

1) Program Description

The City of Kingston Community Improvement Plan – Brownfields Project Areas 1A & 1B (**Brownfields Program**), as approved by by-law no. 2005-40, allows the City of Kingston to provide a variety of incentives, such as grants and property tax assistance to assist owners of eligible properties to rehabilitate and develop brownfield properties.

→ Brownfields Financial Tax Incentive Program (BFTIP)

The Brownfields Financial Tax Incentive Program (BFTIP) provides for cancellation of up to 100% of municipal property taxes, as authorized under Section 365.1 of the Municipal Act, 2001. In addition, a matching cancellation of education taxes is available when the application is approved by the Minister of Finance. Tax cancellation is effective following approval of the by-law authorizing the BFTIP application and will continue throughout the Rehabilitation and Development Period, as defined in the **Brownfields Program** for municipal taxes and for 36 months in respect of education taxes.

The maximum tax assistance available is equal to or less than the cost of reducing the concentration of contaminants on site to enable the owner to obtain a record of Site Condition, including costs to comply with any certificate of property use. This program is complementary to the Tax Increment-Based Rehabilitation Grant Program (TIRGP) approved in the **Brownfields Program**. An application for TIRGP must be submitted prior to or in conjunction with the application for tax assistance.

The intent of the Brownfields Financial Tax Incentive Program is to provide for property tax assistance for the exemption of up to 100% of taxes levied for the period immediately following the approval of the Property Tax Assistance By-Law and continuing during the Rehabilitation Period and Development Period.

The Ministry of Finance may match the municipality's tax assistance provided to a property owner through cancellation of the education portion of the property's tax. The exemption may commence at the start of the Rehabilitation Period, and continue through the Development Period, for a maximum of three (3) years in total, subject to program and termination requirements established by by-law authorizing this tax assistance and Section 365.1(1) of the Municipal Act, 2001. The education portion of the property tax assistance must be applied for specifically to the Ministry of Finance prior to any Council by-law approval. The City will forward an application to the Minister on behalf of the applicant prior to Council approving the Property Tax Assistance By-Law.

The education portion of the property tax assistance may be delivered on a different timetable from the municipal portion of the property tax assistance for the given property. The conditions imposed by the Minister of Finance for the education portion of the property tax assistance under Section 365.1 of the Municipal Act, 2001 will be included in the by-law authorizing this tax assistance. In exceptional circumstance, the Minister of Finance may approve the education portion of the property tax assistance beyond three years.

→ Tax Increment-Based Rehabilitation Grant Program (TIRGP)

The intent of the Tax Increment-Based Rehabilitation Grant Program (TIRGP) is to provide a financial incentive in the form of a grant to help offset the cost of rehabilitating brownfield sites. The purpose of this program is to encourage environmental remediation, redevelopment and adaptive re-use. Therefore, only those brownfield redevelopment projects that increase the assessed value of a property will be eligible for a TIRGP grant.

The TIRGP is structured as a “pay-as-you go” program. The owner is expected to initially pay for the entire cost of the rehabilitation and development of the site. When the benefits of the BFTIP tax assistance program end, the TIRGP grant program may begin, provided that an Occupancy Permit has been issued, reassessment of the property has taken place, and the property owner has paid the property taxes in full for the year in which the grant is to be provided. The grant calculation will not be finalized until the development has been subject to a reassessment by MPAC after the development is completed/occupied. The City will make payments up to ten years or up to the value of the eligible rehabilitation costs, whichever is less. The taxes cancelled plus the total grants provided under the grant program shall not exceed the eligible rehabilitation costs.

2) What properties are eligible?

Only those properties within the Project Areas 1A & 1B of the Community Improvement Plan are eligible for BFTIP or TIRGP funding under this program.

In addition, the property must be contaminated from historic activities such that a record of site condition is required to redevelop the property. The City will only accept Phase II Environmental Site Assessments conducted by a qualified person that comply with O. Reg. 153/04 as proof that a site requires a record of site condition.

3) Who can apply?

Only the owner of eligible property can apply for and receive BFTIP assistance and TIRGP grants. An agent may apply on behalf of the owner, with written authority from the owner.

Owners and applicants must be aware that the City will only provide BFTIP tax assistance and TIRGP grants to the registered property owner, regardless of who applies for the grants and regardless of who pays for the actual remediation and redevelopment works on site. It is the responsibility of the owner and the person(s) performing the work or subsequent purchasers to arrange for the transfer of grant funds to other than the registered owner.

