

Broadway Park Redevelopment Brownfield Plan
City of Ann Arbor Brownfield Review Committee

Broadway Park Redevelopment Brownfield Plan (Amendment #1)
Staff Report

MEETING DATE: May 6, 2025

PROJECT: Broadway Park Redevelopment

ADDRESS: 841 Broadway Street

BROWNFIELD PLAN DATE: **Original Date** May 20, 2019
Amendment #1 Date April 28, 2025

PROPOSED PROJECT: The Broadway Park Brownfield Plan was originally approved on August 7, 2019, by the Washtenaw County Board of Commissioners, but was delayed through the pandemic. It consists of a large public recreation component, to be developed, owned and managed by a non-profit Conservancy (Lower Town Riverfront Conservancy”) and residential condominiums, retail, hotel, and associated public/private parking.

Since the time of approval, the COVID-19 pandemic caused disruptions on project commencement. In addition, significant costs increases have occurred, construction and permanent financing interest rates have increased. This amendment to the Broadway Park Redevelopment Brownfield Plan (Amendment #1) is for the following purpose:

1. Update eligible activity categories to more accurately reflect site conditions and developer incurred expenses with the exclusion of activities ARPA funds were utilized for.
2. Update capture period to reflect experienced project delays.
3. Table 1 reflects a current EGLE grant proposed for an additional \$501,000 in funding, which if received, would help reduce the Brownfield TIF EGLE Eligible Activities.

No increase in total reimbursement amount is being requested, nor is the total duration of developer reimbursement period. The Brownfield Plan started collection of initial property tax increment revenues (TIR) in 2020 and anticipates a significant increase in TIR beginning in 2027-2033.

There will still remain publicly accessible, multifunctional green space with 8.7 acres of the currently unused, environmentally impacted, vacant land north and west of the proposed buildings that will be transformed into outdoor recreation space. A 7,800 s.f. pavilion, river trail, and pedestrian bridge to the Border to Border Trail are included. River access will be provided via areas for canoes, kayaks, etc. These amenities will be managed by a Conservancy, in perpetuity.

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While the overall PUD Plan since 2019 is fairly consistent, the developer will now be providing approximately 20 affordable housing units, instead of paying the “Fee in Lieu,” required by the City’s Brownfield Policy. Below is the 2024 revised PUD Plan:

In addition, a \$20M state earmark was awarded to the project to assist the Conservancy with development costs. With economic conditions having changed substantially since 2019, and the \$20M earmark, and increases in certain costs for the project (particularly the public recreational Non-Environmental costs), a Brownfield Plan Amendment #1 was necessary to identify the budget line-item adjustments due to the additional Grant funding and is identified in Table 1, as attached.

The County secured a \$499,000 EGLE grant in 2021 to assist the Conservancy with remediation on the public portion of the development. That grant was fully reimbursed and closed in 2024. EGLE has invited the County and Conservancy to apply for another \$501,000 grant (remaining amount up to the maximum eligible \$1 Million) to assist with final environmental activities on the public recreation areas. The EGLE Grant Application will be authorized by the County Board of Commissioners to be submitted to EGLE on August 6, 2025.

Private investment by the applicant is estimated at \$70,500,000, while additional investment by others of the hotel, restaurant, and commercial space will increase total investment to an estimated \$100,000,000.

The grand total Eligible Activities remains the same, at \$17,336,999 and the TIF payoff period is still estimated at 13 years for developer reimbursement, and 14 years for full reimbursement. The proposed Brownfield Plan Amendment #1 will use Tax Increment Financing to reimburse the developer for both Environmental and Non-Environmental Eligible Activities, estimated at \$6,208,500, and \$11,128,499, respectively. The total capture period is estimated at 14 years and includes 7% of annual TIF capture to be deposited in the County’s Local Brownfield Revolving Fund, projected to be \$4,175,247. Some of this annual 7% capture may instead be utilized for County Administrative expenses, as needed and at the discretion of the County Brownfield Authority.

