

GUIDELINES FOR BROWNFIELD PLAN REVIEW AND APPROVAL PROCESS

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PURPOSE: To establish guidelines for the Oakland County Brownfield Redevelopment Authority (“OCBRA”) Brownfield Plan review, approval, and implementation process.

BACKGROUND: The Michigan Brownfield Redevelopment Financing Act (Act 381 of 1996, as amended) (“Act 381”) authorizes municipalities to create Brownfield Redevelopment Authorities that facilitate the implementation of brownfield plans and promote the revitalization, redevelopment, and reuse of eligible property, in addition to other powers and authority. The Oakland County Board of Commissioners (“BOC”) passed a resolution on November 29, 2001 and established the OCBRA pursuant to Act 381. The OCBRA has developed the following guidelines for Brownfield Plan review, approval, and implementation process.

INTRODUCTION: As brownfield opportunities grow and evolve in Michigan, the need to define project specific brownfield plan requirements has become more important and complex. In addition, the trend for Brownfield Redevelopment Authorities to adopt fee schedules to support the administrative cost of processing these important community-based project brownfield plans is clear. Therefore, these guidelines are being adopted to assist host communities, applicants, OCBRA and County staff during the initial host committee review process to identify the requirements and conditions applicable to each proposed brownfield plan before a formal submission is made to the OCBRA. The appropriate fee for review of each brownfield plan would be assigned before it is submitted.

GLOSSARY OF TERMS: *As used in this document,*

- a. **Applicant:** is the developer, owner, or representative of a group seeking approval of a Brownfield Redevelopment Plan utilizing tax increment financing.
- b. **Board of Commissioners (BOC or the Board):** the elected governing body authorized to make policy decisions for the county.
- c. **Brownfield Plan (the Plan):** is a plan that meets the requirements of Act 381.
- d. **Brownfield Redevelopment Financing Act or Act 381 of 1996, as amended (Act 381).**
- e. **Brownfield Program Coordinator (Program Coordinator):** is the specific individual on County staff that shall serve as the primary point of contact for the Brownfield Redevelopment Program. The Brownfield Program Coordinator is Brad Hansen, Senior Business Development Representative, Oakland County Department of Economic Development.
- f. **Economic Development & Infrastructure Committee (ED&I):** is a standing committee of the Oakland County BOC with responsibilities that include, but are not limited to, matters referred to it by the Board Chair as well as items from county departments including the Oakland County Department of Economic Development.
- g. **Michigan Department of Environment, Great Lakes & Energy (EGLE):** has a statewide Brownfield Program that works to collaborate with communities and create economic opportunities by returning contaminated properties back into productive use while protecting human health and the environment.
- h. **Michigan State Housing Development Authority (MSHDA):** provides assistance to create and preserve workforce housing, engage in community economic development activities, develop vibrant communities, and address homeless issues.
- i. **Michigan Economic Development Corporation (MEDC) with approval from the Michigan Strategic Fund (MSF) on projects seeking approval over \$1 Million in Eligible Activities:** administers the reimbursement of costs using state school taxes for non-environmental eligible activities that support redevelopment, revitalization and reuse of eligible property of the State's Brownfield Program.
- j. **Oakland County Brownfield Redevelopment Authority (OCBRA):** is the entity that was established by the Board of Commissioners to promote economic growth and facilitate the redevelopment of eligible properties in Oakland County pursuant to Act 381.
- k. **Tax Increment Revenue (TIR):** also known as tax capture, is the increased tax revenue generated by new development/investment above the tax revenue generated from the initial base taxable value.
- l. **Act 381 Work Plan:** means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity that is seeking state school tax capture.

GUIDELINES

1. Priorities

Oakland County's (the "County") Brownfield Redevelopment Program (the "Program") is administered by the OCBRA with support from Oakland County Department of Economic Development staff. The Program allows for the utilization of certain tax increment revenues ("TIR" or "Tax Capture") to pay or reimburse costs of eligible activities as defined in Section 7 of Act 381. The OCBRA must complete a review of and pass a resolution approving a Brownfield Plan before it can be presented to the BOC for final approval. Each Brownfield Plan that is submitted to the OCBRA will be considered on a case-by-case basis and evaluated for alignment with the following priorities, as applicable:

- a. Appropriately manages human health and the environment issues.
- b. Helps to achieve the County's economic development efforts and supports talent attraction and retention for high-quality jobs.
- c. Encourages/adopts sustainable building practices and conservation of natural resources.
- d. Increases affordable and attainable housing opportunities within the County.
- e. Provides assistance to key redevelopment projects in communities that may not have the capacity to establish a Brownfield Redevelopment Authority.

2. Eligibility Criteria

To be eligible for participation in the County's Brownfield Redevelopment Program, a project shall at a minimum:

- a. Be located in Oakland County.
- b. Comply with Act 381 of 1996, as amended.
- c. Meet the definition of the term "Eligible Property" as defined in Section 2 of Act 381.
- d. Be supported by resolution from the local elected legislative body (i.e. Township Board, City or Village Council).
- e. Comply with all applicable site plan review and zoning requirements as determined by the host community.

