

Local Brownfield Revolving Fund Policy
City of Bay City
Approved by BRA July 16, 2019

Introduction

Brownfields are properties that have been impacted from historical activities and where the expansion, redevelopment, or reuse may be complicated by these historical activities. The City of Bay City is dedicated to building a partnership between its citizens, developers, and the regulatory authorities in order to return Brownfield properties to active and appropriate reuse. To facilitate this partnership, Brownfield incentives are available in the City and are provided to assist developers with the extraordinary costs of redeveloping impacted properties.

Objectives

This policy is provided to ensure that projects that use City Brownfield incentives accomplish the following objectives:

- Encourage redevelopment investment that will produce new jobs.
- Focus on projects that substantially improve existing environmental conditions.
- Focus on projects that benefit the environment by protecting the environment, especially the Saginaw River and Saginaw Bay, and public health.
- Encourage specific types of development appropriate to the neighborhood and surrounding community while recognizing market conditions.
- Assist cleanup and remediation activities of Brownfield sites throughout the City of Bay City.
- Encourage the redevelopment of blighted structures throughout the City of Bay City.
- Encourage the leveraging of new private investment into the community.

Available Incentives

There are several types of funding incentives that can be used to assist Brownfield redevelopment. These include, among others, tax increment financing, revolving loan funds, and grants. All incentives require one or more of the parcels in a project be classified as a “Brownfield”.

This policy is provided to help potential developers identify Brownfields and apply for Brownfield incentives for redevelopment. This policy applies only to the Local Brownfield Revolving Fund (LBRF) managed by the City. For information on other incentives, please contact the City of Bay City Economic Development Office as listed below.

In order to help overcome the financial challenges of Brownfield redevelopment, the City of Bay City has created the LBRF. The LBRF is a capital fund that is used to provide loans or subgrants for eligible activities on eligible Brownfield properties. The LBRF is funded through tax capture on Brownfields where an approved Brownfield Plan has been implemented. When these loans are repaid, the loan amount is returned into the fund and re-lent to other borrowers, providing an ongoing source of capital within the community. This source of gap financing can assist property owners by providing financing with flexible and favorable borrowing and repayment terms.

The City LBRF consists of local tax capture under approved Brownfield Plans for projects throughout the City. When applying for funding, staff will make a recommendation and the Brownfield Redevelopment Authority will decide which eligible activities will be funded.

Eligible projects will be required to submit the following documents to the City:

- LBRF Program Application with required attachments
- Brownfield Plan
- Work Plan
- Development Agreement
- Loan Commitment Letter
- Loan Documents

Management of the LBRF

Economic Development Staff of the City of Bay City serve as the LBRF Manager and oversees the implementation of the LBRF. Any questions, comments or concerns involving the LBRF can be directed to the Economic Development Department at sthurston@baycitymi.org or (989) 894-8227 or sdimitroff@baycitymi.org or (989) 894-8159.

The City of Bay City Brownfield Authority (BRA) will act as the LBRF Committee and provide review and approval of all LBRF funding applications. The LBRF Manager shall periodically review all financial statements and loan amortization schedules of LBRF loan recipients, review and approve documentation of business expenditures financed with LBRF proceeds, record LBRF security instruments, maintain the LBRF accounting records and report annually to the City Brownfield Redevelopment Authority regarding the use of the LBRF funds.

The BRA City attorney shall prepare all loan agreements, review all promissory notes and mortgage or lien instruments, and provide counsel to the LBRF Manager and the BRA.

Eligible Borrower

Applicants wishing to use LBRF funding should meet the following criteria:

- The eligible borrower must be a financially sound entity wishing to redevelop a Brownfield which would result in an increase in taxable value.
- The eligible borrower must have a conceptual redevelopment plan consistent with local zoning and area redevelopment.
- The eligible borrower must have control over the property.
- The eligible borrower must have experience in the type of development proposed, or a team that possesses experience in redevelopment.
- The eligible borrower must not be the party responsible for the contamination, if any, on the property.
- The eligible borrower must not be delinquent in taxes, loan payments, or other indebtedness to the State of Michigan or any political subdivision.
- Projects will not be considered when applicant is in default or indebted to the City for any reason, except for current personal taxes or for real estate taxes.