As required by Act 381, 50% of the captured State Education Tax will be captured and remitted to the State of Michigan State Revolving Fund.

The Washtenaw County Brownfield Redevelopment Authority (WCBRA) approved of the Broadway Park Redevelopment Brownfield Plan, Amendment #1 (Plan) on May 6, 2025 conditioned on the support from the City of Ann Arbor City Councils concurrence of support for the Plan.

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Below is the Site Location map and a 2024 revised PUD Plan:

1 – Site Location

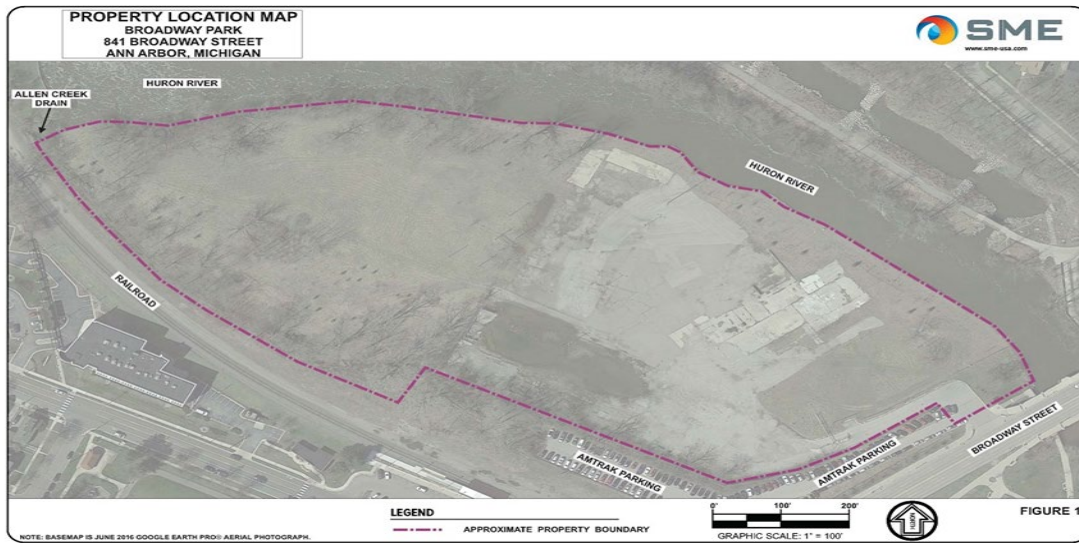


Figure 2 – Conceptual PUD Plan



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ELIGIBILITY: The property is eligible for Brownfield Tax Increment Financing (TIF) as it meets the definition of a Facility, pursuant to Part 201 of Michigan's Natural Resource and Environmental Protection Act (PA 451 1994, as amended). Soil and groundwater on the Property is contaminated with multiple hazardous substances at levels above established criteria.

BROWNFIELD PROCESS: The City of Ann Arbor participates with the Washtenaw County Brownfield Redevelopment Authority and has successfully partnered on numerous previous Brownfield projects. The Brownfield Plan approval process is generally as follows:

1. *City Brownfield Review Committee makes recommendation on Brownfield Plan*
2. *City Council Public Hearing and approves Brownfield Plan*
3. *County Brownfield Redevelopment Authority makes recommendation on Brownfield Plan*
4. *Washtenaw County Board of Commissioners notifies taxing jurisdictions, publishes notice of Public Hearing, holds Public Hearing and Adopts the Plan.*

The Plan Amendment #1 approval at the local level only secures the capture of local taxing millages in reimbursement of Eligible Activities. In order to secure capture of state school millages, the developer will prepare an Amendment to the Act 381 Work Plan(s) (Work Plan), on behalf of the County Brownfield Authority. The Work Plan(s) will be submitted to the Michigan Department of Environment, Great Lakes, and Energy (EGLE, formerly MDEQ) and the Michigan Economic Development Corporation (MEDC), approvals by both of which will allow the capture of State School taxes towards financing of Eligible Activities.

