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TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION FOR BROWNFIELD INCENTIVES BY: TRICAR PROPERTIES LIMITED 32, 36, AND 40 YORK STREET MEETING ON JANUARY 22, 2018

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions **BE TAKEN** with respect to the application made under the Community Improvement Plan for Brownfield Incentives and business case submission received from Tricar Properties Limited (“Tricar”) relating to the properties located at 32, 36, and 40 York Street:

- (a) A total expenditure of up to a maximum of \$192,000 in municipal brownfield financial incentives **BE APPROVED AND ALLOCATED** under the Tax Increment Equivalent Grant Program in the Community Improvement Plan (CIP) for Brownfield Incentives;
- (b) The Civic Administration **BE DIRECTED** to process the brownfield incentive application to provide for eligibility for tax increment equivalent grants for up to three years for the development project under the Brownfields CIP and up to the full 10 year term of the Tax Increment Grant Program of the Downtown CIP for the project;
- (c) The applicant **BE REQUIRED** to enter into an agreement with the City of London outlining the relevant terms and conditions for the incentives that have been approved by Municipal Council under the Brownfield CIP.

IT BEING NOTED THAT the agreement between the City of London and Tricar will be transferable and binding on any subsequent property owner(s).

EXECUTIVE SUMMARY

Summary of Request

Tricar is seeking financial incentives through the Brownfield CIP to cover the cost of remediating the property at 32, 36, and 40 York Street in order to construct a 24-storey mixed-use building. Municipal Council approval is required for Brownfield CIP financial incentive programs and this approval is required prior to the remediation beginning. In this instance, Tricar has begun the remediation process prior to Municipal Council approval.

Summary of Recommended Action

Staff are recommending a total expenditure of up to a maximum of \$192,000 in municipal brownfield financial incentives be approved under the Tax Increment Equivalent Grant Program.

Rationale of Recommended Action

1. Tricar was in discussion with Staff prior to beginning remediation, but in order to meet its construction timelines did not submit a complete Brownfield CIP application for Staff review and Municipal Council approval until after the remediation process had already begun;
2. The development represents a significant investment in the Downtown including the construction of 211 new residential units on a fully serviced site;

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3. The development will eventually generate significant tax revenues over and above the grants that are provided.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

None

BACKGROUND

The Community Improvement Plan (CIP) for Brownfield Incentives was adopted by Council on February 20, 2006 and approved by the Province, with modifications, on November 21, 2006.

The purpose of the Brownfield Incentives CIP is to remove or reduce the obstacles that hinder brownfield remediation and redevelopment. The financial incentive programs are used to evaluate contaminated properties and encourage the private sector to invest in those properties. There are four incentive programs to encourage the investigation, remediation, and redevelopment of brownfield sites in the City of London. The Contamination Assessment Study Grant Program assists property owners in conducting Phase II Environmental Site Assessments and is capped at \$10,000 per property. Municipal Council approval is not required for the Study Grant Program. The remaining three programs: Property Tax Assistance, Development Charge Rebate, and Tax Increment Equivalent Grants require Municipal Council approval, may be significant in terms of financial assistance, are considered individually based on the evaluation of a business case from the applicant, and the availability of program funding.

CIP Eligibility Requirements

Eligibility requirements for each brownfield incentive program are outlined in the CIP. Council may consider providing any one incentive or combination of incentives based on the relevant CIP eligibility requirements and merits of each application; however, under the Brownfield incentive programs the cumulative amount of funding that may be provided through the Property Tax Assistance Program, Tax Increment Equivalent Grant Program, and Development Charge Rebate Program cannot exceed the eligible site remediation costs for the subject property.

In addition to the general requirements in Section 2 of the CIP, specific eligibility requirements apply to the three programs. Each application is evaluated on a case-by-case basis to consider the public and economic benefit of providing one or more incentive(s) to a property.

In general, if incentives are being recommended for the Tax Increment Equivalent Grant Program, Staff will prepare a report for the Planning and Environment Committee. The Planning and Environment Committee will make a recommendation for approval or refusal of any incentives to Municipal Council. An agreement must be executed between the City and the property owner outlining the terms and conditions of the approved incentive(s) prior to remediation. Once Municipal Council has approved the incentives and the grant agreement has been executed, the applicant should engage its consultant and/or contractor to proceed with the site remediation work.

