

### Introduction and Project Description

The developer proposes a new six-story hotel at 310 E. Huron, the southeast corner of E. Huron and S. Fifth. The hotel will have 139 keys. Estimated private investment is \$16,000,000. The project has received Site Plan approval previously. The developers conducted additional environmental due diligence, based on lending requirements, and it was determined that there are sub-surface environmental concerns due to historic auto repair and dry-cleaning operations.

The developer has proposed a Brownfield Plan, which includes up to \$1.167 million in possible Environmental Activities. These include environmental investigation, contaminated soil removal, and vapor mitigation controls, and site demolition activities that are environmental in nature. The Brownfield Plan was approved by the Washtenaw County Brownfield Redevelopment Authority on August 22, 2024, contingent on Ann Arbor City Council approval. This was done, as the Authority will not meet in September.

Due to the timing of the construction, seeking an Act 381 Work Plan to secure capture of State School Taxes as a cost share of the environmental is not feasible. Therefore, pursuant to County Brownfield Authority policy, the proposed Brownfield Plan only reimburses 61.5% of the submitted environmental costs. This portion represents the local taxing millages share of the TIF reimbursement, *had* the State participated. Therefore, the maximum developer-reimbursable environmental activities will be \$749,529. The Authority will capture State School taxes to assist with reimbursement of the “Pre-Approved” environmental assessment activities, without State approval of a Work Plan, as this is permitted by Act 381.

The Developer has committed to several green energy and sustainability improvements for the development, to accompany the Brownfield Plan Tax Increment Financing. These include solar panels on the building and installing the most efficient electric vertical terminal air conditioners (VTACs) in the guest rooms. The VTACs will be the most efficient commercially available, as opposed to less efficient electric units, or switching to gas units that have ongoing operating expense savings.

### 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.

Plan meets this standard. Proposed developer-reimbursable Brownfield TIF is \$749,529 (4.7%) of a total project investment of \$16,000,000.

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, no Liable party has been established by the Department of Environment, Great Lakes, and Energy (EGLE).

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.

Plan meets standard. The project does not include residential land use, therefore cannot provide affordable housing.

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.

Plan meets standard. The project is only proposing Environmental Activities, so a Fee in Lieu is not 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.

Staff has not performed this review, however will review and seek opportunity for additional remediation in adjacent rights-of-way with the developer if possible.

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
- 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;

The MEDC will not be involved, as Non-Environmental Activities are not proposed.

AND

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

Since the project is already underway, we cannot determine that a real financial gap exists. However, the developer could make cuts elsewhere to offset the additional remediation expense. Those cuts would likely result in less energy efficiency and sustainability upgrades. In this situation, the intent of awarding a brownfield TIF is to ensure these updates are completed as promised. Staff initiated the conversation and ultimately suggested the Brownfield TIF to offset the additional costs instead of removing non-required elements that are desirable to the City and County.

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.

This standard does not apply, as only Environmental Activities are proposed.

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

Since the project is already underway, we cannot determine that the developer is unable to achieve a reasonable return on investment. As stated above, the developer could make cuts elsewhere to offset the additional remediation expenses. Those cuts would likely result in less energy efficiency and sustainability upgrades. In this situation, the intent of awarding a brownfield TIF is to ensure these updates are completed as promised.

Approving the plan accomplishes two desired benefits; first ensuring the City and County have a role in approving the remediation. Second, it ensures the desired sustainable elements of the project remain in place. It is not normal practice to offer Brownfield TIF post project approval however, this issue was not identified until after the approval. This is a relatively small plan with a short reimbursement period. Staff considers the above stated benefits to be an appropriate tradeoff for the reimbursement.

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

The Plan meets this standard. These costs are not included.

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.

The Plan projects a 5-year reimbursement period. It is recommended that the Brownfield Plan Approval Resolution include a condition that reimbursement be limited to 8 years.