

ERASE TAX ASSISTANCE (ETA) PROGRAM



A. PROGRAM

DESCRIPTION

The ERASE Tax Assistance (ETA) Program (the Program) is intended to reduce the tax increase resulting from the remediation and redevelopment of a brownfield site in order to mitigate costs required to remediate historical environmental contamination on brownfield sites in support of their redevelopment/reuse. The tax cancellation provided under this Program enables brownfield sites to be viable candidates for redevelopment relative to non-contaminated sites, supports the intensification/infill of existing vacant and underutilized sites, reduces the need for greenfield lands to accommodate future population and employment growth, and generates new property tax revenue through increased property assessments.

An approval under this Program shall not be granted until City Council has approved the Application and has passed a by-law pursuant to s.365.1 of the *Municipal Act, 2001*, as amended and the Minister of Finance of the Province of Ontario has approved the by-law.

An approval granted under this Program shall be conditional on the Applicant receiving approval from the Minister of Finance for an application under the Province of Ontario’s Brownfield Financial Tax Incentive Program (BFTIP) respecting the cancellation of the education portion of property taxes. Approval for the cancellation of the education portion of the property tax increment may be provided by the Minister of Finance on a case-by-case basis. **Where an application and approval under the Province’s BFTIP will not be sought, the applicant shall be directed to make application under the ERASE Redevelopment Grant (ERG) Program.**

Under the ETA, 80% of the increase in the municipal portion of property taxes (the tax increment) that results from remediation and redevelopment of a site, or such lesser amount as set out below, will be cancelled annually until the expiration of the earlier of the following:

- Six (6) years for a business development (commercial and industrial) or 10 years for a residential development (including mixed use residential); or
- A value that equals accepted eligible Program costs contained in Section C herein.

Tax cancellation assistance shall cease upon the sale or transfer of the development regardless of whether the full value of aforementioned tax assistance has been provided.

This Program shall not apply to developments containing condominiums.

This Program will apply within the Historically Developed Area as defined through the Environmental Remediation and Site Enhancement Community Improvement Project Area (ERASE CIPA) By-law.

Applications under this Program, with respect to the cancellation of the municipal portion of property taxes, are subject to approval at the absolute discretion of City Council and subject to the availability of funds.

The remaining 20% increase in the annual municipal tax increment not subject to cancellation shall be directed to a City fund for use in the provision of grants and other initiatives under the ERASE Municipal Acquisition and Partnership (EMAP) and/or ERASE Affordable Housing Grant (EAHG) Programs for the duration of the Applicant’s term for tax cancellation up to a maximum of 20% of the value of the total tax cancellation to be provided. The remaining 20% of the increase in the education portion of property taxes will be remitted to the Province of Ontario.

The City retains the right to assess the reasonableness of costs via audit as well as the determination of cost eligibility under the terms of this Program.

All costs associated with the development and the requirements of this Program are to be borne by the Applicant including construction, design, community benefit charges, development charges, administration fees, appraisals, inspections, Municipal Property Assessment Corporation (MPAC) post development assessment estimates, legal and registration fees, where applicable.

For the purposes of this Program:

- A ‘site’ shall mean all properties forming part of the development;
- A ‘Qualified Person’ shall have the same meaning as defined under Ontario Regulation 153/04, as amended; and

The Economic Development Division will periodically review the terms and availability of this Program and undertake updates from time to time subject to City Council approval and/or direction.

B. PROGRAM ELIGIBILITY AND TAX CANCELLATION CRITERIA

1. Applications to this Program must meet the goals of the Environmental Remediation and Site Enhancement Community Improvement Plan (ERASE CIP).
2. This Program will apply within the Historically Developed Area as defined through the ERASE CIPA By-law.

