



# Reclaiming our Urban Places

## Greater Sudbury Brownfield Community Improvement Plan

Revised Draft: July 2010





This Plan was developed by the City of Greater Sudbury's  
Planning, Building, Communications, Economic Development,  
Environmental, Finance, Housing and Legal Divisions.



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# 1. INTRODUCTION AND OVERVIEW

This Plan is about breathing new life into the many already-used and now vacant commercial and industrial properties – otherwise known as brownfields.

Brownfields are those places where, in the past, a commercial or industrial use existed, but now sit idle. We know them as old manufacturing sites, warehouses, gas stations, dry cleaners and auto repair and service sites, to name a few. Sometimes a vacant building is left behind on these sites, looking for a new lease on life. In other cases the building is removed, the site cordoned off and allowed to go fallow. Sometimes, the past use impairs the soil and groundwater quality, restricting future potential and deterring investment. Other times, soil and groundwater quality is not impaired, but thought to be, which can have the same result. Sometimes, owners are not paying their property taxes, leaving the City with growing liabilities.

## **Greater Sudbury has an interesting brownfield story**

In many ways, we are fortunate not to have large swaths of vacant land sitting next to our prime waterfront or urban cores like other communities in Ontario's manufacturing belt. Instead, our brownfields are spread across the city and can be found in almost every community. Not surprisingly, they are most often found along our main thoroughfares, clustering at key intersections. They are also found in and around our urban cores – the Downtown, our Town Centres and our Neighbourhood Centres. In some cases, they can be found in our older neighbourhoods, either sandwiched between or tucked behind residential homes, a legacy left behind by the times when it was acceptable to mix industrial and residential uses.

## **Brownfields are challenging**

The City of Greater Sudbury, the development community and the public (individual, neighbourhood or community level) each have a perspective on the nature of the brownfield challenge. In some ways, these perspectives are unique, while in others they are shared.

From the City's perspective, brownfields detract from a quality city and represent a lost opportunity, both in terms of assessment and taxation. They also need to be treated with special care in the land use planning, building permit and real estate approval processes in order to minimize risk and ensure public health and safety.

Brownfields can also be challenging for a developer who must address the upfront costs associated with acquiring, insuring, investigating and cleaning up a brownfield, all before development can proceed and a return on investment realized. When faced with these additional complexities and, the uncertainty and risk that it creates, developers will continue to deliver traditional development products (e.g. residential subdivisions).

Brownfields can also blight our neighbourhoods and cause property assessment and neighbourhood quality concerns.

### **Not all challenges are the same**

Each brownfield has its own set of unique challenges, which are rooted in the site, its past use and physical characteristics. These factors, together with things like remediation cost and market interest, shape the redevelopment potential and economic realities of a brownfield project.

In some cases these challenges can be overcome by market forces, without public sector assistance. In others, market barriers are too great and cannot be overcome. The key is to focus on those sites in the middle of these two extremes – those that have good redevelopment potential and high clean up costs, and where the combined value of the land and clean up is either slightly above or slightly below the market value of the land after clean up.

### **Regenerating brownfields creates many opportunities**

Systematically targeting these challenges and barriers and regenerating brownfields provides opportunities to correct environmental deficiencies, stimulate local economic development, increase the municipal assessment and tax revenue base, capitalize on public infrastructure investments, eliminate blight, repair neighbourhoods and make the city look better.

### **The City can help bring these opportunities to life**

Several market failures currently hold Greater Sudbury back from capitalizing on these opportunities. The City can help eliminate these obstacles to growth by strengthening its internal capacity, raising external awareness, actively marketing brownfield sites and by focusing a tailored suite of financial incentives to help offset upfront costs and stimulate regeneration on brownfields with redevelopment potential.

This report describes the nature of brownfields in Greater Sudbury today, as well as their challenges and opportunities. It also contains a four part strategy that will allow the City of Greater Sudbury to help overcome key brownfield market barriers by: continuing to build awareness and capacity; using financial mechanisms to reduce the cost of eligible brownfield projects; attracting investment interest to select brownfield properties; and, creating and implementing a failed tax sale procedure. By overcoming these barriers and helping to reclaim these places the City will retain and create new employment opportunities, increase property assessment and tax revenue, strengthen its economic competitiveness, enhance environmental quality, health and safety and help revitalize its neighbourhoods and communities.





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REALTOR

MALLETT-CORING



## 2. OUR LEGACY

Brownfields can be found in most communities in Greater Sudbury. Currently, they blight our communities. Transformed, they can help heal our urban landscape.

### 2.1 Brownfields today

Greater Sudbury has many brownfields. The number of brownfields changes as business, investment and development decisions are made. A 2008 and 2009 visual survey of Greater Sudbury's settlement area found approximately 66 vacant and abandoned commercial and industrial properties. This number does not include the many underused commercial and industrial properties that have the potential to become vacant should the existing business close and/or choose to relocate. In addition to these properties, there are approximately 17 commercial or industrial properties that are in a position of tax arrears and eligible to proceed by way of a failed tax sale. The environmental integrity of these approximately 83 brownfield sites is currently unknown.

These brownfields are found in most communities in Greater Sudbury. Viewed in absolute terms, Sudbury has the highest number of brownfields, followed by Garson, Valley East and Walden. Onaping Falls and Wahnapiatae have smaller concentrations of brownfields. Azilda, Capreol, Chelmsford, Coniston, Copper Cliff and Falconbridge have instances of brownfields. Appendix B contains further information on these brownfields.

Historically, these brownfields accommodated a wide range of uses and activities including automobile service and repair shops, dry-cleaners, coal and fuel storage yards, concrete batching operations, warehousing, break of bulk transport terminals. Many also served as gas stations – approximately 14 percent of these brownfields are owned by major petroleum companies.



Today, these brownfields display a wide range of conditions. Some key global characteristics are:

- Most brownfields (64 percent) are strategically situated along the provincial highway and arterial road system, offering good exposure and visibility.
- Brownfields come in many different sizes. They range from as little as 170 square metres (0.02 ha or 0.04 ac) to as much as 1,248,000 square metres in size (125 ha or 308 ac).
- Most brownfields (72 percent) are sized to support additional development as they meet or exceed the minimum lot area requirement for their parent zone category, as currently set out in the Zoning By-laws.
- Most brownfields (60 percent) have a regular square or rectangular shape, a characteristic that can help positively influence redevelopment potential.
- Most brownfields have good frontage. Over 40 percent front onto two streets, while another 6 percent front onto three streets.
- Most brownfields (60 percent) are improved with commercial or industrial buildings. In a couple of instances, these buildings are considered to have heritage value. The presence of buildings, regardless of heritage value, helps shape a site's adaptive re-use and/or redevelopment potential.
- The vast majority of brownfields (92 percent) are located on a street with water and/or sanitary services.
- Most brownfields (80 percent) can accommodate a new range of residential uses (including affordable housing) and commercial land uses, in accordance with the Official Plan.
  - 46 percent are designated Mixed Use Commercial
  - 17 percent are designated Downtown and Town Centre
  - 17 percent are designated Living Area 1
  - 20 percent are designated Industrial, Rural and Agricultural Reserve
- In 2009, the assessed value of these brownfields was **\$16,170,025**.
- In 2009, these brownfields generated **\$674,711** in municipal tax revenue.



## **2.2 Brownfields have a unique set of challenges**

Brownfields present many economic, environmental and social challenges.

Economically, brownfields have a negative effect on property values, assessment and taxation. In some cases, this effect can be felt beyond the brownfield itself. As commercial or industrial properties that are not being used, brownfields represent lost economic opportunities in terms of jobs and productivity. They also contribute to the underutilization of existing hard and soft infrastructure.

Environmentally, the type, nature and extent of contamination can pose risks to human health and the natural environment.

Socially, the condition and quality of brownfields detract from a neighbourhood's quality of place. Those brownfields situated in key locations can also negatively affect the image and appearance of the city.

## **2.3 Brownfields also have a unique set of barriers**

The experience in other communities, combined with thoughts gleaned from interviews with 38 individuals from Greater Sudbury's development and construction industry, their support services (e.g. lawyers, appraisers and architects), public agencies, and various advocacy groups undertaken in 2008 and 2009, suggest that there are barriers to brownfield redevelopment in Greater Sudbury today. These include:

- the presence of outstanding financial obligations tied to the land (e.g. unpaid property taxes and provincial and federal liens);
- the stigma created by the presence of contamination or the perceived presence of contamination;
- the up front cost required for environmental investigations and clean up;
- the difficulty in securing the capital required to undertake these necessary pre-development activities;



- ongoing regulatory and civil liability concerns;
- accessing the necessary insurance vehicles to mitigate risk;
- regulatory approvals and the possibility for delays;
- legal difficulties obtaining title from the owners of abandoned properties; and,
- awareness and capacity.

Of particular importance, within the context of this Plan, are those barriers that the City of Greater Sudbury can take action on, including: outstanding financial obligations; up front clean up costs; awareness and capacity building.

