

Bill No. 669
2017

By-law No. C.P.-_____

A by-law to cancel a portion of the Municipal and Education taxes at 1156 Dundas Street

WHEREAS By-law No. C.P.-1450-56, designated the lands within the City of London Urban Growth Boundary as a Community Improvement Project Area pursuant to Section 28(2) of the *Planning Act*, was passed by Municipal Council on February 6, 2006;

AND WHEREAS By-law No. C.P.-1451-70, being "A by-law to adopt the City of London Community Improvement Plan for Brownfield Incentives", was passed by Municipal Council on February 20, 2006;

AND WHEREAS Section 365.1 of the *Municipal Act, 2001* enables municipalities to provide municipal property tax assistance in connection with a community improvement plan, and Minister of Finance approval is required before matching education property tax assistance will be provided;

AND WHEREAS McCormick Villages Inc., the registered owner of the property known as 1156 Dundas Street applied to The Corporation of the City of London for brownfield incentives including the cancellation of property taxes for this property, in accordance with the Community Improvement Plan and section 365.1 of the *Municipal Act, 2001*;

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 subject property meets the definition of an "eligible property" as set out in subsection 365.1(1) of the *Municipal Act, 2001*;

AND WHEREAS the Minister of Finance has approved this by-law as required by subsection 365.1(6) of the *Municipal Act, 2001*;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. In this By-law,
 - a) "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 third anniversary of the passage of the by-law, or
 - (ii) the date that the Tax Assistance provided for the Eligible Property equals the Remediation Costs;
 - (iii) the date an occupancy certificate for any part of the Eligible Property is issued by The Corporation of the City of London;
 - b) "Eligible Property" means 1156 Dundas Street, Assessment Roll Number 030.060.11900.0000;
 - c) "Owner" means McCormick Villages Inc., the owner of the Eligible Property;
 - d) "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 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;

- 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 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 Brownfields Assistance Agreement;
- 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 Corporation of the City of London has confirmed that the Owner's obligations under this by-law have been met, Tax Assistance shall take the form of cancellation of taxes.

2. The Corporation of the City of London 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 when the by-law comes into effect. The Tax Assistance 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 shall be provided solely for the purpose of off-setting eligible remediation costs incurred by the property owner, as defined in this by-law and the Financial Incentives Agreement.

5. The Tax Assistance available shall be a maximum of 25% of the taxes for municipal purposes and 25% of the taxes for education purposes levied during the Rehabilitation Period and the Development Period. The Corporation of the City of London 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 Corporation of the City of London shall notify the Minister of Finance forthwith of any revision to the level of Tax Assistance.

6. 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.

7. As of the date of passing of this by-law, The Corporation of the City of London 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.

8. The Treasurer shall alter the tax roll in accordance with the Tax Assistance to be provided for the Eligible Property.

9. 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 Corporation of the City of London and the Minister of Finance, file a record of site condition 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 Corporation of the City of London of the filing. Within 30 days after receiving the notice from the Owner, The Corporation of the City of London shall advise the Minister of Finance of the filing.

10. The Owner shall provide to The Corporation of the City of London an annual report within 30 days of the anniversary of the commencement of the 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.

11. Within 30 days of receiving the annual report from the Owner, The Corporation of the City of London 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 it may be terminated, where any one of the following occur:

- 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 Tax Assistance Agreement entered into between the Owner and The Corporation of the City of London and attached as Schedule "A" to this by-law; or
- c) The Owner fails to commence or ceases remediation for any reason including not filing a record of site condition as outlined in Section 9.

13. The municipal portion of the Tax Assistance shall be suspended, and may be terminated, where any one of the following occur:

- 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 three (3) years;

14. The education portion of the Tax Assistance shall be terminated where any one of the following occur:

- 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 three (3) years;

15. The Tax Assistance shall be terminated where the Tax Assistance equals or exceeds the Remediation Costs.

16. The Owner shall notify The Corporation of the City of London forthwith if any of the events in Sections 12, 13a) or 14a) or 15 of this by-law occur. The Corporation of the City of London shall then forthwith notify the Minister of Finance.

17. If Tax Assistance has been suspended under Sections 12 or 13 of this by-law, the City of London 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.

18. A notice under Section 17b) of this By-law 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 Sections 12, 13, 14, 15, or 17 of this by-law, The Corporation of the City of London 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 pay 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 Tax Assistance. Where The Corporation of the City of London makes an order under this section, interest is payable on the taxes which become payable under the order, calculated at the standard rates established by The Corporation of the City of London as if the Tax Assistance had not been provided.

20. 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 paid by the Owner as property taxes.

