



**City of Bay City
Economic Development Department
Brownfield Redevelopment Program**

Brownfield Program Policies

(Approved by the City of Bay City Brownfield Redevelopment Authority on July 16, 2019)

Section 1: Background

The Brownfield Redevelopment Authority (BRA) of the City of Bay City was established on November 1, 1999 by the City Commission for the City of Bay City, pursuant to provisions of Act 381 of the Public Acts of 1996, as amended.

The purpose of the Brownfield Redevelopment Program (Program) is to facilitate the redevelopment of previously developed sites classified as a “facility”, functionally obsolete or blighted as defined by Public Act 381 of 1996. The Program allows for the use of Tax Increment Financing (TIF) revenues to pay for, or reimburse, public or private costs of “eligible activities”. These activities include:

- Baseline Environmental Assessments (BEAs), including Phase I and Phase II Environmental Site Assessments (ESAs)
- Due care activities (which limit exacerbation of, or exposure to, contamination on a site)
- Additional response activities
- Reasonable costs of preparing a Brownfield Plan, Act 381 Work Plan, and actual costs of work plan reviews
- Demolition
- Lead and Asbestos Assessment and Abatement
- Administrative fees
- Capture for the Local Brownfield Revolving Fund (LBRF)
- Infrastructure improvements
- Site preparation

Section 2:

Reference Flow Chart

1. It is the intent of the BRA that any Brownfield incentives available through the Program be targeted toward good corporate citizens. Consistent with current business practices, the developer affiliates, and/or investors must be current on all municipal utilities and real and personal property taxes. Absent extraordinary circumstances, failure to be in compliance with the above requirements will eliminate the proposed development from being eligible for any Brownfield incentives under the Program.



2. A stakeholders meeting and site visit is scheduled to determine the level of support for the project. Stakeholders may include city staff, legal counsel, applicant, Michigan Economic Development (MEDC) Community Assistance Team (CA Team), Michigan Department of Environment, Great Lakes, and Energy (EGLE) and officers of the BRA. A completed application and application fee, including a proposed Brownfield Plan, Community Revitalization Program (CRP) Application (if applicable) and supporting documentation, must be submitted to the City of Bay City Economic Development Department prior to submittal of a request before the BRA.
3. City staff and/or legal counsel will review the proposed Brownfield Plan to ensure its conformance with these policies and that of P.A. 381 of 1996, as amended (“Act 381”), and applicability of economic incentives. The proposed project site must meet the definition of an “eligible property” as defined in Public Act 381 of 1996, as amended, MCL 125.2652 Definitions.
4. If supported and approved by city staff, the CRP application, proposed Brownfield Plan, and associated application materials are forwarded to the MEDC and EGLE for review and processing.
5. City staff schedules a BRA meeting and public hearing to approve the Brownfield Plan (or combined Brownfield Plan and 381 Work Plan*), review draft of Development and Reimbursement Agreement (“Agreement”) and authorize the BRA Chairperson to execute the final Agreement following Brownfield Plan approval. The BRA also authorizes BRA Chairperson to sign the transmittal letter following Act 381 Work Plan review and approval by city staff.
6. If not combined with the Brownfield Plan, applicant prepares and submits an Act 381 Work Plan to the city for review by city staff and legal counsel.
7. Legal counsel finalizes the Agreement and reviews with city staff.
8. City Commission, if supported, approves the Brownfield Plan.
9. Following a review with city staff and legal counsel, the BRA Chairperson approves and executes the Agreement with the applicant.
10. The City submits the final Act 381 Work Plan, Agreement, and transmittal letter signed by the BRA Chairperson to the Michigan Strategic Fund and EGLE for final approval.

**BRA and City may submit a combined Brownfield Plan and Act 381 Work Plan at their discretion. If so, notice not less than 30 days prior to the hearing must be provided to Michigan Strategic Fund (MSF) of EGLE to allow for consultation with each department prior to the hearing. The BRA recognizes the importance of development project schedules and will expedite the Brownfield Plan review and approval process to the extent possible.*



Section 3: Associated Costs

1. Project Application Fee

- Applications will be considered only when accompanied with a non-refundable fee according to the Fee Schedule located in the Clerk's Office.
- The developer is responsible for paying the project application fee.
- The applicant must agree to pay and will be billed directly for fees associated with legal counsel reviews incurred by the BRA for the Project. Generally, those consist of the brownfield plan review, work plan preparation and document submissions. All invoices must be paid before the BRA will submit to the MSF and/or the EGLE for final approval. These fees may be eligible for reimbursement from tax increment captures.