### **Outstanding financial obligations:**

Outstanding financial obligations in the form of unpaid property taxes and/or federal and provincial liens can deter action and investment in brownfields. The City may place a lien on a property's title, where the owner has failed to pay the property taxes in a timely manner. After a period of time, the City can take a number of legislated steps to offer the property for sale by way of a "failed tax sale" to recover its unpaid property tax. Often, this process is successful and the property is returned to good standing.

The failed tax sale process can become complicated by the threat of environmental contamination (either real or perceived) and the presence of liens registered against the title of the property by the federal and/or provincial governments. These Crown liens can occur for various reasons, such as unpaid business loans or income taxes. When they do, any municipal lien for unpaid property tax becomes subordinated on title. This adds a new challenge to unpaid property tax recovery. Recent changes to the *Municipal Act* gives the City some resolve when dealing with provincial liens. Unfortunately, comparable legislation does not yet exist to address federal liens.

In some cases the combined value of the unpaid property tax and Crown lien can exceed the value of the property. These challenges pose a serious deterrent to the successful selling of properties in a municipal tax sale since potential bidders are either reluctant to submit bids or the Crown is unwilling to remove its interest without compensation. Currently, these situations are addressed on a case by case basis. A formal policy and process is required to deal with such tax accounts.

### **Up-front costs:**

Developers pursuing a brownfield project are confronted with a unique set of upfront costs that must be absorbed before above-grade construction begins. For example, a developer acquires a vacant property that once housed an automobile garage on a local street with full municipal services in an established residential area, with the intent of developing new and compatible residential uses. The developer must invest direct capital and time to assess the site to determine the location, type and nature of contaminants on the site through a Phase I and Phase II Environmental Site Assessment. If contaminants are found, the site must be cleaned to an appropriate standard and a Record of Site Condition filed. These activities must occur before construction begins. Combined, the cost of these studies can range between \$30,000 to \$60,000 depending on the property, the type/nature and extent of suspected contamination and number of soil/groundwater samples required. In some cases, these pre-construction expenses can be absorbed and a return realized. In others, they are prohibitively expensive and far exceed any realistic return on investment. Of interest are those sites with high clean up costs and good redevelopment potential where the combined value of the land and clean up is either slightly above or slightly below the market value of the land after clean up.

### **Lack of awareness for and capacity to address brownfields:**

A strong local awareness for and capacity to address brownfields is necessary to respond to Greater Sudbury's brownfield challenge. Several city departments deal with brownfields as part of their day-to-day operations (e.g. Planning, Building, Legal, Finance, By-law, Real Estate, Economic Development and Housing). It is important that staff remain current with changing legislative and regulatory initiatives affecting brownfields as they relate to their lines of service delivery. In some cases, new policies and practices are required to ensure that brownfields are flagged and appropriately handled through the same key city decision making processes. Greater Sudbury's development industry is beginning to show signs of interest in brownfields, through several residential adaptive reuse projects. A firm understanding of the metrics around brownfield redevelopment is required to ensure that the commercial benefits associated with such projects are not undervalued (e.g. infrastructure cost savings) and costs are not overvalued (e.g. specialized insurance products).



## **2.4 Overcoming barriers will help build a greater city**

Overcoming these barriers and unlocking the latent potential within these brownfields is another part in the City's continuous movement towards building a stronger, healthier and better-looking Greater Sudbury. Brownfield redevelopment has many economic, environmental and social benefits.

### **Create and retain employment opportunities:**

Brownfields represent lost economic opportunities in terms of jobs and productivity because they are idle. Brownfield redevelopment can create new job opportunities in the environmental remediation and construction fields, as well as in the new uses that occupy the redeveloped brownfield site.

### **Increase assessment and tax revenues:**

Brownfields also represent lost economic opportunity in terms of assessment and taxation. Brownfield redevelopment can help grow the tax base for all three levels of government. From the City's perspective, a redeveloped site increases assessment and tax revenues necessary to provide municipal services. Growing the assessment and tax base is particularly important in a large, mature, northern municipality like Greater Sudbury. From the senior level of governments' perspective, a redeveloped site brings in sales tax, goods and service tax and income tax revenues.

### **Increase economic competitiveness:**

Redeveloping brownfields can result in a reduced tax burden to support municipal services, create more efficient patterns of development, reduce congestion and improve our quality of place – factors which all play a key role in our ability to attract new investment and remain competitive.

**Enhance environmental quality, health and safety:**

Cleaning up a brownfield prior to redevelopment can help restore its environmental integrity, removing threats to human health and safety. The more efficient patterns of development also contribute to reduced transportation demand, reduced greenhouse gas emissions and improved air quality.

**Intensify and revitalize neighbourhoods and communities:**

Redeveloped and reused brownfields intensify and revitalize neighbourhoods by bringing often unsightly and stigmatized land back into productive use in the form of new businesses and housing (including affordable). The adaptive re-use of brownfields can also help conserve built heritage resources.

From a policy standpoint, redeveloping brownfields also helps implement elements of the City's Official Plan, the Greater Sudbury Community Economic Development Strategic Plan, Earth Care Sudbury's 2010 Action Plan and the 2005 Provincial Policy Statement.



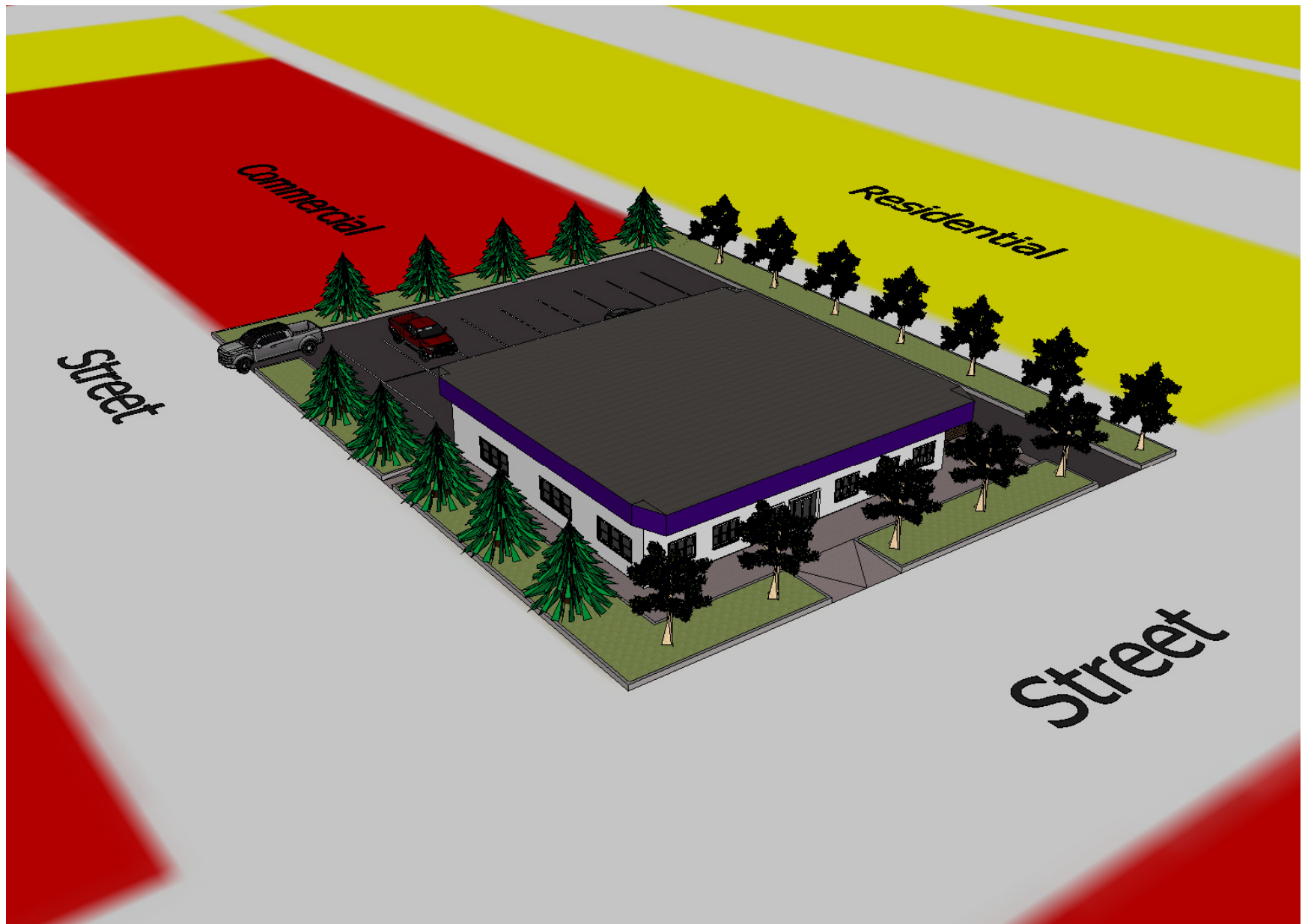
## **Brownfield Potential Scenario #1**

A former gas station site occupies a corner lot that serves as a gateway into one of Greater Sudbury's Town Centres. It is surrounded by residential uses to the north and east. To the south and west are commercial uses.