Eligible Projects

A construction, redevelopment, renovation or reconstruction project can be eligible for LBRF incentives in the City of Bay City as identified within Public Act 381.

1. Eligible property must be located within the City of Bay City.
2. Property is designated as an eligible property for one or more of the following;
 - The property possess an actual release or substantial threat of release of a hazardous substance or petroleum contamination, or

- Possess a release or substantial threat of release of a pollutant or contaminant that may present an imminent or substantial danger to public health or welfare, or
 - The property is classified as a facility (as defined by Part 201 of PA 451) by having identified hazardous substance contamination in soils or groundwater that is in excess of the unlimited residential closure criteria established by the Michigan Department of Environment, Great Lakes and Energy (EGLE), or it is adjacent and contiguous to a facility and the development of the project is estimated to increase the captured taxable value of the parcel that is a facility.
3. The developer has, or will, submit a Baseline Environmental Assessment (BEA) to EGLE for determination within 45 days of purchase or occupancy, and the EGLE will provide affirmation.
 4. Development would not occur without the incentives.
 5. The development will ameliorate threats to public health or the environmental that were caused by site conditions through remediation, mitigation, or control.

A project cannot be eligible for LBRF incentives in the City of Bay City if:

1. The developer or applicant is responsible for the hazardous substance contamination identified at the property, or
2. The developer did not conduct a Phase I ESA prior to purchase, or if the EGLE did not affirm the BEA, or
3. The parcel on which development is proposed is not an eligible property as defined by Act 381.

Projects are evaluated based on, but not limited to, the following criteria:

- Strength of business plan
- Experience of the proposed development team
- Legal structure of the applicant
- Applicant financial status
- Applicant record of earnings and cash flow
- Applicant borrowing history
- Bank and credit references
- Outlook for applicant's industry
- Applicant Business Plan
- Economic viability of the project
- Applicant ability to manage the cleanup project
- If the investment will provide an incentive to other development in the area
- How long the property has been vacant
- Existence of abandoned, blighted or functionally obsolete buildings
- Extent of remediation, clean-up, or control proposed
- Inclusion of sustainable features
- Benefit to the environment, specifically the watershed
- Amount of green space
- Amount of property tax generated
- Ratio of public assistance to private investment
- Amount of investment on a square foot basis
- Job retention and creation
- Type of development relative to existing zoning, use and neighborhood development

Eligible Activities

Successful applicants will be permitted to submit a request for LBRF funding for the following eligible project costs:

- Environmental Assessments and Investigations
- Response Activities Work Plans
- Response Activities
- Remediation or Mitigation
- Installation of Engineered Controls
- Demolition
- Lead Abatement
- Asbestos Abatement
- Site Preparation (not a response activity)
- Infrastructure Improvements
- Public infrastructure
- Costs associated with removing, mitigating, or preventing the release or threat of release of a hazardous substance, pollutant or contaminant
- Site monitoring costs, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup
- Other actions necessary to protect the health, safety, welfare, environment, or natural resources

Additional consideration may be included for the costs of environmental protection activities on properties adjacent to the Saginaw River, or for properties where groundwater contamination may adversely impact the Saginaw River in the near future.

The following costs are ineligible costs and cannot be funding using the LBRF:

- Costs incurred prior to municipal approval of the Brownfield Plan, even if those costs were otherwise eligible.
- Development costs that are not remedial actions.
- Monitoring, data collection, or reports necessary to apply for, or comply with, environmental permits under federal, state or local laws unless a necessary component of the selected clean-up.

Terms and Conditions

The repayment period and amount of the loan will be determined on a case-by-case basis, considering the requested funding, the amount of the investment, and the anticipated tax capture.

The sale of the property requires prepayment of the outstanding principle.

The City reserves the right to place a lien on any property subject to the loan proceeds that has an overdue unpaid balance.