21. This by-law shall come into force and effect on the date of passage.

PASSED in Open Council on November 28, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – November 28, 2017
Second Reading – November 28, 2017
Third Reading – November 28, 2017

Schedule "A"

To By-law C.P.- _____

FINANCIAL INCENTIVES AGREEMENT

**CITY OF LONDON COMMUNITY IMPROVEMENT PLAN FOR BROWNFIELD INCENTIVES
BY-LAW No. C.P.-1451-70**

PROPERTY TAX ASSISTANCE PROGRAM
DEVELOPMENT CHARGE REBATE PROGRAM
TAX INCREMENT EQUIVALENT GRANT PROGRAM

LANDOWNER INFORMATION

LANDOWNER (REGISTERED PROPERTY OWNER) McCormick Villages Inc.	
LANDOWNER MAILING ADDRESS P.O. Box 20053 Woodstock CTR, Woodstock, ON N4S 8X8	TELEPHONE 519-421-7413
SUBJECT PROPERTY MUNICIPAL ADDRESS 1156 Dundas Street, London, ON N5W 5Y4	E-MAIL info@sierraconstruction.ca
SUBJECT PROPERTY DESCRIPTION PLAN 494 BLK E BLK F LOTS 98 TO 106 PT GLEESON ST RP 33R19051 PARTS 1 TO 3	ASSESSMENT ROLL NO. 030.060.11900.0000

PROJECT INFORMATION

STUDY RECEIVED BY CITY <i>(for information)</i>	RECORD OF SITE CONDITION						
<table border="1"> <tr> <td>Phase II ESA LVM Sendex – January 31, 2013 Englobe – February 10, 2017</td> </tr> <tr> <td>Site Specific Risk Assessment</td> </tr> <tr> <td>Remedial Action Plan</td> </tr> </table>	Phase II ESA LVM Sendex – January 31, 2013 Englobe – February 10, 2017	Site Specific Risk Assessment	Remedial Action Plan	<table border="1"> <tr> <td>Registration Number:</td> </tr> <tr> <td>Filing Date:</td> </tr> <tr> <td>Certification Date:</td> </tr> </table>	Registration Number:	Filing Date:	Certification Date:
Phase II ESA LVM Sendex – January 31, 2013 Englobe – February 10, 2017							
Site Specific Risk Assessment							
Remedial Action Plan							
Registration Number:							
Filing Date:							
Certification Date:							
VERIFICATION OF REMEDIATION COSTS <i>(list invoices & confirmation of payment for services)</i> <ul style="list-style-type: none"> McCormick Villages Inc. submitted a total claim in the amount of \$X,XXX,XXX, which is more/less than total expenditure of up to \$2.5 million as approved by City of London Council May 2, 2017. 							

General Conditions:

- To be eligible for the financial incentives provided under this Community Improvement Plan, properties must not be in tax arrears. Unless otherwise provided for in this agreement, all taxes owing must be paid prior to the disbursement of any grant or tax assistance money.
- All outstanding work orders and/or requests to comply from municipal departments and agencies shall be addressed to the satisfaction of the City of London prior to the disbursement of any financial incentives. For the duration of the incentives program failure to address any work orders and/or requests to comply from municipal departments and agencies may result in the cancellation or postponement of the incentive(s).
- The landowner shall comply with all relevant Provincial legislation including, but not limited to the requirements and regulations prescribed under the *Environmental Protection Act*. A Record of Site Condition must be filed with the Ministry of the Environment prior to commencing development on the subject property.
- The landowner shall provide the City of London with all required information, including Environmental Site Assessment (ESA) reports, and findings on the environmental condition of the subject property, prior to receiving any incentives under this Community Improvement Plan. All reports and information received by the City will be retained on file, and available for review by City personnel, members of the public and potential investors.
- A total expenditure of up to \$2.5 million will be provided by the City of London in municipal financial incentives under the Property Tax Assistance, Development Charge Rebate Grant Program and/or Tax Increment Equivalent Grant Program. Notwithstanding the maximum potential expenditure amount of

up to \$2.5 million, the total value of municipal financial incentives provided under the Community Improvement Plan for Brownfield Incentives will be capped at a lower amount when it reaches the value of eligible remediation costs that have been incurred by the landowner.