4) What types of costs are eligible for funding?

The eligible rehabilitation costs under BFTIP including only the following:

→ BFTIP

- I. The cost of environmental rehabilitation (100%)
- II. The cost of placing clean fill and grading (100%)
- III. The cost of Phase II Environmental Site Assessment, Phase III Environmental Site Assessment, and/or Site Specific Risk Assessment not covered by the Initial Study Grant (100%)
- IV. The cost of financing (Interest charges) of preparing the studies and undertaking the rehabilitation (100%); and
- V. The cost of the insurance premiums to guarantee that remediation will be completed (100%).

→ TIRGP

Eligible rehabilitation costs under TIRGP include:

- I. 100% of the cost of environmental rehabilitation;
- II. 100% of the costs of placing clean fill and grading;
- III. 100% of the cost of a Phase II ESA, Phase III ESA, and/or a Site-Specific Risk Assessment (SSRA) not covered by the Initial Study Grant;
- IV. 100% of the cost of preparing a Record of Site Condition (RSC);
- V. 100% of the cost of demolishing buildings;
- VI. 50% of the cost of constructing/improving on-site infrastructure, including water services, sanitary sewers and stormwater management facilities, and gas, hydro and communication utilities;
- VII. 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 Work Plan (Cost may be based on either the present value of future costs or pro-rated costs, for a maximum period of twenty (20) years);
- VIII. 100% of the financing cost (interest charges) of preparing the studies and undertaking the rehabilitation;

- IX. 100% of the cost of the insurance premiums to guarantee that the remediation will be completed;
- X. 100% of the legal costs associated with the preparation of legal agreements pertaining to the following:
 - a. The preparation, review and implementation of the Remedial Work Plan;
 - b. The review and implementation of any Brownfield By-Law and/or Brownfield Site Agreement; and,
 - c. The filing of the Record of Site Condition (RSC)
- XI. 100% of the cost of obtaining assessment estimates for the property in order to estimate the tax differential between the pre-development and post-development property taxes.
- XII. 100 % of the cost, or the shared portion of the cost, of the following Leadership in Energy and Environmental Design (LEED) Program components;
 - a. The base plan review by a certified LEED consultant;
 - b. The preparation of new working drawings at a LEED standard; and,
 - c. The submission and administration costs associated with both the constructed element testing and the certification proof used to determine the LEED designation.

5) What is the maximum Tax Assistance/Grant available?

→ BFTIP

The maximum tax assistance available is the lesser of the approved eligible costs of rehabilitating the property or the amount of taxes cancelled during the Rehabilitation and Development Periods, as defined in the [Municipal Act](#) and the site-specific by-law authorizing the tax assistance.

→ TIRGP

The grant is paid annually in an amount equal to 80% of the incremental increase in municipal taxes generated by the remediation and redevelopment of the property (pre-development versus post-development). The grant is payable for up to 10 years or once the eligible costs noted above as determined by the City of Kingston have been repaid to the owner, whichever comes first. In no case will the total amount of the TIRGP grant provided exceed the combined value of the eligible rehabilitation costs and any tax assistance provided.

6) What conditions must be met to be eligible for the Tax Assistance Grant?

The following is a list of general eligibility criteria and requirements applicable to all components of the Brownfields Program.