Currently vacant, this former gas station site is approximately 1,617 square metres in area and has 35 metres of frontage on a local street and 46 metres of flankage on an arterial road. The site has an assessed value of \$69,000 and generates approximately \$2,276 in annual tax revenue.

The site is designated Town Centre in the Official Plan and is zoned C2 – General Commercial in the Zoning By-law. With this framework, the site can be developed with a new one-storey, 345 square metre (3,720 square foot) commercial building and associated surface parking area and landscaped open space.

This redevelopment would increase its assessed value from \$69,000 to \$467,000. The annual tax revenue would also rise from \$2,276 to \$22,000. Redevelopment would also repair the gap within the community's urban fabric and strengthen the gateway into the Town Centre.





## **Brownfield Potential Scenario #2**

A former gas station site occupies a large parcel of land between commercial and residential uses.

The site is approximately 53,056 square metres in area and has 160 metres of frontage on an arterial road. The site has an assessed value of \$169,000 and generates approximately \$7,963 in annual tax revenue.

The site is designated Town Centre in the Official Plan and is zoned C2 – General Commercial in the Zoning By-law. Subject to an Official Plan Amendment and Rezoning, this site could be developed with 27-lot residential plan of subdivision.

This redevelopment would increase the property's assessed value from \$169,000 to \$1,620,000. The annual tax revenue would also rise from \$7,963 to \$28,280.







## 3. OUR PLAN

The City of Greater Sudbury can stimulate brownfield regeneration by strategically targeting key market barriers.

### 3.1 Overall concept

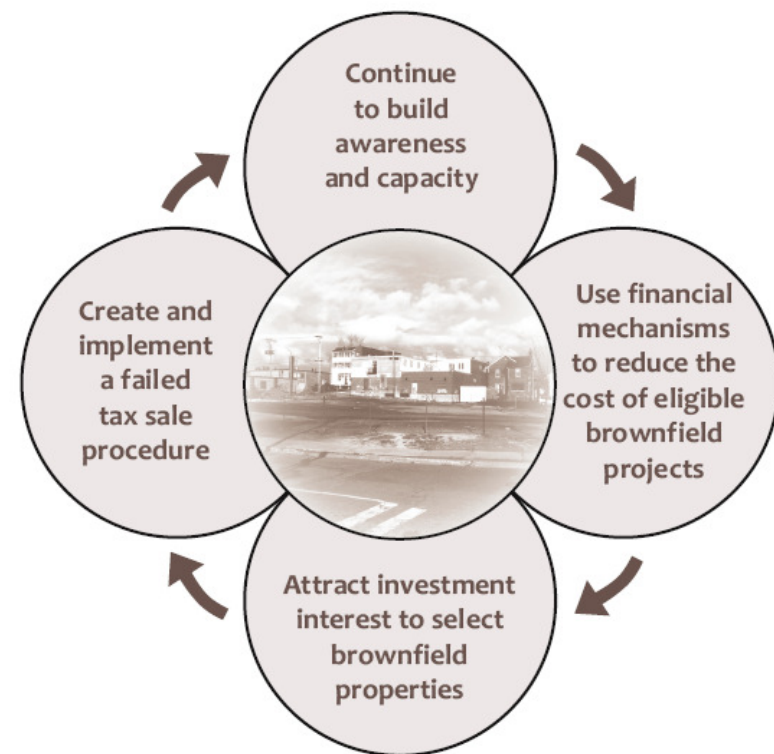
Several market failures currently prevent Greater Sudbury's brownfields from moving forward. The City can help overcome some of these barriers by:

1. continuing to build awareness and capacity;
2. using financial mechanisms to reduce the cost of eligible brownfield projects;
3. attracting investment interest to select brownfield properties; and,
4. creating and implementing a failed tax sale procedure

The *overall goal* of these efforts would be to see these sites returned to productive use.

The *objectives* of these efforts are to:

1. Stimulate the clean up, reuse and redevelopment of brownfields;
2. Create and retain employment opportunities;
3. Grow the municipal assessment base;
4. Grow the municipal property tax revenue;
5. Repair and intensify the existing urban fabric with compatible projects;
6. Enhance the quality of the public realm; and,
7. Repair the natural environment.



### 3.2 Build Awareness and Capacity

The City of Greater Sudbury is building brownfield awareness and capacity. The City recently augmented its data to enable it to more readily identify potential brownfield sites. Last year, the City organized and participated in two events to move brownfield education forward:

- In March 2009, the City, in partnership with the Canada Mortgage and Housing Corporation, the Province of Ontario, the Greater Sudbury Development Corporation and the Northwest Ontario Development Network, held a Symposium with the development community to discuss brownfield and brownfield redevelopment. This Symposium was attended by approximately 75 people who heard leading experts in the field of public policy, law, environmental remediation and finance speak about the opportunities and challenges associated with brownfield redevelopment.
- In September 2009, the City hosted a workshop presented by the Ontario Centre for Environmental Technology Advancement in collaboration with the Province of Ontario and the Canadian Petroleum Products Institute. This Workshop, which explored issues and opportunities specific to the redevelopment of former gas station sites, was attended by approximately 40 people.

Further information on the *Greater Sudbury Brownfield Strategy Symposium* can be found in Appendix C.

The City of Greater Sudbury can continue to strengthen brownfield awareness and capacity by:

- Creating an internal brownfield staff team with representatives from Planning, Building, Economic Development, Finance, Housing and Legal Services to collaborate and respond to key brownfield opportunities as they emerge.
- Screening all relevant *Planning Act*, *Ontario Building Code* and property acquisition and disposition files for brownfield considerations.



- Prioritizing brownfields in the education and training plans of relevant departments, within approved budget envelopes; and,
- Promoting brownfield redevelopment and this Plan.

### **3.3 Reduce the Cost of Eligible Brownfield Projects**

The City of Greater Sudbury can help reduce upfront brownfield redevelopment costs by exercising its existing legislative and policy authorities to make the following financial incentives available to approved eligible properties.

1. Tax Assistance Program
2. Landfill Tipping Fee Rebate Program
3. Planning and Building Fee Rebate Program
4. Tax Increment Equivalent Grant Program

These programs, which are described in the following pages, represent a comprehensive series of actions timed for use during certain stages of the brownfield redevelopment cycle. The relationship between these incentives and the development cycle is illustrated on the following page. These incentive programs can also be used in conjunction with existing financial incentive programs, such as the development charge waiver program current active in the Downtown and Town Centres. Subject to the following policies, these incentives would be available to eligible properties within the City of Greater Sudbury community improvement project area. The legislative and policy basis for these mechanisms is outlined in Appendices D and E, respectively.



## Key Project Phases

1. Development Concept
2. Feasibility Study
3. Environmental Study
4. Environmental Remediation
5. Development Approvals
6. Rehabilitation/Construction
7. Occupancy/Reassessment

Incentive	When Applied	When Received
Tax Assistance	Before Phase 4	After Phase 6
Landfill Tipping Fee	Before Phase 4	After Phase 4
Planning and Building Permit Fees	Before Phase 5	After Phase 5 or Phase 7
Tax Increment Equivalent Grant	Before Phase 6	After Phase 7

### **3.3.1 Tax Assistance Program**

#### **Purpose:**

To encourage the remediation, reuse and redevelopment of eligible properties by cancelling all or a portion of property taxes during the rehabilitation period and development period.

#### **Description:**

Council may, by by-law, provide tax assistance to an approved eligible property during its rehabilitation period and development period, on such conditions as the Minister of Finance and Council may determine to help offset eligible costs. That is, the cost of any action taken to reduce contaminant concentrations on, in or under the 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*. Without limiting the generality of the foregoing, this includes costs relating to additional Phase II Environmental Site Assessment investigations; remedial action plans; risk assessment and risk management reports and plans; required remedial activities, including the cost of complying with any Certificate of Property Use issued under section 168.6 of the *Environmental Protection Act*; and, environmental insurance premiums.

The tax assistance can be in the form of a deferral or cancellation equivalent to up to 100 percent of the municipal and provincial education portion of the property tax. To be eligible, the property must be located in the community improvement project area and require environmental clean-up, prior to its reuse and/or redevelopment as demonstrated through a Phase II Environmental Site Assessment completed in accordance with the *Environmental Protection Act*.

The tax assistance would begin with the passage of Council's by-law and extend through the rehabilitation period (maximum 18 months) and/or development period (a time period from the rehabilitation period, as defined by Council through the by-law), subject to such provincial and municipal conditions specified in the by-law. The total amount of tax assistance cannot exceed eligible costs.



The education portion of the tax assistance is subject to approval by the Ontario Minister of Finance. The level of matching education property tax assistance will be proportionate, as determined by the Minister of Finance, to the level of tax assistance provided by City Council. Generally, the matching education property tax assistance is provided for a maximum of three years from the remediation start date (or a longer period approved by the Minister, if there are exceptional circumstances).