BROWNFIELD CONDITIONS: Existing data from initial Brownfield Plan approval in your staff report below.

From 1899 until the 1940s the Property was a manufactured gas plant, owned by the Michigan Consolidated Gas Company (Michcon, and later DTE), which was the source of significant environmental contamination on the site. Volatile organic compounds, semi-volatile organic compounds, metals, and other organic and inorganic compounds have been documented in the soil and groundwater at concentrations greater than established residential and nonresidential use criteria promulgated by the Michigan Department of Environment, Great Lakes, and Energy (EGLE). In addition, (non-aqueous phase liquid in the form of) coal tar is present at the Property.

A "Response Activity Plan" (RAP) dated February 19, 2018 was submitted to the MDEQ by SME, the Environmental Consultant for the developer, and a link will be provided to the BRC to the document. The RAP was conditionally approved by the MDEQ in an October 2, 2018 letter (link provided). As stated in section 1.4 A of the RAP:

The purpose of the RAP is to present: 1) the cumulative results of environmental assessments of soil and groundwater on the Property, 2) evaluations of the exposure pathways and risks to human health

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and the environment posed by identified environmental conditions, and 3) the response activities proposed to mitigate those risks.

It's important to distinguish proposed actions of the developer to address brownfield conditions in order to redevelop the property, from those responsibilities of the Liable Party, DTE Energy. The developer cannot include response actions in the RAP, or funded through TIF, that are the responsibility of the Liable Party. The City, County and EGLE will coordinate all response activities on the site to ensure Liable Party activities are separated from TIF-supported activities.

LIABLE PARTY STATUS OF DTE ENERGY:

The site owner, DTE Energy, is a recognized Viable Liable Party for the brownfield conditions of the property, as the entity that caused the brownfield contamination on the site. Section III, M. of the Brownfield Plan provides information on DTE's previous environmental clean-up activities, estimated at \$6 million, as well as additional required remediation activities, at a cost of approximately \$250,000 - \$350,000. The additional activities include removal of more contaminated soils, and continued monitoring of previous clean-up activities. These Liable Party responsibilities are not included in the Brownfield Plan and will not be reimbursed under the Plan. A more detailed description of historic remediation activities can be found in Section 2.1 of the Response Activity Plan dated February 19, 2018, conditionally approved by the MDEQ on October 2, 2018. As a Liable Party, DTE is only responsible to remediate the site to "industrial" standards. The proposed buyer and developer is proposing residential and recreational uses, which require a higher clean-up standard according to State environmental standards.

CITY TECHNICAL REVIEW OF REDEVELOPMENT STRATEGY:

The City requested a technical review of the proposed Plan and redevelopment approach by TetraTech, and environmental consulting firm that performs other environmentally related analysis for the City. Please refer to the attached review letter dated April 2, 2019 to Derek Delacourt, City Community Services Administrator, from Patti McCall, of TetraTech. This review was done of an earlier version of the Brownfield Plan but is still valid. The current Plan, dated May 20, 2019, includes minor revisions and the cap on Non-Environmental Eligible Activities, and an updated base Taxable Value from \$569,000 to \$570,000. The TetraTech letter also included review of a Response Activity Plan, dated February 19, 2018, submitted by the developer to the MDEQ.

TetraTech summarized the redevelopment approach proposed by the developer, and included eight (8) recommendations, most of which will be addressed with the submittal of the Act 381 Work Plan. Staff requested the developer provide responses to the recommendations, which were received and included in a memo to the City from SME, the environmental consultant for the developer, dated May 10, 2019.

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PROPOSED ELIGIBLE ACTIVITIES:

The Table below identifies the 2019 approved Eligible Activities, and the 2025 proposed revisions. In addition, Table 1 attached identifies the additional grant funding and additional detail related to the budget-line item adjustments.