As the remediation began prior to Municipal Council approval and the execution of the agreement, the brownfield incentive request from Tricar is considered retroactive in nature.

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The Tricar Development Project



Figure 1: Option 1



Figure 2: Option 2

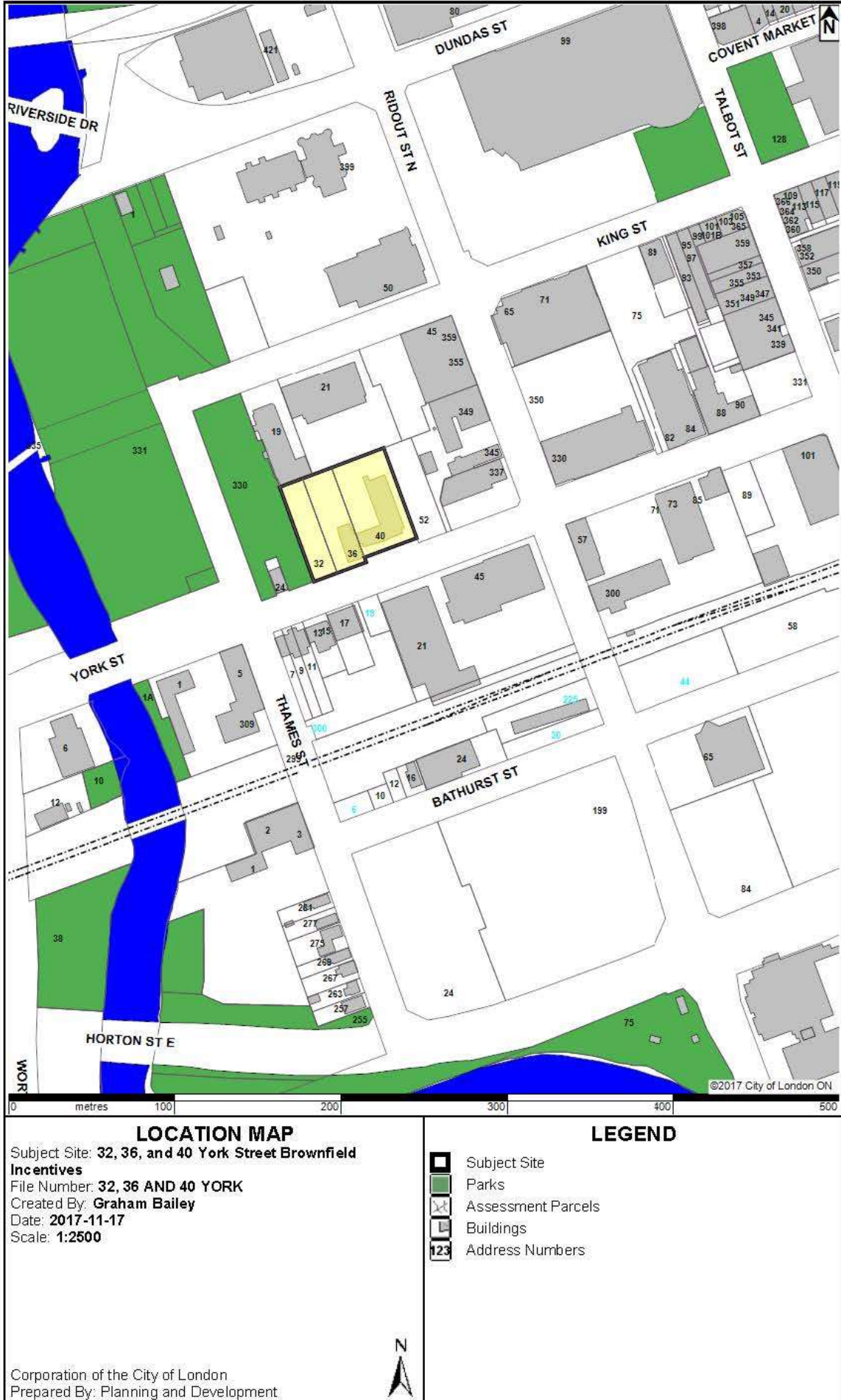
The project comprises a 24-storey mixed-use redevelopment of the subject site (32, 36, and 40 York Street – see Figures 1, 2, and 3) which includes approximately 805 square meters of commercial space on the ground floor, two floors of office use, and 211 residential units in the remaining 21 storeys of the tower. The project will also include approximately 262 parking spaces in two-levels of underground parking and two-levels of above ground parking.