3. Notwithstanding paragraph two (2), this Program shall not apply to a site where a designated heritage building has been demolished, on agricultural lands which have been the subject of normal farm practices, where remediation is being undertaken for the purposes of a self-storage facility, or for any development that will be subject to a Plan of Condominium.
4. This Program shall not apply and any tax cancellation pursuant to the Program shall not be provided where the development does not generate an increase in municipal property taxes or where an application under the Province of Ontario’s BFTIP has been denied.
5. An Applicant to this Program must be the registered owner of the site with grants only payable to the successful Program Applicant and cannot be assigned or directed to any other payee unless otherwise provided for in the Program Administration section herein.
6. Prior to any application approval and/or tax cancellation being provided:
 - a. Any outstanding Building Code, Fire Code or property standards orders or any other order applicable to the site by any judicial, governmental or regulatory authority shall be rectified; and
 - b. Any tax arrears on the subject site shall be paid.
7. With respect to remediation of contaminated soil/groundwater, as a condition of Grant payment, the Applicant shall be required to:
 - a. Successfully file a Record of Site Condition (RSC) to the Ministry of Environment, Conservation and Parks (MECP), prepared by a Qualified Person, that conforms to Ontario Regulation 153/04 and applicable Site Condition Standards (SCS) required for the development/use and submit to the City an Acknowledgement of receipt of the RSC by the MECP; or
 - b. Where the filing of an RSC is not required under the *Environmental Protection Act* to permit the development/use notwithstanding the confirmed presence of contamination that would not otherwise meet the applicable SCS for the planned development/use, and provided the Applicant undertakes a Risk Assessment and remediates the site to a standard that would have otherwise enabled the Applicant to submit a RSC, the Applicant may instead provide the City with a Risk Assessment prepared by a Qualified Person which shall be subject to a peer-review by a Qualified Person for Risk Assessment, chosen by the City and at the Applicant’s expense (permitted as an eligible cost). This peer-review must certify that the site has been remediated to the applicable SCS for the planned development/use in accordance with the Risk Assessment and Ontario Regulation 153/04, to the satisfaction of the City.

The City reserves the right to require that the submission of the RSC, MECP Acknowledgement, Risk Assessment and supporting environmental reports and documentation be submitted to the City’s satisfaction.

8. The Applicant will be required to enter into a Tax Cancellation Agreement with the City that sets out required conditions. Before any cancellation is provided, the Applicant/registered owner(s) and site shall be in compliance with the Program’s requirements and conditions and all additional requirements as set out in the Tax Cancellation Agreement as determined by the General Manager of Planning and Economic Development (GM).
9. Subject to compliance with the terms and conditions of the Tax Cancellation Agreement the first-year of tax cancellation is payable when the development is deemed complete by the City in accordance with paragraph 14, the site has been reassessed by the MPAC, shall be regardless of the number of units/floor area occupied and require confirmation that municipal property taxes are paid in full and that there is no pending appeal or confirmation that the assessment will not be appealed.
10. Notwithstanding paragraph 9, and subject to written approval by the Director of Economic Development, a percentage of the total tax cancellation may be provided for phased/comprehensive developments where a portion of the development will meet the aforementioned requirements with such tax cancellation being apportioned based on the number of phases completed and the actual accepted eligible costs incurred in each completed phase. Such partial tax cancellation shall be limited to those developments where the incremental tax increase for individual phases can be determined to the City’s satisfaction
11. If the Applicant, third party or the municipality has appealed the change in the property(s) assessment, tax cancellation will not be provided until the appeal has been finally determined through the Assessment Review Board or any other permitted means and revised property taxes have been calculated and adjusted.
12. In the event of an appeal of assessment/taxes, the total value of tax cancellation provided under the Program will be reduced by:
 - a. the amount by which municipal property taxes have been cancelled or reduced for the site pursuant to any other City programs and/or tax appeals under Sections 357 and 358 of the *Municipal Act*;
 - b. the amount by which municipal property taxes have been cancelled or reduced for the site pursuant to a Request for Reconsideration; and
 - c. the amount by which municipal property taxes have been reduced or cancelled for the site pursuant to any relief or reduction permitted under any legislation or order of any court or the Assessment Review Board.