6. Eligible remediation costs shall include: underground fuel oil tank decommissioning, petroleum impaired soils remediation, metals & PAH compound fill material remediation, groundwater assessment, decommission 11 groundwater test wells, environmental site decommissioning including removal of designated substances and hazardous materials, decommission four in-ground elevator systems, and the environmental liabilities contingency. Eligible remediation costs shall not include costs associated with building demolition and the removal of the hazardous materials associated with the demolition.
7. The project approved for municipal financial incentives is generally comprised of retaining the original historic portion of the McCormick factory building and the candy store addition and repurposing them for mixed-use residential, commercial, office and/or indoor parking. The later additions to the McCormick factory will be demolished to provide open space in the site's northwest corner and allow for the construction of two mid-rise apartment buildings, a low-rise seniors apartments building, and townhouses. Any substantial variation in the size or configuration of the project may result in changes to the value of municipal financial incentives under this Community Improvement Program.
8. The landowner acknowledges that the City of London retains the right to refuse to provide tax assistance and grant monies to the landowner solely at its discretion where the cost of the remediation work is deemed by the City, acting reasonably, to be inflated, over-stated, or where unnecessary or inappropriate works were undertaken.
9. The terms and conditions of this agreement shall run with the subject property and ensure to the benefit of and be binding upon the parties hereto and their respective successors, heirs, executors, administrators and assigns.
10. This agreement will be registered on title of the subject property until such time as the incentives have been provided in accordance with the stated terms and conditions.

Property Tax Assistance Program:

11. The financial assistance provided under the Property Tax Assistance Program will be subject to meeting all of the General Conditions and other relevant conditions in this agreement.
12. A portion of the Municipal and Education taxes on the "eligible property" will be cancelled during the "development period" and the "rehabilitation period", in accordance with the provisions of By-law No. C.P.-_____, a copy of which is appended to this agreement.

Development Charge Rebate Grant Program:

13. The financial assistance provided under the Development Charge Rebate Grant Program will be subject to meeting all of the General Conditions and other relevant conditions in this agreement.
14. After the Record of Site Condition is filed, upon payment of Development Charges by the landowner to the City of London, the City will provide a grant back to the landowner for up to 50% of the Development Charges for any eligible site remediation costs incurred by the landowner, provided the total value of municipal financial incentives provided under this agreement does not exceed \$2.5 million.

Tax Increment Equivalent Grant Program:

15. The financial assistance provided under the Tax Increment Equivalent Grant Program will be subject to meeting all of the General Conditions and other relevant conditions in this agreement.
16. After the Record of Site Condition is filed, where improvements made result in an increase in assessed value of the property the City will provide a grant back to the landowner equal to a portion of the increase between the pre-development and post-development municipal component of property taxes after development has taken place, for up to three (3) years from the date of the increase in assessed value.
17. Notwithstanding any other calculations relating to the grant amount, the value of grant(s) provided for the municipal component of property taxes under this Tax Increment Equivalent Grant Program, the Heritage Community Improvement Plan Tax Increment Grant Program and any other program(s), shall not exceed the total value of the municipal component of property taxes in any year.
18. The term applicable tax (mill) rate refers to the General of Municipal component only of the total tax (mill) rate paid. It does not include such taxes/charges as Education, Transportation, Local Improvement, or other "area charges", Business Improvement Area (BIA) levy, or any Phase In or Encroachment Fee. Changes in the tax (mill) rate or phased-in assessment increases after the post-improvement date is established will not be incorporated into the calculation of the annual tax increment.
19. Grants are not payable by the City until such time as all additional assessment eligible for grant has been added to the assessment roll by the Municipal Property Assessment Corporation, all taxes eligible for grant have been billed by the City, and all taxes outstanding including billed taxes that have not yet

become due are paid in full for all years by the taxpayer. Grants are also not payable by the City until such time as all possible assessment appeals have been filed and decided. If property taxes are owing on a property for more than one full year, the City will have the option, without notice and at its own discretion, of terminating all future grant payments, thereby eliminating all grant obligations to the applicant.

20. Tax increases that result from a general reassessment, a change in tax legislation or an increase in the mill rate will not be considered for the purpose of calculating the grant. The annual tax increment will be held constant and changes in the mill rate after the post-improvement date is established will not be incorporated into the calculation of the annual tax increment.

BROWNFIELD GRANT PROGRAM GRANT AGREEMENT

GRANT CALCULATION:

Year	Schedule 1
1	To be determined
2	To be determined
3	To be determined

Transfer of Property:

21. If the ownership of the lands described in this agreement (or any portion thereof) is transferred to any person other than the signatory of this agreement (Landowner) by sale, assignment, or otherwise, then this agreement shall no longer apply. The City may enter into an agreement with any subsequent owner subject to the same or similar conditions.

LANDOWNER AND CITY OF LONDON AUTHORIZATION

I _____, have the authority to bind McCormick Villages Inc. and agree to abide by the above-stated conditions:

Landowner Authorized Signature

Date

Municipal financial incentives under the Tax Assistance Program, the Development Charge Rebate Program and the Tax Increment Equivalent Program, are hereby approved by the City of London in accordance with the above-stated terms and conditions:

City of London Authorized Signature

Date