



**Washtenaw County Brownfield Redevelopment Authority  
Program Policies and Procedures  
Revised and Re-Adopted May 4, 2017**

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**Section 1: Background**

Michigan's Brownfield Redevelopment Financing Act Public Act 381 (Act 381), as amended, enables Brownfield Redevelopment in the State of Michigan and the establishment of county-wide brownfield redevelopment authorities and zones. Act 381 provides brownfield redevelopment authorities with multiple tools to facilitate redevelopment, including tax increment financing to support eligible brownfield expenses incurred through reuse of a contaminated, blighted, historic, and/or functionally obsolete property.

On May 19, 1999, the Washtenaw County Board of Commissioners (BOC) voted unanimously to establish a County-wide Brownfield Redevelopment Authority (WCBRA) and Brownfield Redevelopment Zone (Zone) in accordance with, Act 381. Washtenaw County's Brownfield Redevelopment Zone was defined as the jurisdictional boundary of each municipality within Washtenaw County that passed a resolution to join. Under the Bylaws established by the BOC as amended in 2015, the WCBRA shall consist of representatives from a broad cross-section of the community.

**Section 2. Purpose**

The WCBRA is authorized to administer a county-wide Brownfield Redevelopment Program (Program) the purpose of which is to facilitate the redevelopment of previously developed sites classified as eligible property in Public Acts 381 of 1996 and 451 of 1994 (Natural Resources and Environmental Protection Act-NREPA), as amended. In its mission to serve as a regional Authority, representing a wide variety of governmental units, and to encourage sustainable, [Smart Growth Principles](#), as defined by the U.S. EPA, and the policies of the local unit of government in which the brownfield redevelopment project occurs.

**Washtenaw County Brownfield Redevelopment Program Staff** are available to assist with implementation of the policies and procedures described herein. Staff are available to serve as a liaison between the WCBRA and the various entities involved with the redevelopment of a brownfield site and/or to guide a developer through the brownfield process. It is strongly encouraged to contact planners with the local unit of government and WCBRA brownfield program staff early in the project planning process to minimize delays in the approval process. Staff contact information is provided in **Section 7** below.

**Section 3: Policies**

**3a. Eligible Activities**

The WCBRA is authorized to allow the use of Tax Increment Financing (TIF) revenues to pay for or reimburse public or private costs of "eligible activities." Eligible activities apply to all participating communities while others are specific to certain Local Units of Government (LUG) as follows:

Eligible Activities for All Communities:

- Department Specific Activities
  - Baseline Environmental Assessments (BEAs)
  - Due care activities
  - Response activities
  - Removal and closure of underground storage tanks
  - Disposal of solid waste
  - Dust control related to construction activities

- Industrial Cleaning
- Sheeting and shoring necessary for removal of materials exceeding part 201 criteria
- Lead, mold, or asbestos abatement when lead, mold, or asbestos pose an imminent and significant threat to human health.
- Reasonable costs of preparing a brownfield plan and Act 381 work plan(s)
- Demolition
- Lead and Asbestos Assessment and Abatement that does not pose an imminent and significant threat to human health
- Brownfield Authority administrative fees
- Interest on unreimbursed eligible activities
- Capture for the local brownfield revolving fund

Eligible Activities for the City of Ann Arbor and the City of Ypsilanti (Qualified Local Units of Government (LUG), aka “core communities”):

- Activities eligible in "All Communities"
- Public infrastructure improvements
- Private and public underground and/or multi-level parking structures
- Site preparation activities
- Private and public urban stormwater management systems

**3.b. To qualify for brownfield incentives:**

1. The proposed project site meets the definition of an eligible property as defined in Public Act 381 of 1996, as amended, MCL 125.2652 Definitions.
2. The project is located in the Brownfield Redevelopment Zone, which is defined as the jurisdictional boundary of each municipality within Washtenaw County that passed a resolution requesting to join the WCBRA.
3. The LUG supports inclusion of the eligible property in the Brownfield Plan, which may or may not include the use of TIF, to support the proposed brownfield project.
4. The proposed redevelopment for the eligible property is consistent with the master plans, zoning ordinances and community/economic development goals of the local municipality and County where the proposed project is located, as determined by the LUG and County.
5. The existing character of the eligible property is such that redevelopment activities would be limited or not feasible without brownfield redevelopment assistance provided by PA 381 and/or other brownfield redevelopment programs. In addition, the project developer commits to explore all other available private and public funding sources, as determined in consultation with the WCBRA.
6. An analysis demonstrates that the required eligible activities can be satisfactorily completed within the available resources under this program, or if not, that supplemental funding sources, such as private equity or financing, tax credits, grants or loans, will be utilized to complement the financial resources available under PA 381 for proposed projects.
7. The developer has provided evidence of a firm commitment to the project and a demonstration of sufficient experience, financial resources, and development capabilities to successfully implement the proposed redevelopment project.
8. The proposed project site will have adequate access to the necessary public infrastructure and utilities needed to serve the proposed redevelopment project, as determined in consultation with the affected community.
9. The WCBRA reserves the right to consider other factors applicable to a specific project or participating

municipality.

