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BARTON / KENILWORTH TAX INCREMENT GRANT PROGRAM

PROGRAM DESCRIPTION

The intent of the Barton / Kenilworth Tax Increment Grant Program (the “Program”) is to provide an economic catalyst for developing, redeveloping or renovating residential / commercial lands and buildings located within the boundaries of the Barton Village Business Improvement Area (BIA), the Barton and Kenilworth commercial corridors and the properties that front on Barton Street between James Street North and Victoria Avenue North as identified in the Downtown and Community Renewal Community Improvement Project Area By-law.

This Program authorizes for each approved grant application, a nine year grant, the amount of which is subject to Council approval, in an amount not exceeding the increase in municipal realty taxes. The increase in municipal realty taxes (City portion only) will be based on either the year in which the building permit that initiated the development / redevelopment was issued or, for properties where the proposed development / redevelopment does not require a building permit, the year in which City Council approved the grant amount, and, the first full year in which the property is reassessed. The grant shall be an amount which does not exceed 100% of the municipal realty tax increase during the first, second, third, fourth and fifth year, 80% in year six, 60% in year seven, 40% in year eight, and 20% in year nine. For purposes of determining the eligible amount of the increase in municipal realty taxes, special charges including B.I.A. levies shall be excluded from the calculation. The grant would reduce the effect of an increase in municipal realty taxes attributable to the differential between the pre-renovation assessment and the post-renovation assessment.

1. Before any grant is provided to the applicant for a property for which a satisfactory grant application has been received and approved, realty taxes are required to have been paid as billed each year and, the property shall be in compliance with the program’s requirements and conditions.

Conditions in the Agreement include but are not limited to:

- a) The total value of the eligible grant provided under the Program will be reduced by: (a) the amount by which property taxes have been

cancelled or reduced for the subject property pursuant to any other City programs (i.e. vacancy rebates) or tax appeals under Sections 357 and 358 of the Municipal Act; and (b) the amount by which property taxes have been reduced or cancelled for the property pursuant to any relief or reduction permitted under any legislation or order of any court or the Assessment Review Board;

- b) The Owner or the municipality has not appealed the increased assessed value and there exists no other pending appeal which has not been settled completely in respect of the assessed value as of a date which is either in advance of or as of a date, which follows the said redevelopment.
2. The first-year of the grant is payable at the end of the calendar year in the first full-year of reassessment, post completion, of the redevelopment/development. An applicant has the option of receiving the grant at the end of the first year of reassessment however they will forfeit the grant for the months of the year the reassessment does not apply i.e. if reassessment occurs on the 1st of March of a year, the first year of the grant will be based on March-December (ten months) of the year only.
3. For commercial projects, the first year of the grant is payable at the end of the first full year of reassessment, post completion, of the redevelopment / development regardless of the number of commercial units occupied.
4. For residential condominium projects, the first year of the grant is payable by the end of the calendar year in which 75% of the residential condominium units within the project are fully assessed, and is calculated on a ratable per unit basis.
5. The grants may be received by an owner in conjunction with any other available municipal program with the exception of the Hamilton Tax Increment Grant Program and the ERASE Redevelopment Grant in support of redevelopment / development, including the municipality's loan and heritage programs. The approved grants are not assignable by the owner to anyone, except to the initial purchaser of any condominium unit or to the City of Hamilton. The total of each property's nine years of approved grants shall not exceed the costs of the property's development / redevelopment.
6. A limited assignment of the grant under the terms of the Program may be made from a registered or assessed owner of the property to the initial purchaser of each new condominium unit. The assignment of the grant shall not apply to any subsequent re-sale of any such unit. The assigned grant shall be restricted to the balance of the Five-Year Term running from the re-assessment date following the date of the registration of the