Environmental Activities generally have been reduced from about \$9.2M to \$6.2M due to the \$1 Million EGLE Grants (inclusive of the \$501,000 currently in process of review by EGLE), and the earmark (ARPA) funding from the State in the amount of \$1,149,539. Non-Environmental, on the other hand, is proposed to increase from the capped \$8M amount to \$11.1M.

Despite a significant amount of the \$20M earmark funding going towards the public recreation costs, project costs increased further, according to what is being proposed. A small amount of EGLE and MSF Interest has been added to the Plan Amendment, as well. NOTE: on page 13 of the Plan Amendment there is new language about Interest – that the amount shown is not a cap, but rather Interest will accrue at 5% simply interest and could “backfill” total TIF, should hard Eligible Activity costs be lower than projected. This approach was discussed between the City, staff, and developer.

The grand total Eligible Activities remains the same, at \$17,336,999 and the TIF payoff period is still estimated at 9 years for developer reimbursement, and 10 years for full reimbursement. The City had placed a 14-year cap on the 2019 Plan, but since capture started in 2020 on small amounts of Taxable Value appreciation, the cap on the “date that the Brownfield Plan expires should be extended to accommodate on the delayed start date.

The Authority approved of the Brownfield Plan Amendment on May 6, 2025 contingent on Ann Arbor City Council approval. This will allow the Plan Amendment to go before City Council on July 21, 2025 and forward to the Board of Commissioners’ adoption at their August 6, 2025 meeting.

Act 381 allows projects within the City of Ann Arbor to use TIF to finance both Environmental and Non-Environmental Activities. Below is a summary of Eligible Activities the developer is seeking to be reimbursed for using Tax Increment Financing.

Environmental Activities (Approved by EGLE)	Brownfield Plan	Proposed Amendment
Baseline Environmental Assessment Activities	\$ 14,500	\$0
Due Care Activities – Planning, Coordination, Investigation and Documentation	\$ 595,000	\$5,131,773
Due Care Activities – Design and Construction, including soil remediation and vapor mitigation	\$7,449,564	
Brownfield Plan and Work Plan Preparation	\$ 90,000	\$7,500
15% Contingency	\$1,187,935	\$769,766
Simple Interest		\$299,461

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<i>Environmental Sub-Total</i>	<i>\$9,336,999</i>	<i>\$6,208,500</i>
Non-Environmental Activities (Approved by MEDC)		
Demolition	\$ 200,000	\$200,000
Public Infrastructure Improvements (streetscapes, water/sewer, public recreation, surface and deck parking, ped bridge, dam repairs)	\$ 8,591,857	\$8,570,739
Site Preparation	\$ 553,950	\$430,864
Brownfield Plan and Work Plan Preparation	\$ 45,000	\$7,500
15% Contingency	\$ 1,401,871	\$1,380,240
Simple Interest		\$539,156
<i>Non-Environmental Sub-Total</i>	<i>\$10,792,678</i>	<i>\$11,128,499</i>
City-Recommended Cap on Non-Environmental Activities	<i>\$ 8,000,000</i>	<i>\$11,128,499</i>
Grand Total Developer-Reimbursable Activities	<i>\$17,336,999</i>	<i>\$17,336,999</i>

In addition to the above developer-reimbursable costs to be financed with TIF, 7% of annual TIF capture, or a total of \$4,175,247, is proposed for deposit Washtenaw County's Local Brownfield Revolving Fund (LBRF), a portion of which may be captured by the Authority to fund Administrative costs of the brownfield program. The LBRF fund is utilized to support Brownfield redevelopment projects in the region. Finally, \$1,363,042, will be captured for the State Revolving Brownfield Fund, which is the capture of 50% of the State Education Tax required by Act 381. These funds are distributed to the MDEQ and MEDC to support administrative operations of those agencies for TIF projects.

The Brownfield Plan projects 14 years of TIF capture to fully reimburse all costs contemplated in the Plan. In reference to the footnotes to the TIF Tables, a 3-4 year build-out period is assumed, during which the full Taxable Value will be realized. A 2% increase in annual Taxable Value is assumed after project build-out.