### **Requirements:**

1. Tax Assistance Program applications must be filed prior to the start of any activity that would constitute an eligible cost and to which the proposed tax assistance would apply.
2. Tax Assistance Program applications must be accompanied by:
  - a Phase II Environmental Site Assessment prepared by a Qualified Person that demonstrates that the eligible property does not meet the standards that must be met under subparagraph 4 i of Section 168.4(1) of the *Environmental Protection Act* to permit Record of Site Condition to be filed under that subsection in the Environmental Site Registry.
  - photos in the required format depicting the current condition of the eligible property;
  - plans and other information in the required format necessary to understand the proposed development concept for the eligible property; and,
  - a preliminary order-of-magnitude estimate of cost required to permit a Record of Site Condition to be filed in the Environmental Site Registry, prepared by a Qualified Person.
3. Tax Assistance Program applications will be reviewed by City Staff. If recommended for approval by City Staff, the draft by-law authorizing the tax assistance will be presented to City Council and, with Council's consent, sent to the Minister of Finance for review and approval. If approved by the Minister, Council may pass a final by-law to authorize the tax assistance.

4. As a condition of approval, City Council may, by by-law, require the owner of the approved eligible property to:
  - provide an annual report within 30 days of the anniversary of the commencement of the tax assistance for each year or part thereof that is provided containing an update on the concentration and location of contamination on the approved eligible property, the status of remediation work completed to date, the costs expended to date and costs not yet incurred, and time estimates to complete the remedial and redevelopment work;
  - meet any conditions required by the Minister of Finance; and,
  - enter into an agreement with the City respecting any of the above-referenced matters, as well as the terms, duration, default and termination provisions of the tax assistance.
5. A by-law passed by Council authorizing tax assistance to an eligible property may also provide:
  - that all or some of the taxes that are subject to tax assistance may be levied but not collected during the period before the City determines whether any approved conditions have been met; and,
  - that the taxes shall become payable only upon notice in writing by the municipality to the owner of the property that the conditions required in the by-law have not been met.

If Council passes a by-law providing that taxes become payable in the above circumstances, it may also provide that the interest provisions of a by-law passed under Section 345 of the *Municipal Act* apply, if the taxes become payable, as if the payment of the taxes has not been deferred.

6. The tax assistance provided to an approved eligible property will coincide with that property's rehabilitation period and/or development period, to a maximum time period defined in the by-law.
7. The total value of tax assistance provided to an approved eligible property will not exceed the eligible costs for that property.

8. Council may repeal or amend a tax assistance by-law, but the repeal or amendment does not extinguish the right to tax assistance under the by-law unless the owner of the approved eligible property consents in writing to the repeal or amendment.
9. Should the owner of the approved eligible property default on any condition in the by-law or agreement (e.g. fails to commence or ceases remediation for any reason), the tax assistance provided, plus interest, will become payable in full.
10. The tax assistance provided to the owner of an approved eligible property will be terminated if the property is transferred to a new owner and/or if the approved eligible property is severed, subdivided, added to or altered in any way.
11. See Section 3.3.5 for further general financial incentive requirements.

**Administration:**

Guidelines for the administration of the Tax Assistance Program are outlined in Appendix F. These guidelines may be changed from time to time, as required, without amendment to this Plan.

### **3.3.2 Landfill Tipping Fee Rebate Program**

**Purpose:**

To encourage the remediation, reuse and redevelopment of eligible properties by reducing tipping fees for impacted soil material being deposited at the City's landfill sites.

**Description:**

The City may reduce the tipping fees for impacted soil being removed from an approved eligible property, provided that the impacted soil can be utilized as cover material at a City landfill site.



## Requirements:

1. Landfill Tipping Fee Reduction Program applications will be made by the eligible property owner and/or the owner's agent, in writing, prior to the commencement of remedial activities at the eligible property. Applications will be accepted, reviewed and approved on a first come, first serve basis each year.
2. Landfill Tipping Fee Reduction Program applications are limited to impacted soil being removed from an approved eligible property as part of any action taken to reduce the contaminant concentration on, in or under the property to permit Record of Site Condition to be filed in the Environmental Site Registry under Section 168.4 of the *Environmental Protection Act*.
3. Applications will be reviewed and approved by City Staff, in accordance with the *Procedure for Disposal of Contaminated Soil at City of Greater Sudbury Landfill Sites*.
4. If approved, the tipping fee associated with the impacted soil will be assessed at a reduced rate of \$36 per metric tonne.
5. The total amount of incentive provided under this program will not exceed \$200,000 annually. The maximum amount of incentive provided under this program to any approved eligible property will not exceed \$40,000.
6. In no case can the total value of the reduction provided to an approved eligible property exceed the eligible costs for that property.
7. This program does not apply to any other landfill tipping fee associated with the rehabilitation or improvement of a brownfield.

### 3.3.3 Planning and Building Fee Rebate Programs

#### **Purpose:**

To encourage the remediation, reuse and redevelopment of eligible properties by rebating fees associated with *Planning Act* and *Ontario Building Code* applications.

#### **Description:**

The City may rebate fees for *Planning Act* and *Ontario Building Code* applications associated with improvements to eligible properties. These include: Official Plan Amendments; Zoning By-law Amendments; Site Plan Control; Subdivisions; Consents; Demolition Permits; Building Permits; and, Occupancy Permits.

#### **Requirements:**

1. Planning and Building Fee Rebate applications will be made by the eligible property owner and/or the owner's agent, in writing, at the time of the relevant application.
2. For planning fees, the City will request the payment of fees at the application stage. Upon release of the building permit for the improvements to the eligible property, all collected fees will be refunded.
3. For building permit fees, the City will request the payment of fees at the application stage. Upon final inspection of the completed and occupied project, all fees will be refunded.
4. Applications will be reviewed and approved by City Staff.
5. The total amount of incentive provided under the planning fee component of this program will not exceed \$50,000 annually. The maximum amount of incentive provided under the planning fee component of this program to any approved eligible property will not exceed \$10,000.

6. The total amount of incentive provided under the building fee component of this program will not exceed \$300,000 annually. The maximum amount of incentive provided under the building fee component of this program to any approved eligible property will not exceed \$60,000.
7. This program applies to the first phase of development only. This program does not apply to fees associated with any other public agency or any other associated approval cost (e.g. parkland dedication, site plan agreement, servicing agreements, security deposits, legal fees associated with an Ontario Municipal Board Hearing).

### **3.3.4 Tax Increment Equivalent Grant Program**

#### **Purpose:**

To encourage the remediation, reuse and redevelopment of eligible properties by providing grants equivalent to the incremental increase in property tax assessment and revenue resulting from property improvements such as, but not limited to, new construction.

#### **Description:**

Council may provide grants to the owner of an eligible property to help offset costs associated with its rehabilitation, reuse, development and redevelopment of the property, provided that the improvements to the property result in an increase in assessment and taxation.

The value of the grant provided is equal to the incremental increase in property assessment and municipal property tax resulting from the improvements. The grant is provided to the owner (registered or assessed), tenant or assigned third party.

The grant can be in the form of a rebate equal to the incremental increase in the municipal property tax revenue, which is refunded to the extent required, after the taxes have been paid in full. To be eligible, the property must be located in the *community improvement project area* and the improvements must be in conformity with this Plan.



The grants can be provided after the improvements to the property are complete and after the reassessment of the property by the Municipal Property Assessment Corporation has demonstrated an increase in the assessed value of the property.

The pre and post improvement assessment and tax values will be used to calculate the incremental increase in municipal property tax revenue and the total value of the grant. One hundred percent of the calculated grant amount will be provided over a five year period. During this time, the City will continue to collect tax revenue equal on the pre-improved assessed value of the property, using tax rates set annually by the City.

The pre-improved assessed value of the property may be adjusted if the property is subsequently reassessed post improvement by the Municipal Property Assessment Corporation. The total amount of grants provided cannot exceed eligible costs.

**Requirements:**

1. Tax Increment Equivalent Grant Program applications must be filed prior to the start of any activity that would constitute an eligible cost and to which the proposed grant would apply.
2. Tax Increment Equivalent Grant Program applications must be accompanied by:
  - evidence that a Record of Site Condition for the eligible property has been acknowledged by the Ministry of the Environment;
  - photos depicting the current condition of the eligible property;
  - plans, reports, estimates, contracts and other details as may be required to satisfy the City with respect to eligible costs and conformity of the proposed improvements with this Plan
3. Tax Increment Equivalent Grant Program applications will be reviewed by City Staff and approved by City Council, by by-law.

4. As a condition of approval, City Council may, by by-law, require the owner of the approved eligible property to enter into an agreement with the City respecting the terms, duration, default and termination provisions of the grant.
5. The approved grant will be equal to 100 percent of the incremental increase in municipal property tax revenue associated with improvements to the eligible property. The grant will be provided every year for up to five years, after taxes have been paid in full each year.
6. The total value of the grants provided to an approved eligible property will not exceed the eligible costs for that property.
7. Should the owner of the approved eligible property default on any condition in the by-law or agreement, the grants, plus interest, will become payable to the City in full.
8. Approved grants are applicable to the registered owner or assessed owner or tenants of land and buildings within the *community improvement plan area* and are assignable to any third party to whom such an owner or tenant has assigned the right to receive a grant.
9. See Section 3.3.5 for further general financial incentive requirements.

#### **Administration:**

Guidelines for the administration of this program are outlined in Appendix G. These guidelines may be changed from time to time, as required, without amendment to this Plan.