3. Project Evaluation

An initial project evaluation shall occur prior to submittal of a Plan to the OCBRA. The following steps shall be completed:

- a. The Applicant must contact the County's Brownfield Program Coordinator and hold an informal Pre-Application Meeting. If the Applicant is applying for incentives from the State, the appropriate State representative(s) will also be invited to the meeting to discuss all aspects of the proposed project including, but not limited to:
 - 1) Type of proposed development, (including number of units, square footage, etc.), total investment, and cost of eligible activities.
 - 2) Project pro forma, cash flow analysis, sources and uses and internal rate of return (IRR) calculation, amount of anticipated TIF capture, and host community support.
 - 3) Application process, fee schedule, submittal requirements, and procedures.

- b. After the Pre-Application Meeting, the Applicant prepares a draft Brownfield Plan and provides a copy to the Program Coordinator once it's completed.
- c. After an initial review of the draft Plan, the Applicant may be asked to provide additional information and/or make requested edits to the draft Plan.

4. Application Process

For a project to be considered by the OCBRA, the following steps shall be completed:

- a. The Applicant shall contact the local unit of government where the project is located to initiate the development approval process (zoning compliance, site plan review, etc.).
- b. A Local Host Committee is formed to informally confirm project scope and host community support.
- c. Once the County deems the draft Brownfield Plan is ready for formal review, the Applicant will be requested to complete and submit the following information to the Program Coordinator:

- 1) Cover Memo with Project Description and Location
- 2)



- 3) Documentation of Site Control Proof of Ownership (e.g. property deed)
- 4) Key Approval Dates (Planning Commission, Zoning Board of Appeals, City/Village Council or Township Board)
- 5) Final Site Plan / Engineering and Building Plan sets
- 6) Renderings, if available
- 7) Project financials (in the proforma format provided by MEDC and/or MSHDA)
- 8) Cost estimates dated within six months of application
- 9) Anticipated rent roll, if a rental housing component is included in the project
- 10) Estimated number of new jobs created and retained jobs
- 11) Documentation of property eligibility under Act 381
- 12) Draft Brownfield Plan in final form

- d. Remit payment for the applicable Application Fee. The current Fee Schedule approved by the OCBRA is posted at: OakGov.com/BrownfieldRedevelopment.

5. Review

Upon receipt of an application, and prior to any public consideration of the application, the Program Coordinator will provide the relevant details of a project to other County departments and the local unit of government to confirm that the Applicant is eligible to do business with the County and the project is permissible as outlined in the Plan. The results of this review must confirm the following:

- a. The Applicant (including all individuals and non-person entities that will have an ownership interest in the project) are compliant with County and local taxing jurisdictions.
- b. The project is in conformance with the local unit of government's zoning ordinance.
- c. The Applicant is not delinquent on any financial obligation to the local unit of government or the County.

- d. The Applicant does not have outstanding written orders or an adverse history of code compliance violations.
- e. The Applicant, including its affiliated entities, have not defaulted on the terms of previously executed agreements with the local unit of government, County, or the OCBRA.
- f. After the Administrative Review is complete, the Program Coordinator will schedule a project meeting with the Applicant to discuss any questions or revisions needed to the draft Brownfield Plan. If the Applicant is applying for incentives from the State, the appropriate State representative(s) will also be invited to the meeting.

6. Approval Process

Once the draft Brownfield Plan is considered Administratively Complete, the Applicant can begin the following Approval Process:

- a. The Applicant shall seek approval from the local elected legislative body (e.g. Township Board, City or Village Council) for the proposed Brownfield Plan in the form of a resolution. If a resolution is passed by the local elected legislative body, Applicant shall notify the Program Coordinator and provide a copy of the Certified Resolution. The Program Coordinator will provide a sample resolution upon request.
- b. The project will be placed on an upcoming OCBRA meeting agenda. The Applicant will be notified of the OCBRA meeting and requested to attend the meeting, make a formal presentation, and answer any questions related to the project.
- c. If the OCBRA approves the Plan and the Program Coordinator deems that the Applicant's project information is accurate and complete, the Program Coordinator will submit the information with a resolution to the Oakland County Economic Development & Infrastructure Committee (ED&I)** for consideration.
- d. If ED&I approves, it is then forwarded to the Finance Committee** for review and approval.
- e. If the Finance Committee approves, the County will schedule and publish a notice for the Public Hearing** and forward the recommendation to the Board of Commissioners.
- f. Subsequent to holding the Public Hearing, the Board of Commissioners** will review the project and approve or deny the Brownfield Plan.
- g. Subsequent to the Board of Commissioners approving the Brownfield Plan, the Applicant shall remit payment for the Processing Fee. The current Fee Schedule approved by the OCBRA is posted at: OakGov.com/BrownfieldRedevelopment.
- h. Once payment is received and verified by the Program Coordinator, the Applicant will receive a copy of the County transmittal letter and executed Brownfield Plan.
- i. If the Brownfield Plan is approved, the County Corporation Counsel will prepare a Reimbursement Agreement specifying the agreed terms including any Administrative Fees as allowed by Act 381.