Figure 3, on the next page, provides Table 1 from the proposed Brownfield Plan, which shows proposed Environmental and Non-Environmental activities to be financed through TIF:

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BROWNFIELD PLAN AMENDMENT REQUEST		
ELIGIBLE ACTIVITIES	TOTAL ELIGIBLE COST	
ELIGIBLE DEPARTMENT SPECIFIC (EGLE) ACTIVITIES ⁽¹⁾		
	Original Request	Amended Request
BEA Activities⁽²⁾ Phase I ESA BEA Report	\$14,500	\$0
Due Care Activities Due Care Planning and Coordination Due Care Investigations Due Care Plans and Documentation No Further Action Report Security Fence Remediation of Direct Contact Issues in Public Space Management and Disposal of Contaminated Soil Management and Disposal of Contaminated Dewatering Effluent Soil Stabilization Vapor Mitigation Controls Human Direct Contact Mitigation - Developed Areas Dust, Runoff, and Track-out Control Prevent Exacerbation of Contaminated Groundwater - Utilities Prevent Exacerbation and Human Exposure - Utilities Due Care Design, Engineering, Management and Coordination Construction General Conditions Field Monitoring and Management - Environmental	\$8,044,564	\$ 5,131,773
Contingency (15%)	\$1,187,935	\$769,766
Act 381 Work Plan Preparation and Implementation⁽²⁾	\$45,000	\$7,500
Subtotal Department Specific Activities	\$9,291,999	\$5,909,039
Interest ³	\$0	\$299,461
Total Department Specific Activities	\$9,291,999	\$6,208,500
ELIGIBLE NON-ENVIRONMENTAL (MSF) ACTIVITIES ⁽¹⁾		
	Original Request	Amended Request
Demolition Activities Remaining Pavements, Asphalts, Slabs, Utilities, and subsurface structures	\$200,000	\$200,000
Public Infrastructure Improvements - Public Right of Ways Paving and Streetscapes Traffic Control Utility/Power Pole Relocation Municipal Water Main Upgrades Sanitary Sewer Improvements Geotechnical Engineering Architectural and Engineering Desgin, and Surveying/Staking Services Site Construction Management Construction General Conditions	\$1,230,150	\$1,178,747
Public Infrastructure Improvements - Public Area River Trail Paddle Craft Launch Pedestrian Bridge over Huron River Event Flex Parking Public Improvements to Broadway Park East Geotechnical Engineering Architectural and Engineering Desgin, and Surveying/Staking Services Site Construction Management Construction General Conditions	\$2,329,454	\$1,108,131
Public Infrastructure Improvements - Other Infrastructure Repairs - Argo and Geddes Dams Parking Structures (50% Public) River Street Construction Geotechnical Engineering Architectural and Engineering Desgin, and Surveying/Staking Services Site Construction Management Construction General Conditions	\$5,032,253	\$6,283,860
Site Preparation Activities - Public Area Geotechnical Engineering Design, Engineering, and Surveying Services Site Construction Management Construction General Conditions	\$233,020	\$300,000
Site Preparation Activities - Developed Area Clearing and Grubbing Site Grading and Land Balancing Permanent Retaining Wall Geotechnical Engineering Design, Engineering, and Surveying Services Site Construction Management Construction General Conditions	\$320,930	\$130,864
Contingency (15%)	\$1,401,871	\$1,380,240
Act 381 Work Plan Preparation and Implementation²	\$45,000	\$7,500
Subtotal Non-Environmental Activities	\$10,792,678	\$10,589,343
Non-Environmental Activities Cap	\$8,000,000	N/A
Interest ³	\$0	\$539,156
Total Non-Environmental Activities	\$8,000,000	\$ 11,128,499
BROWNFIELD PLAN		
Brownfield Plan	\$ 45,000	\$ -
TOTAL ELIGIBLE ACTIVITIES⁽⁴⁾	\$ 17,336,999	\$ 17,336,999