### 3.3.5 General Requirements Applying to all Programs

In addition to the above, all financial incentive programs described herein are subject to the following general requirements. These requirements are not intended to be exhaustive. The City reserves the right to include other reasonable requirements and conditions on a project-specific basis.

1. The financial incentives described herein may be used in combination with any other municipal financial incentive program including, but not limited to, development charge waivers for development in the Downtown and Town Centres, and the new multi-residential property tax class.
2. The financial incentives described herein may be used in combination with any other program offered by the City and/or any other level of government and/or association including, but not limited to, the Federation of Canadian Municipalities.
3. The total amount of all municipal financial incentives provided to an approved eligible property will not exceed the eligible costs for that property.
4. All approved works and improvements shall conform to all relevant provincial legislation including, but not limited to, the *Environmental Protection Act* and the *Ontario Building Code*.
5. All approved works and improvements shall conform to all relevant municipal by-laws, standards, policies and procedures including, but not limited to, the Official Plan and the Zoning By-law.
6. For the purposes of clarity, approval for one or more of the financial incentive programs included herein does not relieve a proponent from the need to obtain any other required municipal, federal, provincial and/or public agency approval associated with the proposed project.

7. City staff, officials and/or agents of the City may inspect any approved eligible property that is subject of a financial incentive program application.
8. The City reserves the right to peer review/audit any studies and/or works approved under a financial incentive program, at the expense of the applicant.
9. The City is not responsible for any costs incurred by an applicant in relation to any of the above financial incentive programs.
10. The eligible property will not be in a position of tax arrears at the time of application.
11. If the applicant is in default of any program requirement, or any other requirement of the City, the City may delay, reduce or cancel its financial incentive program approval.
12. Outstanding work orders and/or orders or requests to comply, and/or other charges from the City (including tax arrears) must be satisfactorily addressed prior to the issuing of any financial incentive.
13. The City may discontinue any financial incentive program at any time.  
Notwithstanding this, approved eligible properties will continue to receive approved municipal financial incentives, subject to compliance with the requirements set out herein and any associated by-law and/or agreement.



### **3.4 Attract Investment to Select Brownfields**

The City of Greater Sudbury can help attract investment to brownfields by creating and implementing a marketing strategy that effectively communicates brownfield redevelopment, brownfield redevelopment opportunities and this Plan to property owners, developers, potential end users, and support professionals. The marketing strategy would further strengthen Greater Sudbury's image as a place to invest, develop land and buildings, and do business.

#### **Marketing Strategy**

##### *Target Audiences*

The Marketing Strategy would be targeted to three groups:

1. Brownfield Market Makers (i.e. those who drive brownfield transactions, remediation and rehabilitation)
  - Owners/managers
  - Investors/developers
  - Potential end users
2. Support Professionals
  - Lending institutions such as banks and trust companies
  - Real estate professionals and organizations
  - Environmental consultants and contractors
  - Lawyers, planners, engineers, architects
3. The general public

## *Marketing Tools*

The Plan should be marketed using comprehensive multi-media program containing information, education and advertising components. Some potential tools are as follows:

### **1. Publications**

- A generalized Reclaiming our Urban Places brochure containing pertinent points (as updated) from this Plan
- A summary Reclaiming our Urban Places Information Package (including a description of the financial incentive programs available from the City and details on program guide on how to apply)
- Marketing reports on the “Top Brownfield Opportunities” to be distributed to developers and investors either standalone or as part of an investors package. Advertising these opportunities would require consent from the owners.
- Articles on Reclaiming our Urban Places in professional journals, local news outlets and city publications.
- Press releases and profiles of successful brownfield redevelopment projects and initiatives should be sent to local and outside media

### **2. Website Enhancements**

- The City and Greater Sudbury Development Corporation’s websites should be enhanced with new pages dedicated to brownfields with links to existing searchable real estate listing engines (<http://invest.mysudbury.ca>) and where various brownfield publications could be posted.

### **3. Outreach**

- Staff should continue to make regular presentations on the Plan to various local bodies (e.g. Development Liaison Advisory Committee, Real Estate professionals, etc). This direct face-to-face marketing tool is a very important component of the Marketing Strategy.
- Staff should continue to partner with other organizations to deliver locally-tailored brownfield education and training modules.

- Staff should strategically target existing brownfield conferences at the provincial and national level to promote the City of Greater Sudbury's brownfield efforts and as a place to invest.

### *Key Messages*

1. Brownfields are vacant or underutilized sites that may have real or perceived contamination problems.
2. The impediments to brownfield redevelopment can be overcome by the use of innovative approaches to planning, remediation and the use of now available financial incentives.
3. The cleaning up and rehabilitation of brownfields results in improvements in environmental quality, human health and economic growth.
4. Brownfield redevelopment efficiently uses existing services and reduces growth in rural and agricultural areas and its associated costs. Brownfield redevelopment will help the City of Greater Sudbury achieve its intensification objectives.
5. Brownfield reinvestment brings economic activity to derelict and underused sites. It generates employment and increased property tax revenues for the City of Greater Sudbury.
6. Brownfield redevelopment can revitalize blighted residential neighbourhoods and employment areas, resulting in an enhanced quality of life for the residents of Greater Sudbury.
7. The City of Greater Sudbury is being proactive in encouraging reinvestment in brownfield sites by implementing brownfield supportive planning policies, offering financial incentives, and working with developers of brownfield sites.
8. The City wants to find new opportunities and partnerships to deal with brownfields and the City is looking for interest from all types of developers and entrepreneurs (big and small).

### **3.5 Create a New Failed Tax Sale Procedure**

The City of Greater Sudbury can help address any outstanding financial obligations associated with a property by creating and implementing a failed tax sale procedure governing the municipal response to instances where the outstanding financial obligations tied to a property exceed its market value and threaten a successful tax sale process. Such a policy is consistent with the City's obligation under the *Municipal Act* to make every effort to recover tax arrears and report its collection rate on the annual Financial Information Return to the Province of Ontario. The successful collection of tax arrears is imperative to maintaining a satisfactory tax arrears ratio, which is an indication of a municipality meeting the challenge of managing its receivables.

#### **How the tax sale process works today:**

The *Municipal Act* sets out the steps in the tax sale process. When a property is encumbered with three years of tax arrears, the City, as part of its recovery efforts registers a tax arrears certificate (lien) against the property and the owner has one year to pay the taxes in full or request a tax extension agreement from the municipality.

At the end of the one year period, if the property taxes remain unpaid and no tax extension agreement has been ratified, the property proceeds to a municipal tax sale. The property is advertised in the Ontario Gazette and in a newspaper having general circulation within the municipality (for four consecutive weeks). On the day of the sale, tenders are accepted on the property by sealed bid. If the tax sale is successful and a bid is accepted on a property, the City registers a deed of transfer and the property is transferred to the successful purchaser.



If no bids are received, the City may vest (take title to) the property, restart the tax registration process or use an alternate method of tax arrears recovery which may include litigation. Often properties fail to sell when the amount of tax arrears owing is greater than the market value, the property is deemed to be at risk due to environmental concerns, the property is encumbered by a Crown lien or the property has no marketability due to a lack of general interest, or other constraints. When properties fail tax sale, the municipality has a responsibility to make every effort to recover the tax arrears and turn the property back into a tax revenue producing entity.

### **Recent legislative changes provide new opportunities for failed tax sale action**

Recent changes to the *Municipal Act* give the City of Greater Sudbury new tools when considering its options relative to a failed tax sale property. These include:

- a two year window to decide whether or not to vest (take title to) property;
- the power of entry in order to conduct environmental testing;
- the suspension of provincial Crown liens complemented by a revenue sharing formula when receivables are realized; and,
- the discretion to write off taxes in order to encourage clean up and redevelopment.

The City's use of these new tools should be guided by a new failed tax sale procedure, which demonstrates its legislative commitment to return the property to a tax revenue generating entity via redevelopment as well as ensuring fair and equal treatment of such properties. The steps in the failed tax sale procedure are outlined in Appendix H.

## 4. MOVING THE PLAN FORWARD

The City of Greater Sudbury can move this Plan forward by:

1. Passing a by-law to recognize the City of Greater Sudbury as a community improvement project area, pursuant to Section 28 of the *Planning Act*.
2. Passing a by-law to adopt this Plan as the Brownfield Community Improvement Plan for the City of Greater Sudbury, pursuant to Section 28 of the *Planning Act*.
3. Making the financial incentive mechanisms described in this Plan available to stimulate brownfield reuse and redevelopment.
4. Approving and implementing the Failed Tax Sale procedure described in this Plan.
5. Working with other levels of government and public agencies to explore the possibility of delivering a brownfield pilot project.
6. Continue to monitor federal and provincial affordable housing programs and participate in those programs that apply to brownfield sites to stimulate brownfield redevelopment, where appropriate.
7. Developing and implementing the comprehensive marketing strategy described in this report.
8. Continuing to strengthen brownfield internal awareness and capacity by:
  - Creating an internal brownfield staff team with representatives from Planning, Building, Economic Development, Finance, Housing and Legal Services to collaborate and respond to key brownfield opportunities as they emerge.
  - Screening all relevant *Planning Act*, *Ontario Building Code* and property acquisition and disposition files for brownfield considerations; and,
  - Prioritizing brownfields in the education and training plans of relevant departments, within approved budget envelopes.

