

ST. CLAIR COUNTY, MICHIGAN

BROWNFIELD REDEVELOPMENT AUTHORITY POLICY AND PROCEDURES MANUAL

1. Purpose and Mission

St. Clair County actively supports the growth and development of local industry and business in a variety of ways, including areas where infrastructure, utilities and buildings already exist. This helps to preserve greenspace, open lands and makes efficient use of the capital improvements already in place in the County. Development of environmentally-distressed, abandoned and blighted properties (“Brownfields”) is also important to the County in order to eliminate blight, restore taxable value of land, create jobs and economic opportunity, and to address environmental contamination. To support this public purpose, the County established a Brownfield Redevelopment Authority in May of 2005.

It is widely recognized that there often is a greater cost associated with redeveloping Brownfield properties compared to undeveloped or uncontaminated property. The State of Michigan has enacted programs to assist in the redevelopment costs of Brownfields. State and Federal Grant and Loan programs are also available to assist with Brownfield redevelopment costs. The mission of the St. Clair County Brownfield Redevelopment Authority is to promote Brownfield Redevelopment in the County through the administration of these programs and the promotion of these incentives to the business community resulting in a better quality of life for its citizens.

2. Contact Information

The St. Clair County Brownfield Redevelopment Authority is staffed and administered by the St. Clair County Metropolitan Planning Commission. Primary contact for the St. Clair County Brownfield Redevelopment Authority is:

Mr. Geoffrey Donaldson, AICP
Senior Planner and Brownfield Director
County of St. Clair
200 Grand River Avenue, Suite 202
Port Huron, MI 48060
810-989-6950
gdonaldson@stclaircounty.org

3. Programs Administered

The St. Clair County Brownfield Redevelopment Authority (SCCBRA) has the ability to administer the County’s Brownfield Program in all areas of St. Clair County.

The SCCBRA assists in Brownfield Redevelopment activities at eligible properties through tax capture, grants, loans, and other incentives to assist with compensating for the costs related to various eligible Brownfield Redevelopment activities including:

- a) Phase I Environmental Site Assessments
- b) Phase II Environmental Site Assessments
- c) Baseline Environmental Assessments
- d) Due Care Plans (Section 7a Compliance Analysis)
- e) Brownfield Plan Development
- f) Asbestos and Lead Paint Assessment and Removal
- g) Demolition
- h) Environmental Cleanup or Mitigation
- i) Eligible Site Preparation Costs in eligible areas
- j) Public Infrastructure in eligible areas
- k) Other Response Actions necessary to redevelop or cleanup a site

The eligibility of these activities is described in Public Act 381 of 1996, the Brownfield Redevelopment Financing Act, as amended, and guidance developed by the Michigan Department of Environmental Quality (MDEQ), Michigan Economic Development Corporation (MEDC) and the Michigan Strategic Fund (MSF).

The SCCBRA administers the following programs to assist in these activities, depending upon funding availability and eligibility:

- a.) Brownfield Plans utilizing tax increment financing.
- b.) Local Brownfield Revolving Fund (LBRF) – This fund is generated from the excess capture of tax increment through an approved Brownfield Plan. Preference is to use these funds for loans or grants for eligible activities on eligible properties.
- c.) U.S. EPA Assessment Grant Funds (Hazardous Substances and Petroleum-Contaminated Sites) – Used for eligible assessment activities at eligible properties. Preference is given to projects that create economic growth and create tax increment.
- d.) Access to State Grants and Loans – As available, the SCCBRA and/or County may secure Grants and Loans from the State of Michigan to assist in redevelopment of a site.
- e.) Other funding sources.

4. Application Process

Persons wishing to access funding or program support for a Brownfield Redevelopment project shall submit a Proposed Project Application describing the project, the projected needs, benefit to the community, and other pertinent information as outlined in the application, including the appropriate application fee, if applicable, as noted in Section 6 below.

The completed Proposed Project Application Form (Appendix A), with the appropriate application fee, if applicable, will be submitted to County Staff for the Brownfield Redevelopment Authority. The applicant should provide a complete application at least two weeks prior to the next regularly scheduled meeting in order to be heard at the next available regularly scheduled meeting. Staff will provide a recommendation regarding the project based on the following criteria:

- a.) Strength of Business Plan, financial commitments, architectural plans and/or market analysis (if available);
- b.) Amount of new property tax to be generated;
- c.) Amount of investment;
- d.) Business expansion, job retention, job creation;
- e.) Location, proximity to other brownfield projects, proximity to target area(s), other factors;
- f.) Extent to which project meets zoning requirements, consistency with Comprehensive Plan/Master Land Use Plan, supported by Local Unit of Government in which proposed project is located;
- g.) For residential projects, the extent to which the project is consistent with community housing strategies, creates mixed use redevelopment and/or creates downtown housing opportunities;
- h.) Extent to which environmental conditions are alleviated;
- i.) Liability status of the applicant, eligibility of the property and proposed activities;
- j.) Adoption of Sustainability features, creation of greenspace, preservation of valuable greenspace, energy conservation measures, alternative energy techniques and/or other unique environmental factors;
- k.) Reduction of environmental and public health risks to the community and to susceptible populations.