2. Administrative Costs Reimbursement

- Annual reimbursement of reasonable and actual administrative and operating costs from local taxes is a permitted activity under PA 381 of 1996, as amended.
- For reimbursement of actual administrative expenses, the BRA will transfer to its Administrative Fund five percent (5%) of the total incremental taxes captured annually under each approved Brownfield Plan for the duration of the plan or as otherwise allowed by statute. Actual administrative expenses will be reimbursed with only local incremental taxes.
- If total incremental taxes transferred in any year to the Administrative Fund from all active Brownfield Plans exceed the actual BRA administrative costs in that year or the maximum allowed by PA 381, the excess will be used for reimbursement of eligible activities or returned to the taxing jurisdictions. The excess administrative capture will be allocated to each Brownfield Plan/project on a prorated basis defined by the ratio of the administrative capture from that plan/project to the total administrative capture for that year. If all eligible costs have been reimbursed, the excess will be distributed to the local taxing jurisdictions on a prorated basis according to the ratio of that jurisdiction's millage to the total millage captured.
- Special circumstances will apply if the eligible property is included in a district with an active state or local tax abatement. An initial administrative fee, in an amount determined by the BRA, will apply, and personal property will be required to be included in the Brownfield Plan.

3. LBRF Capture

- The BRA intends to include provisions to capture a portion of the programmed revenues for deposit into the LBRF in the approved Brownfield Plan for each project. The BRA will fund the LBRF, to the extent funds are available and statutorily eligible for capture.
- LBRF funds will be used to further the purpose of the Program, which is to facilitate the redevelopment of previously developed sites classified as a "facility", functionally



obsolete or blighted as defined by Public Acts 381 of 1996, as amended. LBRF funds can only be used to fund eligible activities, as defined by PA 381. LBRF funds are eligible for use by all eligible properties located within the City of Bay City to assist with the completion of eligible activities. The LBRF funds typically will be distributed as revolving loans, which allows the funds to continually revolve throughout the City of Bay City. LBRF funds may be distributed as grants in response to exceptional circumstances solely at the discretion of the BRA. The use of the funds will be determined on case-by-case basis.

4. Miscellaneous Provisions

- If a project is located in another tax increment financial district (i.e. Downtown Development Authority, Tax Increment Financing District, etc.) staff will seek a recommendation from the district's governing board on the application.
- The BRA recognizes that the Program is a partnership with the State of Michigan. As such, the BRA will only participate in projects that are also approved by the State, either through the EGLE or the MSF, unless the BRA board of directors explicitly provides approval for a project to be reimbursed only from local tax increment revenues.
- The BRA reserves the right to deny approval for 'local only' Brownfield Plan applications from projects that are not currently eligible for MSF and/or EGLE support.
- The BRA requires that eligible personal property be included in the Brownfield Plan for tax increment capture for plans that include other state or local tax abatements, and for any Brownfield Plan with a plan length in excess of 15 years.
- The BRA will carefully evaluate Brownfield Plans that include expenditure of city funds for public infrastructure on a case by case basis.
- The BRA may update this document periodically or as required due to changes in the statute.

5. Compliance

- Reporting and compliance requirements will be detailed in a project's Development and Reimbursement Agreement. At a minimum, a project completion survey must be submitted within 90 days of the issuance of a certificate of occupancy for the project in a format acceptable to the BRA for the reimbursement of eligible activity costs.
- For projects containing residential rental housing, certification of compliance with Chapter 26-288 of the City of Bay City Code of Ordinances.
- The project must be operated and maintained in compliance with all application City codes and ordinances.
- Projects will not be considered when applicants is in default or indebted to the city for any reason, except for current personal taxes or for real estate taxes.

6. Waiver



- The BRA may waive this policy, or any portion of it, when the BRA board determines that it is in the best interest of the City or the BRA and is allowable by statute.