- condominium. The first year of the grant is payable at the end of the calendar year in which 75% of the condominium units within the project are fully assessed, and is calculated on a ratable per unit basis. In addition to the one-time \$755 plus HST application fee for grants greater than \$12.5 K or \$220 plus HST for grants \$12.5 K or less, a one-time administration fee of \$395 plus HST per unit shall be deducted from the initial grant payment. Fees will be authorized through a by-law passed by City Council. The rate of the fees may be changed from time to time as approved by City Council.
7. For applicants who choose not to assign the grant to the initial purchasers of each condominium unit, the grant will be earned by the applicant if they have met all terms and conditions of the Program including payment of taxes until the development has past Final Building Inspection by Building Services. The annual grant to the applicant will be pro-rated if an appeal has been filed with the Municipal Property Assessment Corporation by any of the condominium unit owners. The grant for condominium units that are under appeal will not be released until the appeals are settled through the Assessment Review Board. The first year grant is payable during the calendar year in which 75% of the condominium units within the project are fully assessed, and is calculated on a ratable per unit basis.
 8. An applicant and any assignees, can assign the grant to the City of Hamilton as payment of their loan under the Hamilton Downtown / West Harbourfront Remediation Loan Program if applicable.
 9. The applicant will be required to enter into an Agreement with the City of Hamilton that sets out the conditions of the annual grant.
 10. Redevelopment / development will commence no longer than 2 years following City Council’s approval of the grant or the grant will be cancelled. The 2 year period may be extended by City Council at its absolute discretion.
 11. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property (for projects other than residential condominiums), any future grants will be terminated.
 12. Change of Corporate Control.
Where the Owner is a corporation the Owner covenants and agrees that in the event that:
 - a) the Owner fails to supply the City, in a form satisfactory to the City such information relating to the ownership of its shares as the City may from time to time require: or,

- b) without the written consent of the City first had and obtained:
- i) the Owner issues or redeems any of its shares or transfers any of its shares;
 - ii) there is a sale or sales of the shares of the Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or,
 - iii) the Owner amalgamates, merges or consolidates with any other corporation.

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Owner, or the requested information is not provided, then future grant payments under the Program shall cease at the absolute discretion of the City.

- 13. Approval of the grant application is at the absolute discretion of the City and subject to the availability of funds.
- 14. Without limiting the discretion as set out in paragraph 13, herein, the City Council, whether or not an Applicant satisfies the requirements of the Program, may reject any application received from an applicant where, in the opinion of Council, the commercial relationship between the City and the Applicant has been impaired by, but not limited to, the applicant being involved in litigation with the City. Applicants are individuals; corporate entities and individuals behind the corporation (Officers / Directors / Shareholders).
- 15. Without limiting the discretion as set out in paragraph 13, herein, City Council, whether or not an Applicant satisfies the requirements of the Program, may reject any application received from an applicant where there are property tax arrears owed on the subject property or other properties owned by the Applicant within the City of Hamilton.
- 16. Improvements commenced prior to submitting an application are ineligible. Improvements commenced after submitting an application but prior to application approval do so at the applicant’s risk.

GRANT CRITERIA

Projects that include developing, redeveloping or renovating residential / commercial lands and buildings within the boundaries of the Barton Village BIA, the Barton and Kenilworth commercial corridors and the properties that front on Barton Street between James Street North and Victoria Avenue North as identified in the Downtown and Community Renewal Community Improvement Project Area By-law.

Approval of the application and estimated grant amount is subject to City Council approval. Such application shall be submitted and only received if it is prior to the owner’s commencement of improvements / rehabilitation to their property and shall include plans, estimates, contracts and other details as may be required to satisfy the City as to the cost of the project and as to the conformity of the project with the objectives of the Downtown and Community Renewal Community Improvement Plan.

Such project is also required to be in compliance with the City’s Official Plan policies, other by-laws and policies, including but not limited to zoning, site plan approval, design guidelines, heritage matters including preservation of historical buildings. The compliance of each application with the criteria of this Program and the estimated amount of the Property’s grants (within the permitted terms of this Program) is at the discretion of and subject to Council approval.

All parking lots and vacant sites are eligible. Properties upon which commercial, residential or industrial buildings are cleared and demolished are eligible, with the exception of designated heritage buildings.

This program shall not apply to an existing or proposed Adult Entertainment Parlour, Body Rub Establishment, Correction Facility, Corrections Residence, Emergency Shelter, Lodging House or Residential Care Facility as defined in the Zoning By-law.