## Monitoring, Review and Amendments:

The Plan will be monitored on an ongoing basis to track progress relative to its goals and objectives. The monitoring program could be structured around a number of indicators, as outlined below. Information on these indicators would be collected at the individual project level and aggregated. This aggregated information would be used as the basis for an annual report to Council. To the extent possible, these annual reports would also address the environmental and social effectiveness of the Plan (e.g. environmental threats removed from the natural environment, neighbourhood gaps repaired, etc). It is envisaged that the annual reports would also be used to inform decisions relating to adjustments to this Plan, as well as any budget decisions relating to any of the financial incentive programs described herein. Minor and technical amendments (e.g. correcting typographical errors) may be made without Council approval. Major and substantive amendments may be made by amendment, subject to the statutory process under the *Planning Act*, which includes public consultation and Council approval. Notwithstanding this, the City may discontinue any of the programs contained in this Plan without amendment. The addition of new programs not expressly referenced herein requires an amendment.

PROGRAM	INDICATOR
Tax Assistance Program/ TIEG Program	<ul style="list-style-type: none"><li>▪ Number of applications</li><li>▪ Increase in assessment value of participating properties</li><li>▪ Estimate and actual amount of municipal and education tax assistance/grants provided</li><li>▪ Hectares/acres of land remediated and redeveloped</li><li>▪ Industrial/commercial space (sq.ft.) rehabilitated or constructed</li><li>▪ Residential units/sq.ft. rehabilitated or constructed</li><li>▪ \$ value of private sector investment leveraged</li><li>▪ Jobs created/maintained</li></ul>
Planning and Building Fees Refund Program	<ul style="list-style-type: none"><li>▪ Number, type and \$ value of planning application fees refunded</li><li>▪ Number and \$ value of demolition and building permit fees refunded</li><li>▪ Industrial/commercial space (sq.ft.) rehabilitated or constructed</li><li>▪ Residential units/sq.ft. rehabilitate or constructed</li><li>▪ \$ Value of building permit fees paid</li><li>▪ \$ value of building permits issued</li></ul>
Landfill Tipping Fee Rebate Program	<ul style="list-style-type: none"><li>▪ Volume of impact soil diverted to landfill</li><li>▪ \$ value of landfill tipping fee paid</li><li>▪ \$ value of landfill tipping fees refunded</li><li>▪ Industrial/commercial space (sq.ft.) rehabilitated or constructed</li><li>▪ Residential units/sq.ft. rehabilitated or constructed</li></ul>

# Appendices





## A. GLOSSARY OF KEY TERMS

*Brownfield* means a previously developed commercial or industrial property that is contaminated and vacant, derelict or at risk, but where there is active redevelopment potential.

*City* means the City of Greater Sudbury.

*Community improvement* means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, construction, reconstruction and rehabilitation, improvement of energy efficiency, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, structures, works, improvements or facilities, or spaces therefore, as may be appropriate or necessary.

*Community improvement plan* means a plan for the community improvement of a community improvement project area.

*Community improvement project area* means a municipality or an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other environmental, social or community economic development reason. For the purpose of this Community Improvement Plan, the community improvement project area has the same meaning as those lands defined in By-law 2010-xxx, that is, those lands within the City of Greater Sudbury designated Mixed Use Commercial, Downtown, Town Centre and Living Area 1 in the City of Greater Sudbury's Official Plan, as amended from time to time.

*Development period means*, with respect to an eligible property, the period of time starting on the date the rehabilitation period ends and ending on the earlier of:

- the date specified in the by-law made under subsection 365.1 (2) of the *Municipal Act*, or
- the date that the tax assistance provided for the property equals the sum of,
  - the cost of any action taken to reduce the concentration of contaminants on, in or under the 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*.

*Eligible costs* means costs related to environmental site assessment, environmental remediation, development, redevelopment, construction and reconstruction of lands and buildings for rehabilitation purposes or for the provision of energy efficient uses, buildings, structures, works, improvements or facilities

Despite the above, for the purposes of the Tax Assistance Program, eligible costs means costs of any action taken to reduce contaminant concentrations on, in or under the 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*. Without limiting the generality of the foregoing, this includes costs relating to additional Phase II Environmental Site Assessment investigations; remedial action plans; risk assessment and risk management reports and plans; required remedial activities, including the cost of complying with any Certificate of Property Use issued under section 168.6 of the *Environmental Protection Act*; and, environmental insurance premiums.

*Eligible property* means property for which a phase two environmental site assessment has been conducted,

- that is included under Section 28 of the *Planning Act* in a community improvement project area for which a community improvement plan is in effect containing provisions in respect of tax assistance, and
- that, as of the date the phase two environmental site assessment was completed, did not meet the standards that must be met under subparagraph 4 i of subsection 168.4 (1) of the *Environmental Protection Act* to permit a record of site condition to be filed under that subsection in the Environmental Site Registry.

*Property* means lands, buildings and structures.

*Rehabilitation period* means, with respect to an eligible property, the period of time starting on the date on which the by-law under 365.1 (2) of the *Municipal Act* providing tax assistance for the property is passed and ending on the earliest of,

- the date that is 18 months after the date that the tax assistance begins to be provided,
- 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
- the date that the tax assistance provided for the property equals the sum of,
  - the cost of any action taken to reduce the concentration of contaminants on, in or under the 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*.

*Tax assistance* means, with respect to an eligible property, the cancellation or deferral of taxes pursuant to a by-law passed under 365.1 (2) of the *Municipal Act*.

## B. BROWNFIELD AND AT RISK SITE SUMMARY 2009

Community	Number of Brownfields	Number of At Risk Sites	Average Parcel Area (sq.m)	Average Frontage (m)	Total Assessment	Total Tax Revenue
Azilda	1	1	3,259	46	\$454,749	\$17,775
Capreol	2	0	1,060	52	\$67,125	\$1,385
Chelmsford	2	0	1,123	35	\$105,500	\$3,480
Coniston	0	1	1,248,000	400	\$45,125	\$787
Copper Cliff	1	0	170	15	\$41,500	\$2,085
Falconbridge	1	0	1,792	64	\$86,250	\$4,065
Garson	8	0	1,356	36	\$692,125	\$28,892
Onaping Falls	2	3	2,226	50	\$1,455,750	\$63,466
Sudbury	35	2	20,760	58	\$8,443,275	\$338,060
Valley East	10	0	2,254	56	\$1,796,875	\$77,035
Wahnapitae	1	2	3,096	56	\$281,500	\$12,132
Walden	3	8	21,113	82	\$2,700,251	\$125,549
<b>TOTAL CGS</b>	<b>66</b>	<b>17</b>	<b>108,851</b>	<b>79</b>	<b>\$16,170,025</b>	<b>\$674,711</b>

## **C. 2009 BROWNFIELD SYMPOSIUM**



## D. ENABLING LEGISLATION

### D.1 General:

In offering financial incentives to stimulate brownfield redevelopment in the City of Greater Sudbury, Council exercises its authorities under the *Municipal Act*, the *Planning Act*, and the *Development Charges Act*, summarized as follows:

### D.2 Bonusing Prohibition

Section 106 of the *Municipal Act* prohibits municipalities from assisting, directly or indirectly, any manufacturing business or other industrial or commercial enterprise, through the granting of bonuses, for that purpose. This includes things like giving or lending money and property, leasing or selling municipal property at below fair market value, or giving a total or a partial exemption from any levy, charge or fee. The only exception to this rule occurs when Council is exercising its authority to carry out an in-effect Community Improvement Plan, pursuant to Section 28 (6), (7) and (7.2) of the *Planning Act*, or provide tax assistance to enable the rehabilitation and redevelopment of an eligible brownfield property, pursuant to Section 365.1 of the *Municipal Act*.

### D.3 Tax Increment Equivalent Grants

Section 28 of the *Planning Act* gives municipalities the ability to create plans (otherwise known as community improvement plans) for the community improvement (that is, the planning or re-planning, design or redesign, re-subdivision, clearance, development or redevelopment, construction, reconstruction and rehabilitation, improvement of energy efficiency, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, structures, works, improvements or facilities, or spaces therefore, as may be appropriate or necessary) or a community improvement project area (that is, a municipality or an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other environmental, social or community economic development reason).

As part of a community improvement plan, Sections 28(6), (7) and (7.2) of the *Planning Act* give municipalities the ability to:

- construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improvement project area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

- sell, lease or otherwise dispose of any land acquired or held by it in the community improvement project area to any person or governmental authority for use in conformity with the community improvement plan; and,
- make grants or loans, in conformity with the community improvement plan, to registered owners, assessed owners and tenants of lands and buildings within the community improvement project area, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan.

The *Planning Act* requires that any grant or loan be used to pay for all or part of any eligible cost (that is, costs related to environmental site assessment, environmental remediation, development, redevelopment, construction and reconstruction of lands and buildings for rehabilitation purposes or for the provision of energy efficient uses, buildings, structures, works, improvements or facilities) of the community improvement plan.