### **3.c. To qualify for payment of interest on carrying costs of unreimbursed eligible activities:**

The reimbursement of interest on unreimbursed environmental and non-environmental activities will be determined on a case-by-case basis, but only where a clear financial gap is demonstrated, and where actual interest expenses and carrying costs will be incurred by the applicant. The following criteria must be met:

1. All costs for which interest is being requested must be eligible environmental or non-environmental activities.
2. The total amount of interest, and the interest rate, shall be determined in accordance with MEDC guidelines, and shall be approved by the LUG.

Provided reimbursement of interest is generally approved, pursuant to the above, the reimbursement of interest on costs of eligible activities *using local-only taxes* may be allowed only if either of the following criteria are met:

1. The specific activity or activities are not supported for interest reimbursement by MEDC and MDEQ, yet supported by the LUG as a cost resulting from an activity that, by its nature, will have specific or general environmental benefits.
2. A significant financial gap has been identified by the applicant, and supported by the LUG, such that the requested interest would close the gap.

### **3.d. To qualify for local-only reimbursement:**

The WCBRA encourages costs of all eligible activities be reimbursed with both incremental local and state school operating taxes to the extent practicable; however, there are circumstances when reimbursement only with local tax increments will be approved, on a case-by-case basis, under the following circumstances:

1. The activities are eligible under Act 381, and the state declined to participate in the cost, and the LUG supports the activity, which, by its nature, will have specific or general environmental benefits; or
2. When the activity or activities were approved in a Brownfield Plan, and subsequently denied for state school operating tax participation, local-only tax increment may be considered, provided the approved Brownfield Plan does not prohibit or cap the use of local-only tax increment finances to reimburse the particular activity proposed for local-only reimbursement.
3. For any eligible activity completed prior to plan approval, but now included in a Brownfield Plan or Combined Brownfield Plan and Act 381 Work Plan submitted for approval, the LUG must support the inclusion of the costs for local only reimbursement, and the following conditions must be met:
  - a. The approved Plan states that certain or all eligible activities initiated or completed prior to plan approval, and subsequently denied for state school operating taxes participation, will be funded with local-only taxes.
  - b. The entity that incurred the costs is the same as applying for Brownfield Plan approval; and
  - c. Eligible activities were conducted and expenses incurred prior to Brownfield Plan approval due to unanticipated circumstances or compressed project timeline.

### **3.e. Unanticipated Eligible Environmental Response Activities**

1. Pursuant to Act 381, Local only and state school operating tax increment revenues may be used to reimburse unanticipated eligible environmental response activities conducted after Brownfield Plan and/or Work Plan approvals. The following conditions must be met for this to be considered:
  - a. The owner must have contacted the MDEQ and Brownfield Authority prior to taking action, and subsequently included the eligible environmental costs in an amended Work Plan, and Brownfield

Plan if necessary, and secure all requisite approvals.

### 3.f. Administrative Costs Capture

1. Annual capture of administrative fees from brownfield projects from local taxes is permitted under PA 381 of 1996, as amended. Each Brownfield Plan may include capture of administrative fees. Administrative fees may be used to cover 1) actual expenses related to operating the Brownfield Redevelopment program, 2) Department Specific Activities conducted by or on behalf of the authority related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan, pursuant to the Brownfield Authority's Environmental Assessment Grant Program, and 3) reasonable costs of developing and preparing brownfield plans, combined plans, or work plans for which tax increment revenues may be used, including legal and consulting fees that are not in the ordinary course of acquiring and developing real estate.
2. For reimbursement of reasonable and actual administrative expenses, the WCBRA will transfer to its Administrative Fund up to ten percent (10%) of annual TIF capture per project, during the entire capture period for the project. Actual administrative expenses will be reimbursed with only local incremental taxes.
3. In accordance with WCBRA policy, capture of administrative fees may exceed actual brownfield program expenses in any one year, provided any reserves are maintained in the Administrative Fund and utilized to reimburse for future years' expenses, fund the WCBRA Environmental Assessment Grant Program, or used as otherwise allowed by Act 381. At no time will surplus funds exceed one year's allowable maximum capture under Act 381 based on the previous year's allowable capture. Any fund reserves that exceed one year's allowable capture will be returned to the appropriate taxing jurisdictions.