13. The pre-development property taxes used for determining the actual municipal property tax increment are those from the most recent tax year which represents the pre-development condition of the site, as determined by the City.
14. For the purposes of this Program, a development shall be deemed to be complete where:
 - a. Required environmental remediation site works and/or mitigation measures have been completed;
 - b. A RSC has been successfully filed with MECP or where a Risk Assessment has been successfully peer-reviewed and accepted by the City in accordance with paragraph seven (7.) b. herein; and
 - c. Occupancy of the development has been approved or permitted by the City subject to tenant improvements.
15. The eligible amount of the increase in municipal property taxes shall exclude special charges, including Business Improvement Area levies and any other charge identified within the Tax Cancellation Agreement, from the calculation.
16. If a development is assessed as a condominium, no tax cancellation will be provided.
17. Annual tax cancellation will be calculated by deducting 80% of the difference between the post-development municipal and education taxes (for each year tax cancellation is to be provided) and the pre-development taxes as determined in accordance with paragraph 13 herein. The value of tax cancellation provided in a given year may be less than 80% where required to ensure total tax cancellation will not exceed the accepted eligible costs and/or maximum tax cancellation approved by City Council.
18. Work on the portion of the development that is at or above grade shall commence no longer than five (5) years and be completed and capable of being fully occupied within 10 years from the date an application under this Program was approved by City Council.

Extensions may be granted for phased/comprehensive developments or due to development specific extenuating circumstances outlined in a formal request submitted by the Applicant to the City prior to the lapsing of the above time periods and considered at the sole discretion of the GM and subject to approval by the Minister of Finance respecting the education portion of property taxes.
19. If an Applicant is redeveloping a portion of the site, the tax cancellation will be based on that portion of the site only. The Applicant will be required to provide an estimate of the annual property assessment valuation for the portion of the site subject to the Program application from the MPAC for each year in which tax cancellation is to be provided for calculation purposes.

20. Approval and the receiving of tax cancellation under this Program shall not preclude eligibility, approval and the receiving of financial assistance for the same site under any other available municipal program with the exception of any other tax increment-based or tax cancellation program which shall not be permitted to be combined with assistance under this Program.
21. The total value of tax cancellation provided shall not exceed the lesser of the actual accepted eligible costs incurred or 80% of municipal tax increment over the applicable term of six (6) years for a business development (commercial and industrial) or 10 years for a residential development (including mixed use residential).
22. The City reserves the right to audit the invoices/costs submitted for consistency with the Remedial Action Plan, contractor quote or other work plan submitted in support of the application and for compliance under the Program terms contained herein.
23. Tax cancellation under this Program will be provided if all terms and conditions of this Program and are in good standing.
24. If a building(s) erected on a site participating in this Program is demolished before the applicable tax cancellation period expires, the remainder of the tax cancellation under this Program shall be forfeited.
25. Tax cancellation provided under this Program shall only be to the City Council approved Program applicant who shall be the registered property owner. Tax cancellation assistance shall cease upon the sale or transfer of the development regardless of whether the full value of tax assistance has been provided and an assignment/transfer of any and all remaining tax assistance shall not be permitted.
26. In the event of a Change of Corporate Control where the Applicant is a corporation, the Applicant covenants and agrees that in the event that:
 - a. the Applicant 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 Applicant 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 Applicant which result in the transfer of the legal or beneficial interest of any of the shares of the Applicant or;
 - iii. the Applicant 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 Applicant, or the requested information is not provided, then future tax cancellation under this Program shall cease at the absolute discretion of the City.

27. Applications under this Program, with respect to the cancellation of the municipal portion of property taxes, are subject to approval at the absolute discretion of City Council and subject to the availability of funds.
28. Without limiting the discretion as set out in paragraph 27 herein, City Council, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where, in the opinion of City 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 shall include but not be limited to the following: The Applicant identified on the application form and, if a corporation, any person or entity with an interest in the corporation or any officer or director of the Corporation as determined by the City in its sole, absolute and unfettered discretion.
29. Without limiting the discretion as set out in paragraph 27 herein, City Council, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application without further consideration where due diligence undertaken by the City identifies municipal property tax arrears owed on the subject site, non-compliance with respect to Zoning By-law regulations or there exist outstanding property standards, Building Code or Fire Code orders in respect of the subject site or any other judicial, regulatory or governmental order in respect of the subject site.
30. Without limiting the discretion as set out in paragraph 27, herein, City Council, whether or not an Applicant satisfies the requirements of the Program, may in its sole discretion, reject any application received from an Applicant where there is credible information that the Applicant has been involved recently or repeatedly in illegal activity supporting the conclusion that they will not conduct themselves with honesty and integrity in undertaking the activity, operation or business for which tax cancellation under this Program is being sought. For corporate Applicants, the Applicant, for the purposes of this paragraph 30, will be considered to be the corporation, the officers and directors of the corporation and the shareholders and this paragraph 30 shall apply jointly and severally to each of them.
31. Buildings uses and developments shall conform to the City’s Official Plan(s), applicable Secondary Plan(s), Zoning By-Laws(s), Site Plan approval and any other applicable and approved municipal policies, by-laws or guidelines (e.g. urban design guidelines) and any other laws applicable to the development.