The Official Plan land use designation on the property is Downtown Area. In September 2017, a Zoning By-law Amendment application was approved by Municipal Council to permit the proposed development.

Discussions with Tricar on brownfield financial incentives began in July 2017 at the same time as the Zoning By-law Amendment application process was being undertaken. A complete Brownfield CIP application was received on October 12, 2017. Construction and excavation work including building demolition at the site started in late September / early October.

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Figure 3: Location Map



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Site Remediation Investigations

Under Provincial Regulation, it is mandatory that a Record of Site Condition (RSC) be filed with the Ministry of Environment and Climate Change, to confirm that the site is ‘clean’ and that the property meets the applicable site condition standard for the intended use.

A Phase II Environmental Site Assessments (ESA) was prepared for Tricar by XCG Consulting Limited which confirmed the presence of several potential contaminants on the site from previous industrial and commercial uses including chlorinated solvent-related impacted soil and PHC-impacted soil.

Based on the findings of the Phase II ESA report, it can be confirmed that the Tricar site constitutes a brownfield under the CIP definition and that the remediation of identified contaminants must be undertaken in accordance with Ontario Regulation 153/04 (as amended) before the site can be redeveloped for a residential use.

An RSC cannot be filed with the Ministry of the Environment and Climate Change until such time as the required remediation has been undertaken and the condition of the site confirmed as meeting relevant Provincial standards. The Record of Site Condition must be submitted to the City and acknowledged by the Ministry of the Environment and Climate Change prior to commencing the residential development and the funding being released under the Tax Increment Equivalent Grant Program.

Downtown CIP Incentives

The Tricar property is located within the Downtown Community Improvement Project Area which, through the Downtown CIP provides incentives to encourage redevelopment and revitalization on a clean site. The Downtown CIP incentives are available as-of-right to eligible property owners within the area who apply.

The Tricar development is eligible for numerous Downtown CIP incentives, including: the Residential Development Charge (DC) Grant program and the Downtown Rehabilitation and Redevelopment Tax Grant Program. It is noteworthy that these grants will constitute a significant financial incentive for the applicant, beyond the Brownfield Incentive Programs. However, it is important to recognize that these same Downtown incentives are available to all properties within the Downtown CIP Project Area – even clean sites.

The incentives which are the subject of this report relate to the remediation of brownfield conditions on the Tricar lands. The Brownfield Incentive programs are intended to help property owners remove contaminants from lands that would otherwise not likely be developed. This program brings contaminated lands “up to the same playing field” as non-contaminated lands. In doing so, the development of these lands is encouraged which has a significant environmental benefit in the public interest, while also leading to intensification that generates business activity in the core and also creates tax revenue that would not otherwise occur. While the Brownfield Incentive programs directly address the clean-up of the site, the other Downtown incentives apply as they would for any other site in the Downtown Area that is not contaminated. Without the combination of such incentives, a brownfield site may not be developed, even with the Downtown incentives that apply to clean sites in the core.

CONSIDERATION OF BROWNFIELD INCENTIVES

Brownfield CIP

The purpose of the Brownfield CIP is to remove or reduce the obstacles that hinder brownfield remediation and redevelopment in the City of London. The incentive programs in the Brownfield CIP assist property owners with bringing a brownfield site up to the same standard as a greenfield site. In other words, to help “level the playing field”.

Tricar is applying for funding under the Brownfield CIP since the site constitutes a brownfield and remediation work is required to meet minimum Provincial environmental standards and to file a

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Record of Site Condition. Under the Brownfield CIP, incentives can only be provided to compensate property owners for costs that they incur to remediate the property.