The SCCBRA Director will respond to a formal application submittal within ten (10) business days of receipt of the application.

The SCCBRA will work closely and collaboratively with the Local Unit of Government (LUG) where the potential redevelopment is occurring in a timely manner on items related to Brownfield Redevelopment. The LUG will be sought as an active, affirmative and supportive partner in Brownfield Redevelopment work which could include the potentially eligible activities noted herein. If the SCCBRA intends to utilize a Brownfield Plan to capture local and state tax increment created by new investment on the project for the reimbursement of eligible activities undertaken by the SCCBRA, Developer or both, the LUG will be required to formally adopt a resolution that agrees with the terms of the Brownfield Plan for the site.

If a Brownfield Plan will be developed for a project, the applicant may be required to provide a processing/review fee according to the Fee Schedule as noted in Section 6 below.

5. Reimbursement and Development Agreements

Applicants accessing grant funds to complete assessments or other eligible activities may be asked to enter into a Reimbursement Agreement with a promise to re-pay the Authority's expense should the project not come to fruition. The Agreement will include a negotiated timeline in which a project must be completed, the description of the project to be completed, and the expected

investment, job creation, or other economic development activities to be completed within the term of the Agreement.

Development Agreements are also required for projects where Michigan Strategic Fund Board (MSF) approval is needed. Development Agreements will also be secured for projects accessing a loan from the Authority for redevelopment activities.

Sample Reimbursement and Development Agreements are provided in Appendix C.

For certain projects, developers may also be required to provide a Performance Bond, Letter of Credit, or other means to secure the viability of the project and the Authority's financial position in support of the project.

6. Fees

Fee Schedule:

As part of the application process an Application Fee may be assessed according to the following schedule:

- a.) For projects with an anticipated investment of \$100,000 or less the Application Fee is \$250;
- b.) For projects with an anticipated investment of \$100,000 to \$1,000,000, the Application Fee is \$500;
- c.) For projects with an anticipated investment greater than \$1,000,000, the Application Fee is \$1,000;
- d.) For certain projects, the SCCBRA Board may waive the Application Fee depending on the applicant's demonstrated financial need or business/organizational status i.e. a community-based, non-profit organization implementing a project for the "community good" in accordance with the SCCBRA's By-Laws.

If a Brownfield Plan will be developed for a project, the applicant may be required to provide a processing/review fee according to the following fee schedule

- a.) For projects with an anticipated investment of \$100,000 or less the Application Fee is \$500;
- b.) For projects with an anticipated investment of \$100,000 to \$1,000,000, the Application Fee is \$1,000;
- c.) For projects with an anticipated investment greater than \$1,000,000, the Application Fee is \$2,000;
- d.) For certain projects, the SCCBRA Board may waive the Application Fee depending on the applicant's demonstrated financial need or business/organizational status i.e. a community-based, non-profit organization implementing a project for the "community good" in accordance with the SCCBRA's By-Laws.

It should be noted that the ability of the SCCBRA to follow the above noted Fee Schedules is dependent on the availability of funding, i.e. grants and/or previously captured tax increment. If funds are not available, it may be necessary to charge the applicant the actual costs of the SCCBRA

to implement certain activities that are necessary as part of the brownfield program, i.e. public notices in the local paper. If funding is not available, the SCCBRA will work with the applicant to identify and agree to these costs.

Depending on the project, additional fees for actual Authority expenses not limited to fees for legal review, professional consultant services, credit review costs, etc. may apply. If a Brownfield Plan is established for the project, the SCCBRA, in accordance with Act 381, as amended, may annually capture local tax increment from each Brownfield Plan to cover the “Reasonable and actual administrative and operating expenses of the SCCBRA” in addition to the other eligible activities as outlined in the statute.

7. Project Considerations

Projects that require interest as part of the reimbursement are highly discouraged. The SCCBRA will only consider interest expense eligible for projects where it can be demonstrated that the project is not viable otherwise.

Consultations required by projects implemented utilizing U.S. EPA Assessment Grants, State Grants or Loans secured by the County, shall be completed by an approved consultant retained by the County Brownfield Redevelopment Authority. The Applicant shall provide access to the property for inspection by the Authority Staff and its approved environmental consultant. The applicant shall provide regular updates and timely responses to any information requests to ensure full communication and cooperation between all parties.