Section 4: Reimbursement Process

1. The BRA will begin the reimbursement process after the following have been completed:
 - Brownfield Plan has been approved.
 - Reimbursement Agreement has been executed by all parties.
 - Act 381 Work Plan has been approved by the EGLE and/or MSF, as appropriate.
 - Approved eligible activities have been completed.
 - All of the appropriate invoices and documentation for actual costs incurred to conduct the approved eligible activities have been submitted, reviewed, and approved by City Staff, subject to the conditions outlined in the Agreement.
 - TIF capture has begun.
2. The BRA will only reimburse the actual costs to conduct approved eligible activities. The BRA uses only the incremental taxes generated by the redevelopment project to reimburse approved eligible activities, and the yearly reimbursement amount is based on the actual yearly incremental taxes collected less any applicable administrative and LBRF capture noted below.
3. Invoices, eligible activity documentation and proof of payment must be submitted to City Staff within one year of when the invoice, documentation or proof of payment was issued to the developer.
4. The actual amount of TIF reimbursement in any year may be reduced by the amount of TIF allocated for reimbursement of BRA administrative expenses and funding the LBRF, as provided in the approved Brownfield Plan, Agreement, and Act 381 Work Plan.
5. Tax increment capture will generally be considered to reimburse some or all eligible activities as defined by Act 381, but only to the extent that such costs represent additional costs due to the status of the property as an “eligible property” under Act 381. The amount and duration of the tax captures will be evaluated on a case-by-case basis, with consideration given to the following criteria:
 - What is the nature of the contamination?
 - Is the property functionally obsolete or blighted, and if so, how will the proposed activities improve the condition?
 - How does the project improve the public infrastructure or makes other contributions to the community?
 - How does the project substantially improve existing environmental conditions?



- Does the project represent a significant improvement to real property?
 - What is the extent of additional costs due to the condition of the property as compared to a non-brownfield site?
 - What is the relationship between the amount of eligible costs and the total investment in the project?
 - Is the project consistent with community master planning, zoning and is the site compatible with the abutting neighborhood?
 - How the project stimulates additional growth in the neighborhood or the city?
 - What is the financial status of the developer(s)? That is, has the developer provided a lender letter of reference, lender commitment letter, or similar evidence of financial capability?
 - What is the enforcement compliance status of the developer on this site and elsewhere?
 - How the project creates jobs and/or attracts new business to the city?
 - What efforts have been taken to investigate if the site has any Native American human remains and any associated funerary objects?
 - Will this project observe the City's approved ordinances?
6. The BRA will capture an annual fee of five percent (5%) of the total capture for the first year and each subsequent year until all activities and reimbursements are completed under the Brownfield Plan, including any years with capture for the LBRF. These fees will cover the costs of administering the Brownfield Plan and Agreement, any TIF associated with the proposed project, and all applicable local, state, and federal reporting. These fees shall be paid before any annual reimbursements of costs are made to the applicant and in accordance with the executed Agreement. Special circumstances will apply if the eligible property is included in a district with an active state or local tax abatement. An initial administrative fee, in an amount determined by the BRA, will apply, and personal property will be required to be included in the Brownfield Plan.
7. The BRA will capture excess TIF revenues for deposit into the LBRF in the approved Brownfield Plan for each property/project. The BRA will fund the LBRF, to the extent funds are available and allowable by statute.
8. Interest costs are generally not considered to be an eligible activity under this policy and may not be reimbursed.
9. The BRA will only participate in projects that are also approved by the State, either through the EGLE or the MSF, unless the BRA explicitly provides approval for a project to be reimbursed only from local tax increment revenues. Should an applicant be approved by the BRA not to request or seek approval for the capture of school taxes, the amount of captured non-school taxes under a Brownfield Plan shall not exceed the amount that would be captured had such an approval for the capture of school taxes been sought and obtained.



10. A detailed record shall be kept to ensure accurate accounting of all TIF revenues and eligible expenses with appropriate reports filed with the City Treasurer pursuant to the Brownfield Plan.
11. Developer shall supply the BRA with the requisite reporting records to allow the BRA to meet their annual reporting requirements under Act 381.

Section 5: Contact Information

Persons interested in the Brownfield Redevelopment Program may contact Economic Development Office, 301 Washington Ave. Bay City, MI 48708 (989) 894-8159 or (989) 894-8227 or by email at cityeconomicdevelopment@baycitymi.org.