Applications for incentives under the Brownfield CIP are not as-of-right but evaluated on a case-by-case basis, to consider the need for remediation, and the public and economic benefit of providing one or more incentives to a property. Incentives under the Brownfield CIP are specifically applied only to eligible site remediation costs as defined in the CIP and the maximum of all grants and tax assistance for eligible brownfield properties cannot exceed the cost of remediating the property. Criteria in the Brownfield CIP provide that approval of the incentive(s) may be recommended where:

- a) The landowner/applicant has not contributed to the site contamination;
- b) There are not outstanding property taxes, municipal orders or by-law infractions on the subject property;
- c) All relevant supporting documentation and reports (for example, ESA’s Remedial Action Plans, Risk Assessments) have been provided to the City;
- d) Financially supporting the proposal is considered to be both cost-effective for the City and in the public interest;
- e) The incentives are considered necessary to make the remediation and redevelopment on the subject property feasible;
- f) The amount of available and budgeted municipal funding is sufficient to cover the cumulative cost of all incentives that have been approved; and
- g) Municipal Council deems that the costs associated with providing the program incentives are outweighed by the cumulative benefits of providing the incentive(s).

Eligible remediation costs that are identified in the CIP include 100% of the costs associated with building demolitions, site remediation, rehabilitation of any existing structures, and environmental insurance premiums during the remediation phase. The City is not under any obligation to approve Brownfield incentives for a particular property and each application is evaluated on a case-by-case basis.

If the application is endorsed by Municipal Council, an agreement is required between the City and the property owner, outlining the terms and conditions that apply to the approved incentive(s). The agreement between the City and the property owner is registered on title and remains in effect until all requirements of the CIP have been satisfied. Upon completion of the site remediation work, the property owner must provide the City with documentation to confirm that the required work has been undertaken in a satisfactory manner and paid for.

Business Case Submission (Appendix “A”)

The business case submission from Tricar includes a detailed estimate of site remediation costs based on the findings of the Phase II ESA. The costs that were identified in the business case submission as potentially being eligible for incentives under the Brownfield CIP are summarized below:

Table 1 – Site Remediation Work and Estimated Costs for Tricar Project	
Project Initiation	\$3,550
Remedial Activities (including building demolition of \$79,000)	\$254,575
Lab Analyses	\$3,021
Data Analysis	\$9,620
Total Estimated Cost	\$270,766

In reviewing the business case, it should be noted that included in the \$270,766 estimated remediation cost is the demolition of the buildings on site. While building demolition may be approved as an eligible remediation cost under the Brownfield CIP, in keeping with previous brownfield applications, staff believe that the building demolition component would have had to be undertaken whether or not the site is a brownfield. As a result, the demolition of the buildings estimated at \$79,000 will not be considered an eligible cost, resulting in an incentive request of \$191,766 (rounded to \$192,000).

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The Tricar submission states that based on the known environmental condition of the site and estimate of potential remediation costs, incentives are requested under the Brownfield CIP to “facilitate the progress of this development” and “the requested incentives are considered necessary to facilitate the remediation and redevelopment of the subject site in an economically feasible manner.” A request was made for funding from the Tax Increment Equivalent Grant program to cover environmental remediation costs associated with the project.

Tax Increment Equivalent Grant Program – Under the Brownfield CIP, the property owner is eligible to apply for up to 100% of the post development municipal property tax increment for up to three years, to cover eligible site remediation costs. The amount of the tax increment equivalent grant is equal to the increase between the pre-development and post-development municipal portion of property taxes after rehabilitation and development has taken place. Where improvements have been approved by the City, resulting in an increased assessed value of the property and therefore increased taxes, the City will provide a grant equal to the amount of the municipal property tax increase as a result of the rehabilitation and development for up to a maximum of three years from the date of the increase in assessed value.

The Brownfield CIP was modelled on the Provincial program for brownfields and uses the same definitions and terminology as the Provincial program. For brownfields, the development period for which incentives are available is defined as:

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 site specific enabling by-law, or a longer period of time as may be specified in the enabling by-law;*
- ii) The date that the tax assistance provided for the eligible property equals the remediation costs; or*
- iii) The date the City confirms that the development on the subject property is suitable for occupancy.*

Under the Brownfield CIP, the start of the grant period (Year 1) is defined as the first full calendar year that taxes are paid after the project is completed (i.e. after the Development Period) and the property is reassessed.