- None of the financial components of the Brownfields Program will be offered retroactively for rehabilitation or development activities undertaken or costs incurred prior to the approval of the Community Improvement Plan.
- Eligible properties must be located in either Community Improvement Project Area 1A or 1B, as illustrated by Map 1 in the Community Improvement Plan.
- Properties eligible for BFTIP or TIRGP must have had a Phase II Environmental Site Assessment (ESA) completed which demonstrates that the property requires environmental rehabilitation to permit a Record of Site Condition (RSC) to be filed. The Brownfields Program of the City of Kingston applies only to properties that are contaminated given their historic industrial or commercial practices or uses.
- In order to be eligible for any BFTIP tax assistance or TIRGP grants offered through the Brownfields Program, eligible properties must not be in tax arrears. All taxes owing shall be paid prior to the disbursement of any TIRGP grant money, except those property taxes cancelled pursuant to the BFTIP. Local improvement charges and all other charges of the Municipality must be paid throughout the entire period that the Brownfield Program is in effect.
- Outstanding work orders and/or orders or requests to comply from the Department of Operations, Planning & Development Services, Community Services, Corporate Services, or any other municipal department, must be satisfactorily addressed prior to any BFTIP tax assistance or TIRGP grant approval under the Brownfields Program.
- Eligible proponents shall include only the property owners of eligible properties, or their heirs, successors or assignees. Written authorization shall be required from the property owner for any agent acting on their behalf, for all components of the Brownfields Program.
- Proponents shall declare if the proposed property is designated under Part IV of the Ontario Heritage Act.
- The proponent shall submit the appropriate completed application(s) with the appropriate supporting documentation.
- The proponent shall submit a development proposal and concept plan for the eligible property.
- The proponent shall submit a completed Phase I ESA, Phase II ESA, and a Remedial Work Plan (Phase III ESA or SSRA), which have been prepared in conformity with the Environmental Protection Act, in support of a Brownfields Application with respect to the BFTIP and TIRGP components of the program.

- The Proponent shall release all environmental information about the eligible site to the City.
- All proponents participating in the Brownfields Program shall enter into a Brownfield Site Agreement with the City that will specify the terms and conditions of the brownfield, planning, and environmental approvals along with the BFTIP tax assistance and TIRGP grants to be received.

The following are eligibility requirements specific to the individual grant/tax assistance:

→ BFTIP

- Tax assistance will only apply during the Rehabilitation Period and the Development Period of the project, in accordance with the provisions of Section 365.1(1) of the Municipal Act, 2001.
- The education portion of the property tax assistance shall require the approval of the Minister of Finance.
- This exemption only applies to the owner of the property.

The Municipal Act, 2001 requires:

- That tax assistance be suspended for a subject property where a landowner has not paid all of the taxes on a subject property for the previous years in the Rehabilitation and Development Periods (subject to any specific exceptions provided for in the Property Tax Assistance By-Law or in a Brownfields Site Agreement under the by-law);
- That the tax assistance becomes liable for payment in full, with interest, for all tax assistance granted during the Rehabilitation and Development Periods for the property, where the landowner defaults on the Property Tax Assistance By-Law or the Brownfields Site Agreement requirements;
- That landowners file with the City an annual update of the reporting on the environmental contamination, the rehabilitation activities, the estimated costs and the time estimates outlined under Ontario Regulation 274/04 of the Municipal Act, 2001; and

In addition, the education portion of the tax assistance will terminate at the earliest of the following dates:

- The point of severance or subdivision;
- The point of sale or conveyance; or
- The date that tax assistance equals:
 - The accumulated eligible rehabilitation costs;
 - The date ending three consecutive years of education property tax assistance or such earlier period otherwise stipulated in the municipal Tax Assistance By-Law;

The municipal portion of the property tax assistance will terminate on the date that the Occupancy Period begins or such earlier period otherwise stipulated in the by-law authorizing this tax assistance.

→ TIRGP



- The Proponent must complete and submit a TIRGP Grant Application to Planning & Development Services prior to the commencement of any Remedial Work Plan.
- Proponents shall include plans and cost estimates, contracts and other details as may be requested by the City of Kingston with respect to the eligible costs of the project. They must submit in consultation with the City and MPAC the current property assessment and an estimate of future assessment based on the development proposal.
- When applying for a Rehabilitation Grant, proponents shall be prepared to submit a Corporate Profile along with the TIRGP Grant Application.
- Each property selected to participate in the TIRGP component of the Brownfields Program will be eligible for a maximum of one Rehabilitation Grant.
- The Rehabilitation Grant will be paid to the property owner regardless of who pays the eligible rehabilitation costs.
- 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.
- The proponent shall be required to pay all rehabilitation and development costs up-front for the proposed project, because the Brownfields Program only allows the City to offset certain eligible costs by way of a grant after project completion.
- The Rehabilitation Grant will commence after the Occupancy Permit has been issued and property taxes have been paid in full for one year, and will be limited to the total value of the eligible rehabilitation costs, or a period of ten (10) years, whichever is less

7) Is there a fee to apply?

No

8) What types of costs are eligible for funding?

