - 8 Plan A6, Kingston City; Part 1 13R-13986 shall be entitled to receive Brownfield Financial Tax incentives and Tax Increment Rehabilitation Grant for eligible brownfield costs as described within the City of Kingston's Brownfield Community Improvement Plan in an amount not to exceed \$3,229,832, and
2. That this By-Law shall not fetter the City of Kingston's ability to make decisions in regard to any other matter related to applications made for the property in relation to the Planning Act of Ontario, and
3. That remediation costs eligible for rebate (eligible remediation costs) may be incurred by the owner 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 Brownfield Community Improvement Plan Program, and
5. That this By-Law and the associated approval or payment of the Rehabilitation Grant 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 grants assistance through the brownfields community improvement plan program, 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 June 21, 2016

John Bolognone
City Clerk

Bryan Paterson
Mayor

By-Law Number 2016-__

A By-Law to Cancel Municipal and Education Taxes for 51 – 57 Queen Street

Passed: Month / Day, 2016

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 Number 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 Number 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 51-57 Queen Street Holdings Ltd, the registered owner of the property known as 51-57 Queen Street, more specifically described as:

51-57 Queen Street: PIN 36044-0120: "Lots 92, 101, 104, 113 & 116; Part Lots 91 & 102, Original Survey Kingston City, Part Lots 7-8 Plan A6 Kingston City; Part 1 13R-13986."

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 and is eligible for Tax Assistance pursuant to section 365.1 of the *Municipal Act*; and

Whereas the Minister of Finance has approved 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) “Rehabilitation 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 property and ending on the earliest of,

- i) the date that is 18 months after the date that the Tax Assistance begins to be provided,
 - ii) the date that a record of site condition (RSC) for the property is filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - iii) the date that the Tax Assistance provided for the property equals the Remediation Costs;
- b) “Development Period” means, with respect to the Eligible Property, the period of time starting on the date the Rehabilitation Period ends and ending on the earlier of:
- i) the date that is 18 months after the date that the Rehabilitation Period ends, or
 - ii) the third anniversary of the passage of the By-Law, or
 - iii) the date that the Tax Assistance provided for the Eligible Property equals the Remediation Costs;
- c) “Eligible Property” means 51-57 Queen Street; Assessment Roll Number 10 11 030 100 02100
- d) “Owner” means 51-57 Queen Street Holdings Ltd., the owner of the Eligible Property;
- e) “Remediation Costs” means the cost of any action taken to reduce the concentration of contaminants on, in or under the Eligible Property to permit a record of site condition (RSC) to be filed 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) “Tax Assistance” means the deferral or cancellation of taxes for municipal and education purposes levied on the Eligible Property during the Rehabilitation Period and the Development 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 shall commence as of the date this By-Law receives third reading and shall be effective only for the duration of the Rehabilitation Period and the Development Period. In no event shall the Tax Assistance continue past the third anniversary of the passage of this By-Law.
4. The Tax Assistance available shall be a maximum of 100% of the taxes for municipal purposes and 100% of the taxes for education purposes levied during the Rehabilitation Period and the Development 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. 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 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. (1) 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:

- c) An update of the concentration and location of contamination on the Eligible Property;
 - d) The status of remediation work completed to date;
 - e) Costs expended to date and an estimate of costs not yet incurred; and
 - f) Time estimates to complete the remedial and redevelopment work.
- (2) Within 30 days of receiving the report from the Owner, the City of Kingston shall provide a copy to the Minister of Finance.
10. (1) Tax Assistance shall be suspended, and either or both the municipal and education portions of it 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 and attached as a Schedule to this By-Law.
 - c) The Owner fails to commence or ceases remediation for any reason.
- (2) The municipal portion of the Tax Assistance shall be suspended, and may be terminated, where any one of the following occurs:
- a) Other than for the severance required to enable the municipal parking structure portion of the project, 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;
 - b) Tax Assistance has been provided for three (3) years.
- (3) The education portion of the Tax Assistance shall be terminated where any one of the following occurs:
- a) Other than for the severance required to enable the municipal parking structure portion of the project, the Eligible Property is severed, subdivided or all or any portion of the property is conveyed;
 - b) Tax Assistance has been provided for three (3) years.
- (4) The Tax Assistance shall be terminated where the Tax Assistance equals or exceed the Remediation Costs.
11. The Owner shall notify the City of Kingston forthwith if any of the events in sections 10(1), 10(3)(a) or 10(4) occur. The City of Kingston shall then forthwith notify the Minister of Finance.
12. If Tax Assistance has been suspended under subsections 10(1) or 10(2), the City

of Kingston may:

- a) Provide the Owner with notice that the Tax Assistance is 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.
13. A notice under clause 12(b) is not effective with respect to education taxes unless it has been agreed to in writing by the Minister of Finance.
 14. (1) In the event that Tax Assistance is terminated pursuant to section 10 or 12 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.
(2) Where the City makes an order under subsection (1), 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.
 15. In the event that the Tax Assistance provided pursuant to this By-Law exceeds the actual Remediation Costs for the Eligible Property, the amount that the Tax Assistance exceeds the Remediation Costs shall be repaid by the Owner, failing which the amount to be repaid shall be added to the Assessment Roll for the Eligible Property and collected as property taxes.
 16. This By-Law shall come into force and take effect on the date of its passing.

Given first and second readings xx, 2016

Given third reading and passed xx, 2016

John Bolognone
City Clerk

Bryan Paterson
Mayor