Under the Program Guidelines for the Rehabilitation and Redevelopment Tax Grant Program available through the Downtown CIP, the start of the grant period (Year 1) is determined as either:

- i) Year 1 is either the first full calendar Year that taxes are paid after the project is completed and reassessed; or*
- ii) Year 1 is the portion of the full calendar year after the project is completed and reassessed.*

This means that under the Downtown CIP program, the property owner is able to determine the start date (Year 1) based on the project completion and reassessment. This differs from the Brownfields CIP, in that the start date (Year 1) and development period are defined as commencing at the end of the rehabilitation period, and running until the amount of incentives equals the value of the rehabilitation (in this instance, up to \$192,000), the date of occupancy, or if applicable, three years from the passage of the enabling by-law for the Property Tax Assistance program.

In order to provide flexibility to Tricar, noting that the program guidelines would suggest that once the incentives provided under the Brownfields program commence, the 10-year grant repayment period is initiated, Staff are recommending that Year 1 for incentives under both the Brownfield CIP and the Downtown CIP be determined as provided under each of the programs separately, meaning that the Start Date would differ for the two programs. This would mean that Tricar would be eligible for incentives under the Brownfields program for up to three years. Tricar would also be eligible for the full ten years under the Rehabilitation and Redevelopment Tax Grant Program, but would be able to choose the Start Date at a future time different than the Start Date for the

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Brownfields incentives. For the purposes of calculating the Year 1 value for the incentives, the pre-assessment value would be the same as the value used for the Brownfields incentives.

It is not possible to precisely estimate the size of the grants that would apply to the Tricar site until such time as the project is completed and the post-development assessment value has been established by the MPAC. However, based on preliminary construction estimates and assumptions about the applicable tax rates, grant values are provided below with the estimated year the grant payments would be made:

Table 2 – Estimated Brownfield CIP Tax Grant Payments for Tricar Project at 32, 36, and 40 York Street	
Year	Grant
2020	\$192,000
2021	N/A
2022	N/A
Total	\$192,000

The estimated tax increment for the Tax Grant is approximately \$826,371. As a result, the entire remediation cost of \$192,000 would be paid in the first year of the program and the additional two years of grant payments would not be required.

Evaluation of Tricar Application and Business Case

The Tricar application and business case submission were circulated and reviewed by staff. The Tricar application and business case submission has confirmed that the site constitutes a brownfield under the definition in the CIP and that under existing Provincial legislation, the proposed residential development project cannot proceed until such time as site remediation has been undertaken and a Record of Site Condition has been filed in accordance with the relevant provisions under the *Environmental Protection Act*.

Since the Brownfield incentives involve the expenditure of public funds, Municipal Council should be satisfied that the public and economic benefits associated with the Tricar project will outweigh any costs incurred by the City. Several attributes that have been identified, as follows:

1. Remediation of a site that was previously contaminated through a variety of industrial and commercial uses and does not meet current Provincial regulatory standards for residential development;
2. The proposal constitutes infill development on a fully serviced site;
3. The development will include 211 residential units, providing new accommodations in the area and contributing to the ongoing revitalization of the Downtown through:
 - a) Increasing Downtown foot traffic;
 - b) Providing additional “eyes on the street” and an increased presence at night;
 - c) Helping support rapid-transit ridership;
 - d) Delivering on Municipal Council’s Downtown Plan;
 - e) Promoting Downtown residential neighbourhood development;
 - f) Supporting business development.
4. The development will eventually generate significant tax revenues over and above the grants that are provided for it under the Downtown CIP and Brownfield CIP;

Further, in evaluating applications, the Brownfield CIP programs note that approval of the incentive(s) may be recommended where:

- a) The landowner/applicant has not contributed to the site contamination;
 - According to the provided business case, Tricar did not contribute to any contamination since purchasing the site. Staff agree that the

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landowner/applicant has not contributed to the previously contaminated site.

- b) There are not outstanding property taxes, municipal orders or by-law infractions on the subject property;
 - This requirement is normally confirmed prior to issuing a grant. If there are any outstanding property taxes, municipal orders, or by-law infractions on the property, staff asks the applicant to clear the outstanding issue(s) prior to the grant cheque being requested.

- c) All relevant supporting documentation and reports (i.e. ESA's, Remedial Actions Plans, Risk Assessments) have been provided to the City;
 - All documents and reports have been provided to the City.