***The County's Brownfield Program Coordinator will send notice to the Applicant of the dates and times of the ED&I, Finance, Public Hearing, and BOC meetings with a request to attend the meetings to answer questions.*

7. State Incentives

If a project is seeking incentives from the State and the BOC approves the Brownfield Plan, then the following apply:

- a. Applicants must submit a 381 Work Plan (that meets the State approved format requirements) and includes the County approved Brownfield Plan and all related resolutions to the applicable State agencies (MSF, MSHDA, and EGLE as appropriate) for approval:
 - 1) The Michigan Strategic Fund (MSF) (with assistance from the Michigan Economic Development Corporation (MEDC), administers the reimbursement of costs associated with non-environmental eligible activities that support redevelopment, revitalization, and reuse of eligible property using State school taxes.
 - 2) and where applicable the Michigan State Housing Development Authority (MSHDA) administers the reimbursement of costs associated with non-environmental eligible activities that support housing redevelopment/ revitalization, and reuse of eligible property using State school taxes.
 - 3) The Michigan Department of Environment, Great Lakes, and Energy (EGLE) administers the reimbursement of department specific eligible environmental activities using State school taxes.
- b. The OCBRA recognizes that the Program is a partnership with the State of Michigan. However, if the State does not approve funding for any specific eligible activity for a project or does not approve the project, the OCBRA may on a case-by-case basis (if also supported by the host community) contribute its local proportional share of tax increment revenue capture. If the OCBRA and BOC approval a project, a portion of a project, or discrete tasks within a project to be reimbursed only from local tax increment revenues. such approval shall be supported by the host community and include an explicit definition of the approved scope.

8. Implementation

- a. After eligible activities are completed, the Development Team Representative must submit a Reimbursement Request Form (link to online fillable PDF form) to the Program Coordinator, which includes invoices and proof of payment, organized by the categories listed in the approved Brownfield Plan or 381 Work Plan. Contact the Program Coordinator for questions and details on the contents of the Reimbursement Request.
- b. The County will consult with a qualified 3rd party environmental consultant to conduct a required review and determine the validity and amount of reimbursement for submitted invoices, proof of payment, and eligible activities in compliance with the approved Brownfield Plan.
- c. Reimbursement will be limited to a maximum of 25 years in order to allow for 5 years of capture for the OCBRA Local Brownfield Revolving Funds (LBRF) established pursuant to Section 8 of Act 381, unless the OCBRA Board of Directors explicitly provides approval for project reimbursement exceeding 25 years.
- d. Reimbursable Housing TIF, Transformational Brownfield, Traditional Brownfield Plan and 381 Work Plan preparation expenses will be limited to a maximum of \$30,000.
- e. Reimbursable Housing TIF, Brownfield and 381 Work Plan implementation expenses will be limited to a maximum of \$50,000.00.

9. Annual Reporting

- a. The Developer shall provide an Annual Report (link to online fillable PDF form) to the OCBRA due on the date identified in the Reimbursement Agreement subsequent to Plan approval. The report shall be submitted with an affidavit executed by the Developer substantiating the facts in the annual report and shall include progress updates on state and local mandated items and other such information that the OCBRA may request in writing.
- b. Failure to submit an Annual Report may result in the withholding of TIF reimbursement until the report or proper waiver is submitted.

10. Fees

The associated fees pursuant to Act 381 will go into effect when the OCBRA adopts the associated Fee Schedule. The current approved Fee Schedule is posted on the Oakland County Brownfield Program webpage.

- a. Application Fee and Processing Fee will be levied for applications in accordance with an annually approved Fee Schedule. Applicants will be responsible for paying the fees in association with the OCBRA's review, approval, and processing of the application.
- b. Administration Fees will be collected annually from the tax increment revenues generated on the eligible property to fund the operation of the Program and are subject to the terms and conditions outlined in the executed Reimbursement Agreement.
- c. Local Brownfield Revolving Funds will be collected annually from the tax increment revenues generated on the eligible property during the final five years of the approved Brownfield Plan to fund the operation of the Program and are subject to the terms and conditions in the executed Reimbursement Agreement.

11. Waiver

- a. Each Plan and Reimbursement Agreement are subject to these guidelines, however, the OCBRA may waive any portion of these guidelines when the OCBRA Board of Directors determines that it is in the best interest of the County or the OCBRA.
- b. Factors the OCBRA may consider in its decision to waive any of these guidelines may include, but are not limited to the scope of investment proposed, the potential additional investment generated by the project, whether the project would otherwise occur without the financial incentive available from the OCBRA, the remediation of contaminated property and other environmental benefits, the demolition or renovation of blighted or obsolete facilities, job creation or retention, tax base protection, improvement and diversification, and neighborhood improvement.



[Brownfield Application Form](#)