Application Process

1. Schedule an initial project meeting with the LBRF Manager.
2. Submit the LBRF Application Form to the City of Bay City Economic Development staff (see Attachment A). The following information must be submitted with the application form:
Subject Property
 - Preliminary Site Plan

- Property Appraisal
- Construction Plans and Specifications/Budget
- Financial Statement Projections (for 2 years after project completion)
- Phase I and II Environmental Site Assessments
- Baseline Environmental Assessment
- Brownfield Plan and Work Plan
- Site Remediation and/or Due Care Plan

Applicant

- Purchase Agreement, Option or Site Access Agreement
 - Historical Financial Statements (last 3 fiscal years)
 - Current Financial Statement (within 90 days)
 - Aging Reports (3 most recent consecutive periods)
 - Resumes of Owners and Key Managers
 - Company References
 - Application Fee
3. Public Act 381 outlines all the necessary information that should be contained in the Brownfield Plan and Work Plan. However, the LBRF Manager requires the following information be included:
 - A map indicating the eligible property, including parcel boundaries and parcel numbers.
 - A map indicating the location and extent of impacts that exceed the unlimited residential closure criteria established by the EGLE for soil, if applicable.
 - A map indicating the location and extent of impacts that exceed the unlimited residential closure criteria established by the EGLE for groundwater, if applicable.
 - An itemized list for all eligible activities for which reimbursement is being requested, listing any contingency as a separate item.
 - A table indicating the annual impact of tax capture on each taxing jurisdiction.
 - Attach the most recent Soils and/or Groundwater Investigation Report or BEA.
 - Attach the EGLE letter of affirmation for the BEA.
 - The maximum capture permissible under PA 381 for the City of Bay City's LBRF
 - The annual BRA administrative fee determined at the initial meeting.
 - The Brownfield Plan duration, including the capture period for the City of Bay City's LBRF. The duration will be the period necessary for repayment of the loan principle and interest, administration fees, and capture period for the LBRF, or a maximum of 30 years, whichever is less.
 4. Attend the BRA meeting at which the Brownfield Plan/Work Plan will be considered.
 5. A public notice for the public hearing will be placed by the BRA in the local paper for the Brownfield Plan/Work Plan.
 6. Attend the public hearing.
 7. If recommended for approval, attend the municipal meeting at which the Brownfield Plan/Work Plan will be considered
 8. If the Brownfield Plan/Work Plan is approved, the BRA will prepare a loan commitment letter and Development Agreement.
 9. Upon receipt of the signed loan commitment letter and Development Agreement, the loan closing documents will be prepared.
 10. Loan proceeds are disbursed after loan closing and upon completion of the eligible activities, as described in the Brownfield Plan/Work Plan, at the property.

Opportunity for Public Involvement and Comment

The following are times during the incentive process where the public has an opportunity to comment on the potential project:

1. The City of Bay City Brownfield Redevelopment Authority review of the application at the BRA meeting;
2. The public meeting for consideration of the Brownfield Plan/Work Plan, and
3. The municipal approval of the Brownfield Plan/Work Plan at the municipal meeting.

Costs

The initial meeting with the LBRF Manager will be free of charge. A non-refundable review fee of \$1,000 will be paid upon submittal of the application. An annual administration fee will be assessed for each year the Brownfield Plan/Work Plan is capturing tax increment. This amount should be itemized in the repayment calculations included in the Brownfield Plan/Work Plan.

Schedule

The municipal approval process for a project that requests LBRF funding described in this Policy is typically two to three months, depending on the timing of applications and submittals, completeness of the information provided, and the complexity of the impacts and selected remedies. All submittals must be received thirty (30) days prior to the BRA meeting (conducted quarterly) to be considered during that meeting, and any changes to those materials must be submitted seven (7) days prior to the meeting to be considered.

Amendments and Modifications

The City of Bay City may amend the provisions imposed by the policies and procedures contained within this LBRF Policy at any time. Please contact the LBRF Manager or the City of Bay City website www.baycitymi.org for the most current information on LBRF policies and procedures.

Attachment A
City of Bay City
Local Brownfield Revolving Fund Loan Application