The *Planning Act* also requires that any grant or loan made in respect of a particular land and building, and any tax assistance offered pursuant to Section 365.1 of the *Municipal Act*, not exceed the eligible cost of the community improvement plan with respect to those lands and buildings.

#### **D.4 Tax Cancellations**

Section 365.1 of the *Municipal Act* gives municipalities the ability to pass by-laws to cancel all or part of the taxes (municipal and educational purposes) levied on one or more specified eligible properties, on such conditions as the municipality may determine, for the specified eligible property's rehabilitation and/or development period. This cancellation can either be in the form of a refund (if the taxes have been paid) or a credit on the amount to be refunded to an outstanding tax liability (if the taxes have not been paid). Any by-law that cancels the educational portion of the tax levied on one or more specified eligible properties is subject to various provincial approvals. Section 354.(3) of the *Municipal Act* also gives municipalities the ability to remove unpaid taxes from the tax roll after a failed tax sale, regardless of whether it is vested by the municipality.

## E. ENABLING POLICIES

### E.1 Provincial Policy Statement, 2005

The Provincial Policy Statement 2005 (2005 PPS) is issued under the authority of Section 3 of the *Planning Act* and came into effect on March 1, 2005. It applies to all applications, matters or proceedings commenced on or after March 1, 2005.

In respect of the exercise of any authority that affects a planning matter, Section 3 of the *Planning Act* requires that decisions affecting planning matters be consistent with policy statements issued under the Act.

The 2005 PPS defines a brownfield site as undeveloped or previously developed properties that may be contaminated. They are usually, but not exclusively, former industrial or commercial properties that may be underutilized, derelict or vacant.

According to the 2005 PPS, brownfields play a key role in supporting the long term economic prosperity of communities, and in building strong communities. For example:

Policy 1.7.1.c) states that:

*“Long-term economic prosperity should be supported by: ... promoting the redevelopment of brownfield sites.”*

Policy 1.1.3.3 states that:

*“Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated, taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.”*

Further policies regarding intensification and redevelopment are found in Section 1.1 of the 2005 PPS.

## E.2 City of Greater Sudbury Official Plan

The City of Greater Sudbury's new Official Plan was adopted by Council in June 2006, modified and approved with modifications by the Ontario Minister of Municipal Affairs and Housing in March 2007, and approved by the Ontario Municipal Board on December 17, 2007, January 22, 2008 and April 10, 2008.

The Official Plan establishes, goals objectives and policies to manage and direct physical change and its effect on the social, economic and natural environment for the twenty year planning period. It provides a policy framework to help guide the redevelopment of brownfields across the city and for this Plan.

For example, Section 10.5 of the Official Plan speaks to Contaminated Lands, as follows:

*"Contaminated lands are those lands where the environmental condition of the property has been harmed through past activities. Although such lands represent a potential hazard due to real or perceived environmental contamination, opportunities for brownfield redevelopment may exist. The redevelopment of abandoned or underutilized industrial and commercial sites is consistent with policies encouraging increased intensification in built-up urban areas."*

### *Policies*

1. *In order to ensure that there will be no adverse effects from any proposed development or redevelopment, environmental site assessments and remediation of contaminated sites are required by this Plan prior to any activity or development occurring on the site that is known or suspected to be contaminated. The City will require the proponent of development on such sites to determine the nature and extent of contamination and the necessary remediation measures in accordance with the policies below.*
2. *The City will require all applications for development in areas known or suspected of former land use activities that may lead to soil contamination be supported by a Phase 1 Environmental Site Assessment (ESA).*
3. *Where a Phase 1 ESA reveals that a site may be contaminated, a Phase II ESA will be required. A Phase I or II ESA is an assessment of a property conducted in accordance with Part XV.1 of the Environmental Protection Act and Ontario Regulation 153/04 or their successors by or under the supervision of a qualified person to determine the location and concentration of one or more contaminants on the site proposed for development.*
4. *Prior to a development being approved on a site where information reveals that the site may be or is contaminated, the applicant will provide a Record of Site Condition in accordance with Part XV.1 of the Environmental Protection Act and*

*Ontario Regulation 153/04 or their successors. The Record of Site Condition, which details the requirements related to site assessment and clean-up, must be acknowledged by the Ministry of the Environment and registered on title of the subject lands, confirming that the site has been made suitable for the proposed use. The Record of Site Condition and MOE acknowledgement will be provided to the City.*

5. *All contaminated lands shall be subject to site plan control.*

#### *Program*

1. *The City may consider financial and other incentives to promote the redevelopment and re-use of brownfield properties that are subject to environmental constraints.”*

In addition, Section 15 of the Official Plan speaks to Community Improvement, as follows:

*“Community Improvement Plans (CIP) passed under Section 28 of the Planning Act may contain a variety of initiatives and activities, including comprehensive improvement of a designated area, single purpose improvement projects (e.g. road reconstruction), as well as improvements to individual sites, buildings or structures. All programs are intended to maximize efficiencies in the use of existing public services and facilities.*

...

#### *15.1. Objectives*

*The objectives of Community Improvement Plans are to:*

- a. *enhance the quality of the physical and social environment through the development, redevelopment, preservation and rehabilitation of certain areas of the City;*
- b. *undertake comprehensive community improvement programs with respect to identified projects or designated community improvement areas; and,*
- c. *increase employment, economic activity and investment.*

## 15.2 Identification

*The entire City of Greater Sudbury is designated as a Community Improvement Project Area under Section 28(2) of the Planning Act. The following criteria will be utilized to identify specific areas for community improvement plans:*

- a. the area can be significantly improved for the betterment of the entire community;*
- b. the area contains a number of identifiable community improvement projects;*
- c. improvement within this area would have significant fiscal, social or economic impact;*
- d. the area contains incompatible land uses either in the form of commercial/residential, industrial/residential or commercial/industrial conflicts, which may prejudice the functional or economic role of the area for residential, commercial or industrial purposes;*
- ...*
- i. the area contains man-made hazards, such as vacant and abandoned buildings or structures, which should be eliminated in order to ensure a greater degree of public safety and to further enhance community function;*
- j. the area contains vacant and underutilized lands and buildings or structures which could be developed or redeveloped in a manner which reinforces the functional role of the area, provides opportunities for energy conservation, and, at the same time, provides for the enhancement of the municipal tax base;*
- k. the area has been identified as one where the ... commercial or industrial buildings are approaching the end of their functional life. Such buildings should either be rehabilitated and restored for sequential uses in keeping with the nature of the area, or demolished so as to allow for redevelopment of the area for a use more compatible with adjacent land uses;*
- n. the area has significant latent opportunities that have not yet been capitalized on, which would significantly improve the community in a qualitative way;*
- o. the area has potential development projects which could act as catalysts for increased cultural-social-economic interaction; and,*
- p. the proposed improvement program for the area would have potential short and/or long-term job creation.*

*...*

## 15.3 Issues to Address in CIPS

*Once identified, Community Improvement Plans, must address, but area not limited to, the following plan components:*

- a. the basis for selection of the area for a CIP;*
- b. the boundaries of the area of the plan;*
- c. the existing land uses and levels of services;*



- d. *natural and built heritage features;*
- e. *the nature of the improvements proposed;*
- f. *the estimated costs and means of financing the project;*
- g. *the staging and administration of the project;*
- h. *revision flexibility as circumstances warrant;*
- i. *phasing of improvements; and,*
- j. *citizen involvement in the plan.*

...

*Community Improvement Plans may include the preparation of detailed urban design guidelines and recommendations. These guidelines will be employed in the design and construction of all new public projects and the evaluation of all development applications. The guidelines may direct the overall character of the improvement area through such design features as sidewalk and street light design, park and open space design, and building design.*

*Community Improvement projects may include, but are not limited to:*

- a. *the development of recreational trails and park space;*
- b. *improvements to sidewalks, public spaces, and streetscapes;*
- c. *improvements to wastewater management systems in Rural Areas;*
- d. *comprehensive stormwater management programs for subwatershed areas; and,*
- e. *brownfield redevelopment.*

#### *15.4 Implementation*

*In order to effectively implement the principles and policies in Community Improvement Plans, a variety of initiatives will be used. These initiatives may include, but are not limited to:*

- a. *the utilization of programs available through senior levels of government to undertake community improvement projects;*
- b. *the establishment of partnership ventures between public and private sectors for the achievement of certain community improvement programs;*

...

- d. *the enforcement of the City's Property Standard's By-law;*
- e. *the municipal acquisition of land;*
- f. *the enactment of Zoning By-law adjustments which support community improvement objectives;*

...

- h. the coordination of capital works;*
- i. the implementation and enforcement of site plan control;*
- j. encouraging the private sector to utilize available government programs and subsidies which implement the objectives of this Plan; and,*
- k. the use of financial incentives to achieve objectives of the CIP including the Tax Increment Financing Scheme.”*

### **E.3 2010 EarthCare Sudbury Action Plan**

The 2010 EarthCare Sudbury Action Plan (2010 Action Plan) was released by the City of Greater Sudbury's EarthCare Advisory Panel in February, 2010 and accepted by City Council on March 31, 2010.

