

Introduction and Project Description

The City of Ann Arbor and a private developer (the “Developer”) have engaged in a Public-Private Partnership (PPP) to transform several adjacent existing parcels in a walkable, mixed-use district developed over five phases. The project includes more than 1,000 units of housing, a hotel, street-level retail, open space, plazas, and three public parking structures. In addition, approximately 200 units of affordable housing will be provided, ultimately to be owned and managed by the Ann Arbor Housing Commission.

The involved parcels are either Functionally Obsolete, or a Facility, and Adjacent and Contiguous to those qualifying parcels.

In order to achieve the development, substantial investment in public infrastructure is required, notably three public parking structures. The Agreement between the developer and City (the “Public-Private Development Agreement” or the “PPA”) outlines the responsibilities of the parties regarding the construction of the structures and their ultimate ownership by the City. The structures are included as “Priority 1” Eligible Activities in the Brownfield Plan, and will be reimbursed using Tax Increment Revenues (“TIR”) from the County Brownfield Authority. A three-party Reimbursement Agreement between the Authority, the City and the Developer will lay out details of the reimbursement, with the priority being that available TIR will be first made available to the City to service the bonds required to construct and/or purchase the structures.

Additional “Priority 2” on-site and off-site infrastructure Eligible Activities are included, of which \$25M has been dedicated for a future City-constructed utility improvement. Any TIR revenue available, after first funding Priority 1 Eligible Activities, will be used to reimburse for Priority 2 activities. The forthcoming Brownfield Reimbursement Agreement will provide details of the prioritization of Eligible Activity reimbursement.

Total private investment is projected at \$406,000,000, and total Eligible Activities planned for reimbursement through this Brownfield Plan are \$373,825,905. City-reimbursable parking structure Priority 1 activities are estimated at \$184,866,844, including 5% Interest, and Priority 2 Eligible Activities are estimated at \$160,188,060, also including 5% Interest. The projected total reimbursement of all Eligible Activities over 30 years is projected to be \$299,763,596. Eligible Activity total in the Plan exceeds the total projected Tax Increment available for reimbursement to allow for flexibility in the future to cover the difference, should TIR grow and become available beyond current projections.

After the Brownfield Plan is approved by the City, the Plan will go to the Washtenaw County Brownfield Redevelopment Authority for recommendation, then to the County Board of Commissioners for Adoption. These steps approve the use of Local Millages for reimbursement of Eligible Activities. An Act 381 Work Plan will then need to be submitted to the Michigan Economic Development Corporation for approval by the Michigan Strategic Fund (MSF). This approval will allow the capture of School Taxes to assist with reimbursement of Eligible Activities.

Brownfield Plan Review Criteria

1. Developer-reimbursable Brownfield TIF shall not exceed 20% of overall project investment. This limit does not apply to projects with \$3 million or less in private investment, not including property acquisition costs.

This standard is intended to ensure a reasonable balance between private investment and public contribution, and is applicable to most Brownfield Plans where a public entity does not have a direct financial role. This project is unique as a PPP. The City will ultimately be reimbursed for 100% of the Priority 1 Activities that include the construction of three parking structures. Both the City and Developer have agreed to split the remaining Priority 2 activities 50/50. Ultimately, developer reimbursement as a proportion to private investment is not determined at this time, but it could exceed 20% of private investment.

2. Brownfield TIF incentives shall not be reimbursed to (benefit) a Liable Party, nor used to finance brownfield activities that are otherwise the legal responsibility of a Viable Liable Party. Primary Responsible Parties are identified and pursued by the MDEQ.

Plan meets standard. To staff's knowledge, the proposed incentives will not benefit a Liable Party.

3. If a project includes residential land use, and Non-Environmental Eligible Activities are requested, and is not already paying a Fee in Lieu of providing affordable housing as part of a Planned Unit Development, affordable housing must be included. In those cases at least 15% of the total number of units must be provided to households that earn a maximum of 60% of the Area Median Income, with rents established using MSHDA rents and MSHDA PHA Utility Allowances, for at least 99 years.

- a. If for-sale residential units are proposed, AMI limits still apply and sales price will be limited to maintain affordability over the required affordability period.

Approximately 20% of the total units will be designated as affordable housing, available to households earning up to 60% of the Area Median Income (AMI), and will be owned and operated by the Ann Arbor Housing Commission ("AAHC"). The City's Brownfield Policy generally requires that affordable units be included within the developer's own project. In this case, while the affordable units will be integrated into the overall master development, they will ultimately be owned and managed by the AAHC, which is an approach that offers administrative efficiencies and results in more affordable units than would otherwise be required. Accordingly, the Concurring Resolution includes a waiver of this specific policy provision.