32. A Program application may be denied by City Council if the development is not supported by City Council notwithstanding any approval of *Planning Act* applications by any other authority including but not limited to, the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications.
33. Approval of a Program application by City Council may provide for reduced tax cancellation such that no tax cancellation is to be provided in respect of any portion of the development that is the subject of the tax cancellation application which City Council does not support notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Ontario Land Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications. In such cases, the Applicant shall be required to provide additional supporting documentation, at the Applicant’s own expense, to support the providing of tax cancellation in accordance with City Council’s approval/direction, including but not limited to, all MPAC post-development assessment estimates required by the City.

C. ELIGIBLE/INELIGIBLE COSTS

Eligible costs under this Program for sites located within the Historically Developed Area consist of the following (excluding HST) but shall exclude in all cases any cost which would have been required for the development regardless of the need to remediate contaminated soil/groundwater:

1. Physical environmental remediation of soil and/or groundwater which includes the cost of any action taken to reduce the concentration of contaminants on, in or under the eligible site required to meet the applicable SCS needed to facilitate the planned development/use and to permit the filing of a RSC by a Qualified Person, including costs of preparing and filing the RSC and Certificate of Property Use (CPU);
2. Clean back fill, grading and compaction to replace contaminated soils, where required;
3. Phase II ESAs, Remedial Action Plans and/or Risk Assessments not reimbursed, or planned to be reimbursed, under the ERASE Study Grant (ESG) Program;
4. Peer-reviews with respect to Risk Assessments where an RSC is not required by the MECP;
5. Installation of environmental and/or engineering controls/works, related to environmental remediation, as specified in the Remedial Action Plan, Risk Assessment and/or CPU; and

6. Testing of on-site excess soils for potential reuse but shall not include the excavation, management, transportation or disposal of such soil except where the soil originates from the site and is found to be contaminated.

Ineligible costs shall be any cost not identified in this Section or any cost identified above which has been incurred prior to the date an application was submitted under this Program and accepted by the City with the exception of studies which were the subject of a previously approved ESG Program application. An Applicant shall assume the risk, and bear the sole responsibility, for any cost incurred after an application has been submitted but prior to approval under this Program being received should the application not be approved for any reason.

The City reserves the right to reject any application under this Program that proposes a remediation practice/method which is deemed by City Council, or its delegate, in their sole and unfettered discretion, to have the potential to cause a negative overall environmental impact to a site, area or person. In addition, the City reserves the right to approve an application that excludes costs otherwise eligible that are associated with a remediation practice/method which is deemed by City Council, or its delegate, in their sole and unfettered discretion, to have the potential to cause a negative overall environmental impact to a site, area or person. Furthermore, if after application approval, a remediation practice/method utilized is deemed by City Council, or its delegate, in their sole and unfettered discretion, to be causing, or have caused, a negative overall environmental impact to a site, area or person, the City may reduce or cancel all or a portion of previously eligible program costs prior to or during the term of tax cancellation.

D. PROGRAM APPLICATION CRITERIA

Potential Applicants shall be required to have a pre-application consultation meeting with City staff in order to determine Program eligibility, proposed scope of work, project timing, etc.

A complete Program application shall be submitted to the Economic Development Division prior to the commencement of eligible works that are the subject of a Program application. Required documents and information forming a complete application shall be identified within the Program’s application form. The application date for the purposes of the Program will be the date on which City staff have deemed the application complete in their sole discretion.

An application fee is payable upon submission of application. The fee will be authorized through a user-fee by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council and will be identified on the Program’s application form. Application fees are non-refundable including in the event an application is not approved.