1. Arrange a pre-application meeting with staff as noted at the end of this guide, in order to determine program eligibility, proposed scope of work, project timing, and other relevant details.
2. Complete an application form. Ensure that your application includes:
 - i. a detailed description of the eligible works to be completed;
 - ii. a cost estimate for each of the eligible works to be completed; and,
 - iii. a description of the planned redevelopment, including construction drawings, site plans or concept plans, building specifications and total project construction value;
 - iv. all other required information, including required schedules

3. Attach to the application form a Phase III ESA (if available) and/or cost estimates of the eligible works.

9) What happens next?

- Applications are reviewed by the Environment & Sustainable Initiatives Department and may be examined by the Brownfields Technical Advisory Committee (an ad hoc staff committee consisting of individuals from Planning, Engineering, Taxation, Finance and Legal Departments).
- A recommendation on the application is made by staff and forwarded to Planning Committee and Council along with a Brownfield Site Agreement. This Agreement specifies the terms of the grant.
- If your application is approved by Council, the Brownfields Site Agreement will be forwarded to you for your signature. If the application is not approved you will be notified in writing of the decision.
- Once you have signed the Brownfields Site Agreement and attached supporting documentation requested by the City, return the Agreement and supporting documentation to the Planning and Development Services Department. The Agreement is then executed and filed by the City. A copy of the Agreement is also returned to you.
- You must have this agreement registered on title of the property to which it applies.
- Once the rehabilitation works are completed, you will be required to file a Record of Site Condition (RSC), as per O. Reg. 153/04, with the Ministry of Environment (MOE) and supply the City with a copy of the acknowledgement of receipt of the RSC by the MOE.

→ TIRGP

- As part of the application process, the City will obtain a reassessment of the property based on the projected final development from the Municipal Property Assessment Corporation (MPAC). The applicant is responsible for payment of any fee(s) to MPAC for the provision of this service.
- The estimated post-project assessed value, as provided by MPAC, is used to calculate the estimated annual and total grant, and estimated duration of the grant.
- Once the development is complete and the property has been re-assessed by MPAC, the applicant shall notify the Environment & Sustainable Initiatives Department.
- The rehabilitation Grant will commence after the Occupancy Permit has been issued and property taxes have been paid in full for one year.
- The City of Kingston will then issue payment of the grant in the form of a cheque in the amount specified as per the calculation of the actual grant.

10) Role of the Proponent?

It is the responsibility of the proponent (property owner) to decide whether or not they wish to take advantage of the Brownfields Program and enter into the process and file the appropriate application. Having made the decision to apply to the Program, it is then the responsibility of the proponent to become familiar with, and to follow the process established by the CIP.

It is the responsibility of the proponent to undertake the following:

- Initiate the pre-consultation discussions with the City;
- Complete and file the appropriate Brownfields applications (Initial Study Grant, the BFTIP Tax Assistance and TIRGP Grant);
- Prepare the necessary technical and administrative reports, information, and studies in support of the applications;
- Retain the consultative expertise of qualified professionals, as required;
- Pay all invoices and costs accrued by the project in terms of study costs, report costs, application fees;
- Meet the terms of any implementing by-laws (Initial Study Grant, BFTIP Tax Assistance and TIRGP Grant);
- Enter into agreements with the City regarding a variety of matters (Brownfields Site Agreement);
- Pay the property taxes, as required, except where tax assistance (BFTIP) has been granted; and,
- Ensure MPAC completes a reassessment once development is complete. Once the reassessment is complete the City will finalize the grant calculations.
- Maintain detailed cost records of the project.

With respect to the environmental matters affecting the brownfield site, the proponent is responsible for the preparation of the Phase I, II, and III Environmental Site Assessments (ESA) and/or Site Specific Risk Assessment (SSRA). The proponent is also responsible for developing and implementing an appropriate Remedial Work Plan and environmental monitoring program and for filing the Record of Site Condition (RSC) with the Ministry of the Environment.

In order to address the planning issues associated with the development concept for the site, it is the responsibility of the proponent to obtain all the necessary planning and building approvals. This responsibility includes the payment of the Planning and Development Fees at the time of the submission of the Planning Application(s) even though the fees may be eligible for a grant.

The success of the Brownfields Program, in large part, depends on the proponent preparing the appropriate applications and supporting information in a complete and timely fashion, and submitting them to the City in an effort to provide the Technical Advisory Committee with the information it needs to conduct its review.

For further information on this program, please contact:

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