



BROWNFIELD POLICY MEMO

City of Ann Arbor Brownfield Policy

Background: The City of Ann Arbor has been a member of the Washtenaw County Brownfield Redevelopment Authority (WCBRA) since 2002. The Authority was formed pursuant to Act 381, to redevelop brownfield sites within the region. As of 2019, eight (8) brownfield projects have been completed successfully within the City of Ann Arbor, representing \$223 million in new private investment, and 496 new jobs. Four (4) additional projects are either approved or under construction, reflecting an additional \$256 million in private investment. Including all completed and approved or under construction Ann Arbor brownfield projects, the total Tax Increment Finance (TIF) incentives granted to finance eligible brownfield activities is approximately \$39 million. The required pay-back period, before captured incremental taxes are no longer needed and the taxing authorities realize the increase, is an average of 14 years per project. For every \$1 of TIF investment, \$12.5 in private investment is leveraged. The overall benefits are far greater if other factors are considered, such as mitigation of public health threats, job creation, blight removal, and community revitalization.

Brownfield Incentives are Voluntary: Approving Brownfield Plans that include TIF revenues to finance eligible brownfield activities is a discretionary development incentive. The City's priority in utilizing Brownfield TIF is environmental remediation and protection of public health and safety. . As described in this policy, additional public benefit needs to be provided in order to support non-environmental activities such as the provision of affordable housing, energy efficiency, and public infrastructure improvements, not otherwise required to support the development, that results in an area-wide benefit. As development activity has increased in the last several years, the City has increased its scrutiny of the need to approve TIF for brownfield projects. While a rigorous financial analysis is conducted by the City's Financial & Administrative Services Area to ensure developer returns are not excessive, actual developer returns have exceeded pre-development estimates in some instances. Therefore, avoiding excessive returns and safeguarding public funds is a more difficult endeavor. Nonetheless, this project review is integral to demonstrating that the use of TIF to finance brownfield activities is a legitimate public purpose.

While increasing scrutiny of the need for brownfield developer incentives is appropriate, the value of using Brownfield TIF provided through Act 381 is not in question. Brownfield TIF provides an excellent tool to assist the City and developers to redevelop challenging brownfield and urban infill sites in a more efficient way, from the local perspective, primarily due to the ability of Brownfield Plans to authorize the capture of all available, non-debt, local and state tax millages to reimburse approved brownfield eligible activities. While TIF plans draw from the majority of the taxing jurisdictions, the direct impact to City millages represents about 25% of the total TIF capture.

Purpose: Through development and adoption of this City of Ann Arbor Brownfield Policy, the City intends to provide a clear process for interested parties to request and pursue brownfield incentives, develop an expanded set of criteria by which brownfield TIF incentives will be reviewed, and remove ambiguity around when, and if, the City will support the capture of TIF for redevelopment of brownfield sites within the City. This policy memo is further intended to emphasize that in order to qualify for public financing of brownfield expenses, preferred public purpose goals must be met. More specifically, it is intended that the following is accomplished:



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1. Adopt a set of clear criteria that proposed brownfield projects must meet in order to secure Brownfield TIF.
2. Establish a clear administrative process for reviewing and approving proposed projects seeking Brownfield TIF.
3. Support projects through the adoption of a Brownfield Plan that will advance locally-identified community priorities, such as the provision of new affordable housing.

With adoption of this policy it will apply to all new projects seeking brownfield incentives. After a 24 month period, a report will be made to City Council on its effectiveness and results.

Brownfield Plan Review Criteria (all criteria must be met, if applicable):

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.
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.
4. 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.
5. 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 taken from available TIF revenues prior to developer reimbursement for Eligible Activities.
6. 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.
7. 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



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- 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; AND
 - iii. A real financial gap in project feasibility can be demonstrated.
8. 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.
9. The environmental conditions and/or extraordinary costs associated with urban, infill development prevent a reasonable Return on Investment for the developer.
10. Interest, permit review fees, building review fees, sewer disconnect fees, as an additional brownfield eligible expense, will not be considered eligible expenses.
11. 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.

Brownfield Plan Review Procedures:

- a. Projects seeking Brownfield TIF incentives must first be submitted to designated Washtenaw County Brownfield staff to review the project and determine if the project generally meets adopted brownfield program policy.
- b. If County staff determines the project is, or will likely be, substantially consistent with this policy, the request will be reviewed by City staff, and if there is consensus, invited to make formal application to the City of Ann Arbor Brownfield Review Committee (BRC).
 - i. Formal application for Brownfield TIF incentives includes: 1) Submit Brownfield TIF application and pay required fee; 2) Draft Brownfield Plan, including project information, proposed community benefits, proposed eligible brownfield activities, and proposed TIF tables.
- c. Once formal application is made, the draft Brownfield Plan will be submitted for review and comment by a Sub-Committee of the County Brownfield Authority.
- d. The applicant must coordinate with the City's Financial & Administrative Services Area to submit pro-forma financial documentation so that a financial analysis can be conducted, including a review of market & economic assumptions, impact to taxing authorities, capture by all brownfield projects as a percentage of total city tax revenue should the proposed project be approved, developer Return on Investment (ROI), recommended level of TIF capture, recommended level of BRA administration fee, and recommended contribution to Local Brownfield Revolving Fund.
- e. Once the financial analysis is completed, and a draft Brownfield Plan has been developed in cooperation with City and the County Brownfield Authority Sub-Committee, a final staff review and



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- recommendation will be completed, and accompany the application to the BRC for final recommendation to Ann Arbor City Council.
- f. After BRC recommendation on the proposed Brownfield Plan, it will proceed to Ann Arbor City Council.
 - g. Ann Arbor City Council will take action on the Brownfield Plan concurrently with any land use/site plan/zoning approvals for the project.
 - h. After Ann Arbor City Council approval, the Brownfield Plan will be placed on the next available agenda for the Washtenaw County Brownfield Authority.
 - i. After WCBRA recommendation, the Brownfield Plan will be scheduled for a Public Hearing and final adoption by the Washtenaw County Board of Commissioners (BOC).
 - j. The BOC will schedule a public hearing, hold the public hearing, and take action on the Brownfield Plan.

March 7, 2019

FINAL DRAFT