### 3.g. Local Brownfield Revolving Fund Capture

1. It is the intent of the WCBRA to capitalize its Local Brownfield Revolving Fund (LBRF). The WCBRA intends to include provisions to capture revenues for deposit into the LBRF in the approved Brownfield Plan for each property/project located in the Brownfield Redevelopment Zone (as defined in **Section 1: Background**). The WCBRA intends to capture LBRF funds, as allowable by Act 381, with a priority for capture *during* the reimbursement period for eligible activities; however, each plan will be considered on a case-by-case basis to determine the most appropriate method for capturing LBRF funds.
2. LBRF incremental tax capture and use will be used in accordance with the current LBRF policy, adopted by the WCBRA, and subject to the restrictions of PA 381, as amended. The amount and term of tax revenue capture for the LBRF will be determined on a project-by-project basis.

## **Section 4: Procedures:**

The WCBRA recognizes the importance of development project schedules and will expedite brownfield plan review and approval process to the extent possible.

1. The following are typical steps to access brownfield redevelopment incentives in Washtenaw County. The steps may change if a combined Brownfield Plan/Work Plan is proposed.
  - A. Project Concept Application – Approved by Local Unit of Government
  - B. Brownfield Plan Application Fee – Paid by applicant (see below)
  - C. Brownfield Plan Project Sub-Committee – Formed by County Brownfield Authority
  - D. Brownfield Plan Developed – Development Team, Staff, and Sub-Committee
  - E. Brownfield Plan – Approved by Local Unit of Government
  - F. Brownfield Plan – Approved by County Brownfield Redevelopment Authority
  - G. Brownfield Plan – Public Hearing Scheduled by County Board of Commissioners
  - H. Brownfield Plan – Approved by County Board of Commissioners after Public Hearing
  - I. Act 381 Work Plan(s) – Approved by County Brownfield Redevelopment Authority.

2. The application fee is due after Project Concept Application approval by the LUG and is based on total project investment:

\$0- \$5Million = \$3,000  
\$5M - \$10M = \$4,000, and  
\$10 M and over = \$5,000

Note: The City of Ann Arbor requires a separate Brownfield Plan application fee

3. Once the brownfield plan is approved, it will be forwarded to the MDEQ and MEDC for informational purposes. The applicant then needs to sign a Reimbursement Agreement with the WCBRA (See **Section 5: Reimbursement Agreement**). If capture of state school operating taxes for reimbursement of eligible non-environmental costs is contemplated, the reimbursement agreement must be completed and signed before submission of an Act 381 Work Plan or Combined Brownfield Plan and Work Plan for those activities.
4. If the TIF includes the capture of state school operating taxes for eligible activities, an Act 381 Work Plan (or Combined Brownfield Plan and Work Plan) must be completed in accordance with the requirements of Act 381 and guidance published by the MDEQ/MEDC and submitted to Staff. Staff will review the Work Plan and work with the developer and/or developer's representative (consultant) to finalize it. Staff then will forward to the WCBRA for approval, and then coordinate with the appropriate agency(s) for the submission and review of the brownfield plan, Act 381 Work Plan.
5. Generally, conducting eligible activities can begin once the relevant elements of the approval process are complete. However, pursuant to Act 381, and in accordance with **Section 3: Policies**, conducting certain eligible activities prior to Brownfield Plan approval may still be reimbursed, with either or both Local Only or state school operating Tax Incremental Revenues.

### **Section 5: Reimbursement Agreement**

Staff will provide the most current Reimbursement Agreement template. The applicant should fill in required information using the template, then work with brownfield staff to finalize. The Reimbursement Agreement must be approved by the WCBRA, then fully executed in accordance with County contract procedures. This includes the applicant filing as a Vendor with the County and providing the required insurance.

### **Section 6: Reimbursement Process**

1. All eligible activities must be completed within the time specified in the Reimbursement Agreement.
2. Request for reimbursement for eligible activities shall be submitted in the form required by the WCBRA. Staff will forward the submitted completed request, with a recommendation, to the WCBRA for certification and approval.
3. Once TIF capture begins, and any or all eligible expenses have been approved, reimbursement may begin in accordance with the terms of the Reimbursement Agreement.

### **Section 7: Contact Information**

Contact Nathan Voght, Brownfield Redevelopment Coordinator, at 734-544-3055, or [voghtn@ewashtenaw.org](mailto:voghtn@ewashtenaw.org) for more information.

Ver. Date: 9/25/13; 12/11/14 updated contact phone#; revised and re-adopted 11/5/15  
Revised/Re-Adopted 5/4/17, updated "LSRRF" references, Admin and LBRF capture policy revisions