8. Adoption of a Brownfield Plan

The Authority shall adopt a Brownfield Plan through completion of the following, as applicable to the project:

- a.) A Draft Brownfield Plan shall be prepared by the County Brownfield Redevelopment Authority’s approved consultant. If a Brownfield Plan is prepared by another entity, the applicant shall allow the County’s consultant to review the Plan for clarity and compliance with PA 381 requirements. Costs for review of the applicant’s plan shall be reimbursed by applicant.
- b.) The Brownfield Redevelopment Authority shall review the Plan and make a recommendation for adoption of the Plan.
- c.) The Local Unit of Government in which the property exists will be made aware of the proposed adoption of the Brownfield Plan.
- d.) A presentation will be made to the Local Unit of Government and a Resolution of Supporting Adoption of the Brownfield Plan will be secured.
- e.) Notice of a Public Hearing will be provided according to the Act 381, as amended.
- f.) Not less than 10 days prior to the Public Hearing, each of the affected Taxing Jurisdictions will be provided notice of the hearing
- g.) A Public Hearing will be held at a regular scheduled County Commission Meeting or Brownfield Redevelopment Authority Meeting (if so designated by the County). Following the Public Hearing, the County Commission shall take action on the Plan, as they see appropriate.

9. Reimbursements

Request for Reimbursement

The preferred order for reimbursement through a Brownfield Plan will be:

1. Authority expenses
2. Expended grant funds
3. Loan interest and principal
4. Tax increment financing eligible developer expenses

Following payment of the above eligible expenses, it is the full intention of the SCCBRA to include the capture of an additional five full years of tax increment for deposit in the County BRA's Local Brownfield Revolving Fund. Such action helps to sustain the County's brownfield program.

Applicants who have successfully completed a project and seek reimbursement shall prepare a Reimbursement Package for submittal to the Authority Staff. The Reimbursement Package shall be provided to SCCBRA staff within 12 months of completion of the project. The Reimbursement Package shall contain the following:

- a.) A cover letter shall be included with each reimbursement request. This letter shall be signed by the property owner. The letter should include the following items:
 - Project name and location where the work was performed
 - Description of work
 - Total amount requested
 - Name and address of the owner (person or corporation) who is to receive payment
- b.) A letter from an environmental professional shall be included with each reimbursement request with the following certifications and information, as applicable:
 - The environmental professional shall certify that the reimbursement request is an eligible expense under Act 381, as amended.
 - Project name and address where the work was performed
 - Description of work
 - Certification that the work was performed as stated in the Brownfield Plan, Work Plan and/or Development Agreement
 - Total amount requested
 - Cost breakdown by line item consistent with the budget in the Brownfield Plan, Work Plan and/or Development Agreement
 - Signature and certification by an environmental professional regarding the above information
- c.) Copies of invoices, including detailed invoice sheets shall be provided for all expenses included in a reimbursement request.
- d.) Waivers of construction and material supplier liens

e.) Upon request by the SCCBRA, the developer or owner shall provide evidence that the work was completed, such as notes, reports, pictures of work performed or a letter from an engineer or environmental professional certifying that the work was performed.

Terms and Conditions of Reimbursement

If the person or corporation who is to receive payment is not the owner of record of the parcel(s) at the time of the reimbursement request, there shall be included in the reimbursement request a signed affidavit that the parcel owner of record authorizes the reimbursement to the other party.

The Package (as outlined in Section 9, Reimbursements) shall be reviewed by the Authority Staff and, once approved, the Authority Staff shall transmit a Statement to the Assessor and Treasurer of the Local Unit of Government to ensure reimbursement of the approved costs.

Reimbursement will be transferred to the Authority from the local Treasurer within 30 days following the winter and summer tax collection deadline in February and September of each year. The Authority shall transmit any payments due to the Developer within 60 days of receipt of funds from the local Treasurer or twice per year if funds are available. Authority Staff shall maintain a schedule for reimbursements based on actual tax increment revenues. Should an applicant default on taxes, the Authority shall not be obligated to make reimbursement payments until the taxpayer is current.

Reimbursements shall not be paid to contractors or consultants who have worked on the project. Reimbursements shall be paid only to persons or corporations with an ownership interest in the parcel (or with the owner's consent, the development) at the time of request for reimbursement.

10. Amendments to Policy

The St. Clair County Brownfield Redevelopment Authority reserves the right to amend this policy for different purposes which may include, but are not limited to: improvements which serve to benefit the Brownfield Redevelopment Process; changes in law and other applicable regulations on a local, state or federal level; and organizational changes affected by the County.

Changes to the policy will be approved by the Brownfield Redevelopment Authority and made available to the community at large through its Web site and other mechanisms available to the Authority.

11. Attachments

- A. Proposed Project Application
- B. Sample Reimbursement Agreement (EPA Grant Funded Projects)
- C. Sample Development/Reimbursement Agreement (Brownfield Plans)
- D. Brownfield Plan Template – refer to www.miplace.org

Attachment A

Proposed Project Application

Attachment B

Sample Reimbursement Agreement (EPA Grant Funded Projects)

Attachment C

Sample Development/Reimbursement Agreement (Brownfield Plans)