The 2010 Action Plan was developed in consultation with the EarthCare Sudbury Partners. Its purpose is to help Greater Sudbury become cleaner, greener, healthier and more sustainable.

The 2010 Action Plan has three overarching goals, as follows:

1. *Enhance the environmental health of Greater Sudbury* – to improve the quality of our air, land water and living systems – and in so doing, improve the social and economic well-being of future generations.
2. *Encourage members of the community to take environmental responsibility* by carrying out local actions that contribute to community sustainability and reduce emissions of greenhouse gases.
3. *Share the knowledge and experience* gained here with other communities and with the citizens of Greater Sudbury.

With respect to land use planning, the 2010 Action Plan establishes the goal of “*A more livable city, with greater aesthetic appeal*”. To this end, the 2010 Action Plan echoes the Official Plan's objective of achieving a 10 percent intensification rate. To achieve this objective, the 2010 Action Plan commits the City of Greater Sudbury to completing a Brownfield Community Improvement Plan in 2010.

## **E.4 Coming of Age in the 21<sup>st</sup> Century. Digging Deeper. June 2009**

Coming of Age in the 21<sup>st</sup> Century. A Community Economic Development Plan for Greater Sudbury 2020 (2020 Community Economic Development Plan) was approved by the Greater Sudbury Development Corporation Board of Directors in June, 2009 and presented to City Council in July, 2009.

The 2020 Community Economic Development Plan is designed to guide economic development in Greater Sudbury. The 2020 Community Economic Development Plan is based on six guiding principles, as follows:

1. Embracing emerging opportunities
2. Encourage environmental stewardship
3. Foster the creative, curious and adventuresome
4. Cultivate a business friendly environment
5. Deliver superior customer service
6. Celebrate a great northern lifestyle

These principles are articulated through three igniters and five growth engines.

Igniters:

1. Entrepreneurial spirit
2. Infrastructure.
3. Continuous community learning.

Engines:

1. The best mining and mining supply and services in the world.
2. A leader in advanced education, research and innovation.
3. One of the best places to visit in Ontario.
4. The regional centre for health service expertise in northern Ontario.
5. A thriving and sustainable arts and culture community.

## F. TAX ASSISTANCE PROGRAM GUIDELINES

### Step 1: Application

Applicants will be required to pre-consult with City Staff to determine program eligibility, proposed scope of work, and project timing.

Applications will be accompanied by plans and other information necessary to understand the proposed development concept for the *eligible property*; a Phase II Environmental Site Assessment prepared by a Qualified Person that demonstrates that the *eligible property* does not meet the standards that must be met under subparagraph 4 i of Section 168.4(1) of the *Environmental Protection Act* to permit Record of Site Condition to be filed under that subsection in the Environmental Site Registry; and, a preliminary order-of-magnitude estimate of cost required to permit a Record of Site Condition to be filed in the Environmental Site Registry, prepared by a Qualified Person.

Applications will be screened prior to acceptance. Applications not clearly meeting the program requirements will not be accepted. Acceptance of the application by the City does not imply approval.

### Step 2: Application Review and Evaluation

Applications will be reviewed by City Staff on a first come, first serve basis. Applications for properties where land use planning applications have already been made or approved will be prioritized. Applications will be recommended for approval only if they meet the requirements specified herein and any other City requirements.

### Step 3: Application Approval

Where an application is recommended for approval, City Staff will prepare a report to Council on the application, together with a draft property tax assistance by-law and agreement and the necessary application to the Minister of Finance for approval. Should Council agree, a copy of the by-law and other necessary legislative materials will be forwarded to the Minister of Finance for review and approval.

Once written approval of the by-law is received from the Minister of Finance, any conditions or restrictions specified by the Minister will be included in the draft by-law and a second report, with the revised by-law and agreement will be brought back to Council for approval. Should Council approve, the agreement will be executed by the authorized City Staff and a copy provided to the owner of the approved eligible property. The tax assistance begins when City Council passes the Minister of Finance approved tax assistance

by-law. A copy of the by-law will be forwarded to the Minister of Municipal Affairs and Housing and the Minister of Finance within 30 days of passing of the by-law by the City.

#### **Step 4: Payment**

Once remediation of the property is complete, the property owner shall file in the Environmental Site Registry a RSC for the property signed by a qualified person, and the owner shall submit to the City proof that the RSC has been acknowledged by the Ministry of Environment (MOE). The owner shall, within 30 days of filing the RSC, notify the City of the filing, and within 30 days after receiving said notice, the City shall advise the Minister of Finance of the filing of the RSC.

The Ministry of Finance's tax assistance will be given as a tax deferral followed by cancellation to the landowner when conditions are met. During the deferral and cancellation stage the landowner would not be required to pay the education taxes that have been deferred or cancelled. The City has the option of providing conditional tax assistance, which means that the tax assistance will not be provided until the landowner has first met City conditions related to the rehabilitation and development of the lands. Under a conditional tax assistance scenario, the City has decided to provide no deferral, only cancellation when conditions are met. The full Municipal taxes are payable and collected until these conditions have been satisfied. Once the conditions have been satisfied the Municipality would provide the accumulated tax assistance to the landowner as identified in the by-law.

## **G. TIEG PROGRAM GUIDELINES**

### **Step 1: Application**

Applicants will be required to pre-consult with City Staff to determine program eligibility, proposed scope of work, and project timing.

Applications will be accompanied by Tax Increment Equivalent Grant Program applications must be accompanied by: evidence that a Record of Site Condition for the eligible property has been acknowledged by the Ministry of the Environment; photos depicting the current condition of the eligible property; plans, reports, estimates, contracts and other details as may be required to satisfy the City with respect to eligible costs and conformity of the proposed improvements with this Plan

Applications will be screened prior to acceptance. Applications not clearly meeting the program requirements will not be accepted. Acceptance of the application by the City does not imply approval.

### **Step 2: Application Review and Approval**

Applications will be reviewed by City Staff on a first come, first serve basis. Applications for properties where land use planning applications have already been made or approved will be prioritized. Applications will be recommended for approval only if they meet the requirements specified herein and any other City requirements.

### **Step 3: Approval**

Where an application is recommended for approval, City Staff will prepare a report to Council on the application, together with a draft tax increment equivalent grant by-law and agreement for approval. Should Council approve, the agreement will be executed by the authorized City Staff and a copy provided to the owner of the approved eligible property.

### **Step 4: Payment**

Once the improvements are complete, an occupancy permit has been issued, and the approved eligible property has been reassessed by the Municipal Property Assessment Corporation, the owner will be sent a new tax bill. After the taxes have been paid in full, the City will provide a grant equivalent to the incremental increase in the property tax associated with the improvements to the owner, provided that the owner and/or eligible property are still in conformity with the tax increment equivalent grant agreement.



## H. FAILED TAX SALE PROCEDURE GUIDELINES

The failed tax sale procedure would be administered by a staff brownfield team, involving representation from several departments including Finance, Real Estate, Legal, Building, Planning, Economic Development, By-law and Housing, as appropriate. This team approach is designed to ensure that a holistic view is taken and that the best interests of the City and its citizenry are maintained.

The key steps in the process are described and illustrated below:

### **Scenario 1: No risk of environmental contamination**

1. A property fails a municipal tax sale process.
2. A Phase I Environmental Site Assessment is conducted to determine if any obvious environmental concerns are evident.
3. If no concerns are evident, a decision is made whether or not to vest (take title to) the property.
4. If the property is vested, the property taxes are written off and apportioned to municipal and education. Information about the property is circulated to various City departments to determine whether or not there is a municipal need for it.
5. The property is either retained or declared surplus to the City's needs.
6. If the property is declared surplus an appraisal is conducted to determine an estimate of the property's market value.
7. The property is then advertised for sale and sold in accordance with the City's property disposal policy.

### **Scenario 2: Risk of environmental contamination**

1. A property fails a municipal tax sale process.
2. A Phase I Environmental Site Assessment is conducted to determine if any obvious environmental concerns are evident.

3. If an environmental risk is identified during a Phase I Environmental Site Assessment, a Phase II Environmental Site Assessment may be commissioned to determine the type, nature and extent of the environmental concern. These costs may be recovered if the property is the subject of a redevelopment project.
4. The Phase II Environmental Site Assessment will determine if environmental remediation is feasible.
5. If an estimate of clean up costs is prohibitive, or there is no market interest for the property, the process is suspended pending alternate courses of action.
6. If the Phase II Environmental Site Assessment determines that site remediation is feasible and there may be interest in the property, a request for proposals is issued to the development industry before the expiry of the two year vesting period.
7. Proposals are received and reviewed by staff and a preferred proposal is identified.
8. Staff conducts negotiations over a purchase and sale agreement outlining the conditions of sale, remediation and redevelopment.
9. The purchase and sale agreement is presented to City Council for ratification.
10. Upon City Council's direction, the property is vested in the City's name, declared surplus and sold.
11. The City's brownfield staff team would monitor the remediation of the property to ensure that conditions of the purchase and sale agreement are met.