Applications shall include all available environmental studies for the site (Phase I and II ESAs, Risk Assessment, DSHM Survey), a Remedial Action Plan completed by a Qualified Person,

contractor cost estimates for environmental remediation and any other potentially eligible works and any other details as may be required to satisfy the City as to the cost of the environmental remediation and any other potentially eligible works and the development’s conformity with the objectives of the this Program and the ERASE CIP. The City may also require the submission of a Business Plan for the proposed development.

Applications under this Program will not be accepted if there is an outstanding dispute, proceeding or process including but not limited to: a Request for Reconsideration through the MPAC, an outstanding Assessment Review Board appeal, an outstanding divisional court appeal or an outstanding *Municipal Act* appeal, relating to the assessment of the site or in respect of property taxes related to the site. The Program application will only be accepted once any of the above applicable matters have been finally resolved and the revised (if applicable) property taxes have been calculated.

Applicants may be required to obtain a post-development assessment estimate from the MPAC as part of submitting a Program application. Developments which are the subject of this requirement will be identified in the Program’s application form.

E. PROGRAM ADMINISTRATION

Economic Development Division staff will review applications for eligibility and completeness in accordance with the ERASE CIPA, ERASE CIP, the Program terms contained herein and in collaboration with other City departments as required. Acceptance of the application by the Economic Development Division in no way implies tax cancellation approval.

The Site and Applicant will be the subject of due diligence undertaken by the City prior to any recommendation on the application being brought to City Council for consideration and prior to each year’s tax cancellation being provided. This will include, but may not be limited to, confirmation of the following: all municipal property taxes are paid and current on the subject site, the site is in compliance with Zoning By-law regulations, that there are no outstanding property standards violations or orders, Building Code violations or orders or Fire Code violation or orders, any violations of law or any orders by any other judicial , governmental or regulatory authority, regarding the subject site or the development on the subject site and that the Applicant is not in litigation with the City. Failure to comply with any of the above will result in an application not being approved or, if the application is approved, tax cancellation not being provided under this Program.

Where the development requires approval of a Site Plan, a conditional Site Plan approval shall have been obtained from the City prior to City Council consideration of an application under this Program. Where a conditional Site Plan approval contains conditions which, until satisfied, may impact a post-development assessment of the development including but not limited, requirements to obtain Minor Variances through the Committee of Adjustment, the City may

require these conditions to be satisfied prior to City Council consideration of the application. Where no Site Plan is required for the development, City Council’s consideration of an application will occur after such time as the Economic Development Division is satisfied that all necessary information has been provided to inform an estimate of the resulting post-development assessment and municipal property taxes.

Where a portion of estimated eligible costs are not yet known, Economic Development Division staff reserves the right to consider bringing forward multiple recommendations respecting the application for City Council consideration as part of a multi-step application process as estimated eligible costs become known.

Where an application has been submitted but not yet approved by City Council and the subject site is sold/transferred to a new owner, the City may permit the transfer or assignment of the application, and any eligible costs incurred from the original date of application, to the new owner at the sole, absolute and unfettered discretion of the GM. An assignment or transfer may require the assignee or transferee to submit an application, assignment or transfer agreement and/or such other documents as determined by the GM in their sole, absolute and unfettered discretion. The new owner shall be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches, to the satisfaction of the City prior to the assignment being considered by GM.

Applications under this Program, with respect to the cancellation of the municipal portion of property taxes, are subject to approval at the absolute discretion of City Council and subject to the availability of funds.

Approved Applicants shall be required to enter into a Tax Cancellation Agreement with the City containing (but not limited to) the terms and conditions set out in this Program description.

The City reserves the right to require the submission of any additional documentation or enter into any additional agreements as deemed necessary by the City to ensure the goals and purpose of this Program and the ERASE CIP are met.

Notwithstanding any other term or condition of this Program, where an application has been approved by City Council, the application and the associated approval, including the assignment of any eligible costs incurred by the City Council approved Applicant since the date of application submission, may be assigned to a future intended owner of the subject site(s) only in such instance where the registered owner of the site(s) at the time of City Council approval was the City of Hamilton, CityHousing Hamilton Corporation or any other entity wholly owned by the City of Hamilton and where the assignment will further facilitate the remediation and redevelopment of a site and/or support the achievement of strategic City priorities/objectives. It is understood that one effect of such an assignment shall be that the future intended site owner will assume all requirements and obligations required under this Program and receive the benefit of any tax cancellation which may be eligible under the Program provided they are the

registered owner in each year that the tax cancellation is to be provided. In such an instance, a request to assign the application shall be submitted in writing to the City by the existing site owner and the City Council approved Applicant with accompanying rationale and be subject to approval by City Council in its sole discretion. The future intended site owner shall be subject to all applicable due diligence required under this Program, including, but not limited to, applicable corporate title and litigation searches, to the satisfaction of the City prior to the assignment being considered by City Council. An assignment or transfer may require that the assignee or transferee submit an application, assignment or transfer agreement and/or such other documents as determined by the GM in their sole, absolute and unfettered discretion.