4. If a project does not include residential land use, and is not already paying a Fee in Lieu as part of a Planned Unit Development, and Non-Environmental Eligible Activities are requested, a payment in lieu of providing the required affordable housing is required. The payment in lieu amount shall be \$50,000 + 2% of the overall private investment, to be reserved by the Brownfield Authority and remitted to the City from first Tax Increment capture available for reimbursement to developer for Eligible Activities.

This standard does not apply in this instance. Should the developer be unable to construct the affordable units as proposed, the PPA includes provisions outlining the circumstances and methodology under which a payment-in-lieu would be required.

5. If only Environmental Eligible Activities are requested, affordable housing is not required, and the project will generally be supported with the assumption of the inherent benefits of a cleaner environment and protection of public health. The City strongly favors additional remediation beyond minimum required for Due Care and compliance with applicable environmental standards. Examples include remediation beyond property boundaries within adjacent street rights-of-way and properties where such actions will result in meaningful current and/or future protection of public health.

Approximately \$2M in Environmental Eligible Activities are included to address the existing gas station, designated a Facility. Staff has not performed a review of whether there is opportunity for additional remediation within adjacent rights-of-way. This will be explored further with the developer, with the presumption there is sufficient budget in the Environmental Eligible Activity category.

6. Additionally, Non-Environmental Eligible Activities will only be considered if:

- i. Total of non-environmental activities does not exceed environmental, unless the project provides affordable housing, or Fee in Lieu, in accordance with #4, above; AND

Plan meets standard. Non-environmental activities exceed environmental, but affordable housing is provided.

- ii. Projects that can demonstrate the project meets MEDC requirements, and the MEDC has given verbal conceptual support for the project. However, projects may be supported that do not qualify for MEDC support, if determined to be a local priority;

Extensive discussions and review of the proposed Plan with the MEDC have occurred, and the MEDC's support is anticipated. However, if any non-environmental line items costs are not supported by the MEDC, the proposed Plan calls for those costs to be reimbursed with Local Millages. (The proposed \$2M in Environmental costs are proposed to be 100% Local Only, therefore State approval is not involved).

- iii. A real financial gap in project feasibility can be demonstrated.

Due to the complexity of the project, the City engaged its municipal financial advisor, PFM, to review cost estimates and revenue projections. Based on PFM's analysis, the project as proposed would not be financially feasible without City participation, as the developer's projected returns fall below the thresholds typically required for a project of this type. The City concurs with PFM's findings and concludes that a demonstrable financial gap exists, and that the project would not proceed "but for" the capture of tax increment.

7. Public Infrastructure Non-Environmental Eligible Activities must demonstrate an area-wide benefit, and not only serve the proposed development. The proposed infrastructure upgrade shall not be an improvement that would otherwise be required to support the development. The City also encourages infrastructure that result in exemplary improvements in energy efficiency.

There are various Non-Environmental Eligible Activities that will result in area-wide benefit, including transportation, sewer trunkline, transit, and utility improvements. The parking structures ultimately support a denser, more vibrant neighborhood that acts as a mixed-use destination for the area.

8. The environmental conditions and/or extraordinary costs associated with urban, infill development prevent a reasonable Return on Investment for the developer.

The project is located within one of the most automobile-oriented areas of Ann Arbor, currently characterized by uses such as surface and structured parking and a gas station. The City has identified this corridor as a priority area for reinvestment, with the long-term goal of transforming it into a walkable, mixed-use hub. Retrofitting a suburban, auto-centric environment into a more urban, pedestrian-oriented setting involves substantial environmental remediation and other extraordinary costs that would not be financially feasible without City participation. As previously noted, PFM's analysis confirmed that the project would not meet the investment thresholds necessary for a private developer to undertake independently.

9. Interest, permit review fees, building review fees, sewer disconnect fees, as an additional brownfield eligible expense, will not be considered eligible expenses.

These activities are not included in the list of Priority 1 or Priority 2 Eligible Activities, with the exception of Interest. Interest is an Eligible Activity under Act 381 and MEDC Guidance, and necessary for the PPP to succeed. In addition, ultimately, there are costs associated with the construction of the parking structures that the developer will incur, including permit and building review fee, which will be reimbursed through the City's purchase of those structures. In order for the City to sufficiently finance the purchase of the structures (which includes payment of interest on City-issued bonds), those costs will ultimately be financed (through assignment of tax increment revenue to the City) by the Brownfield Plan.

10. Total TIF capture period for developer reimbursement may be limited to below the maximum 30 years allowed by statute, as negotiated with the City. Any such capture period shall explicitly identify duration and eligible activities, inclusive of administrative and local brownfield revolving fund activities.

To ensure financial feasibility, the Plan anticipates the 30-year maximum allowed by Statute. Limiting capture by Resolution to less than 30 years is not advisable.

Staff Recommendation:

City Administration of the City of Ann Arbor recommends approval of the Brownfield Plan for the Arbor South Redevelopment.