- d) Financially supporting the proposal is considered to be both cost-effective for the City and in the public interest;
 - The magnitude of the incentive ask is outweighed by the benefits provided by the project including the increase in taxes and its contribution to the continued revitalization of the Downtown.

- e) The incentives are considered necessary to make the remediation and redevelopment of the subject property feasible;
 - Staff are not party to Tricar's financial proforma for the project and must rely on the submitted business case to help determine if the incentives are necessary to make the project feasible. In this instance, the estimated remediation cost is \$192,000;
 - Tricar has begun demolition and remediation prior to receiving Municipal Council approval for brownfield incentives. Tricar was expecting to file the RSC by the end of 2017. Tricar has stated that it needed to allocate its concrete crew and crane to the 32, 36, and 40 York Street project and were unable to wait the required time to ensure Municipal Council approval or it would have had to send the crews to another project;
 - The requirement for Municipal Council approval prior to remediation taking place is to ensure sufficient funding is available in the budget and that the funding request can be reported to Council in its consideration of the application as earmarked in the appropriate reserve fund for the grant.

- f) The amount of available and budgeted municipal funding is sufficient to cover the cumulative cost of all incentives that have been approved;
 - In reviewing site specific applications for Brownfield incentives it is important to consider the implications that potential expenditures will have on overall program funding. The funding for brownfield remediation under the Brownfield CIP comes from an annual allocation of Federal Gas Tax of \$350,000 which is maintained in the Federal Gas Tax Reserve Fund. The balance in this allocation includes the estimated remediation costs of \$192,000 over the projected one year of Brownfield grant payment;
 - Other applications for Brownfield incentives will likely be received in 2018. These applications are incorporated into the allocation as they arise.

- g) Municipal Council deems that the costs associated with providing the program incentives are outweighed by the cumulative benefits of providing the incentive(s).
 - Municipal Council to decide based on this staff report and its recommendation and the applicant's input including the business case.

Lastly, Brownfield incentive applications satisfy the Growing Our Economy Strategic Area of Focus in the *Strategic Plan for the City of London 2015 – 2019*. Within the Growing our Economy Strategic Area of Focus, brownfield remediation supports the Urban Regeneration strategies of using Community Improvement Plans to coordinate City and private investment to meet both local and City-wide priorities, as well as investing more in brownfield remediation.

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Overall, the Tricar project represents a significant investment in the Downtown and despite Tricar moving forward with the remediation prior to receiving Municipal Council approval, the project should be supported financially by incentives that are targeted for site remediation. The municipal component of the 2017 property taxes on the non-remediated and mostly vacant site equals approximately \$32,570 per year. After the project is built and reassessed by MPAC, the municipal portion of the taxes are estimated at over \$800,000 per year.

The value of all incentives that are provided under the Brownfield CIP would be capped once it reaches the total eligible cost of remediation incurred by the property owner. For this reason, incentives that are provided under the Brownfield CIP must be allocated and administered separately from those provided under the Downtown CIP. In the business case submission, Tricar provided a breakdown of estimated remediation costs that would be eligible for incentives under the Brownfield CIP. These costs are based on available information and some assumptions about the environmental standards that are applied under existing Provincial Regulations.

CONCLUSION

Tricar is undertaking a significant development in the Downtown. In addition to the environmental benefits that will result from site remediation, this development will provide substantial public and economic benefits including the provision of new residential units and the generation of new tax revenues for the City.

Staff believe the recommendation is appropriate recognizing Tricar moved ahead with remediation prior to Council approval, but after indicating that they would be applying for Brownfield CIP financial incentives in earlier discussions with Staff.

Based on a review of the business case submission and consideration of available funding under the Brownfield CIP, the Tax Increment Equivalent Grant is being recommended to cover the eligible site remediation costs associated with the Tricar application up to a maximum amount of \$192,000.

Prior to the issuance of any incentives an agreement will be executed between Tricar and the City outlining the nature of the development and specifying the relevant terms and conditions that apply under the provisions of the Brownfield CIP.

RECOMMENDED BY:
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER

December 18, 2017
 Attach: Appendix "A" – Tricar Business Case

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Appendix "A" – Tricar Business Case