With respect to remediation of contaminated soil/groundwater, as a condition of Grant payment, the Applicant shall be required to:

- Successfully file a RSC to the MECP, prepared by a Qualified Person, that conforms to Ontario Regulation 153/04 and applicable SCS required for the development/use and submit to the City an Acknowledgement of receipt of the RSC by the MECP; or
- Where the filing of an RSC is not required under the *Environmental Protection Act* to permit the development/use notwithstanding the confirmed presence of contamination that would not otherwise meet the applicable SCS for the planned development/use, and provided the Applicant undertakes a Risk Assessment and remediates the site to a standard that would have otherwise enabled the Applicant to submit a RSC, the Applicant may instead provide the City with a Risk Assessment prepared by a Qualified Person which shall be subject to a peer-review by a Qualified Person for Risk Assessment, chosen by the City and at the Applicant’s expense (permitted as an eligible cost). This peer-review must certify that the site has been remediated to the applicable SCS for the planned development/use in accordance with the Risk Assessment and Ontario Regulation 153/04, to the satisfaction of the City.

The City reserves the right to require that the submission of the RSC, MECP Acknowledgement, Risk Assessment and environmental reports and supporting documentation be submitted to the City’s satisfaction.

Paid Invoices for all eligible costs incurred will be supplied to the City and the tax cancellation will be based on the City’s review, satisfaction and acceptance of these invoices and all supporting reports and documentation submitted outlining the full scope and cost of the work completed. Any and all of these costs may be subject to audit, at the expense of the Applicant, at the City’s discretion. Tax cancellation may be reduced or cancelled if the eligible works are not completed, not completed as approved and/or where documentation/invoicing of said costs is not provided to the City’s satisfaction. In addition, invoices must be billed to the Applicant approved by City Council.

Once the development is complete and has been reassessed by the MPAC, the City will undertake updated due diligence, including, but not limited to, ensuring that the site is not in tax arrears and that the site and development are still in conformity with the terms of the Tax Cancellation Agreement. The City will calculate the actual tax increment and resulting tax cancellation to be provided. If the site is severed into multiple parcels or lots or if there is a conveyance of part of the site (all referred to as severed parcels) prior to the first full year of reassessment resulting from the completion of the development. The property taxes used to calculate the tax cancellation shall be the sum of the amount which is the lesser of the post-development property taxes or the property taxes payable for the year for which tax cancellation is to be provided, for all the severed parcels but for the initial year's tax cancellation means the amount which equals the sum of the post-development municipal property taxes for the severed parcels.

Tax cancellation will not be provided unless a written request has been made by the Applicant in the year in which tax cancellation is to begin. If a written request has not be made for tax cancellation, but all other conditions for cancellation have been satisfied, the full tax amount required shall be billed and required to be paid in full and the amount of eligible tax cancellation shall accrue and be payable as a grant until such time as a written request has been made and upon such written request the grant payment shall equal the sum of the accrued and previously unrequested tax cancellation. If a request for the initial tax cancellation is not made within three (3) years of the year in which the first-years' tax cancellation was eligible to be provided, the agreement shall terminate and without limiting the generality of the foregoing the City shall not be obligated to make provide any tax cancellation or accrued grant payment.

The City is not responsible for any costs incurred by the Applicant in any way relating to the Program, including without limitation, costs incurred in anticipation of an application approval or tax cancellation being provided.

Applications to this Program not yet approved by City Council shall be subject to any changes to the terms of this Program which are approved by City Council prior to the application being approved.

City Council may discontinue this Program at any time. However, Applicants with approved applications will still continue to receive tax cancellation subject to meeting the Program terms contained herein.